

Meeting Date
5/26/16



AGENDA	
Section	Consent
Item No.	II B I

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Resolutions and Lease Agreements, RE: Progressive Action Society, Inc., Titusville Area Model Railroad Club, Inc. and Shining Stars Learning Center at the Gibson Complex and Gym - District 1 Fiscal Impact: Annual revenue collection for a total of \$36,000 from lease payments
DEPT/OFFICE:	Community Services Group / Parks and Recreation Department

Requested Action:
 It is requested the Board of County Commissioners approve and authorize the Resolutions and Leases for Titusville Area Model Railroad Club, Inc., Progressive Action Society, Inc. and Shining Stars Learning Center for usage of building space at the Gibson Complex and Field. It is further requested the Chairman be authorized to execute said Resolutions and Leases.

Summary Explanation & Background:
 The Gibson Complex was initially constructed in 1950's by Brevard County School Board for public school usage. Upon the closure of the school in the late '60's, this facility was leased to Brevard County by the School District and then deeded to the County in 1978. Over the years, through a variety of diverse programming, this site has provided necessary services to the local community. The communities served by the Gibson Complex are within the South Street Neighborhood Strategy Area of the City of Titusville. This area is concentrated by very low to low income households. The location provides services, such as an array of recreational opportunities, including summer activities for youth, formal school age educational services, locations for community functions and day care services. These services are considered High Priority within the City of Titusville Community Development Block Grant Strategy Areas.

The initial term of each lease is for a period of three (3) years with options of two (2) one year renewals. The lease holders are responsible for: custodial and janitorial requirements for their assigned building(s), replacement of interior lighting, providing a quarterly schedule of activities, and ensuring all staff & volunteers comply with background screening requirements. Brevard County will be responsible for payment of electric and water usage for the Complex, upkeep of outside grounds & common areas, outside building/facility maintenance, plumbing, electrical and HVAC maintenance, repair and replacement. The initial lease payments may be increased annually by a maximum of 3%.

The Model Railroad Club has been under Recreation Partner Agreement at this site since 2004. They provide opportunities for developing model train hobbies for both youth and adults, building model train "cities", and provide an additional family orientated leisure activity for the local community. Progressive Action Society has been both a Lessee and a Recreation Partner at Gibson since the early '70's. This organization was instrumental in the redevelopment of the Gibson Center for community usage. They assist area youth by providing scholarships for summer camps and provide meeting locations for community functions, special events and programs. The Shining Stars Learning Center provides low cost day care which is a much needed service in the local community to assist working parents. They have been operating at this location since 2013. Although these groups have been serving the community under Recreation Partner agreements, we recognize that executing formal leases with these organizations will comply with our Code of Ordinances. Their programs and services will promote public health, safety or welfare, will serve the public interest, and constitutes a service that could be provided by local government, and are compatible with the County purpose. The action requested by the Board to approve the leases and resolutions will require a **supermajority** vote.

Clerk to the Board Instructions:

Exhibits Attached: Resolutions and Lease Agreements

Contract /Agreement (If attached):	Reviewed by County Attorney	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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County Manager	Assistant County Manager	Jack Masson, Parks & Recreation Department Director jack.masson@brevardparks.com; 633-2046
Stockton Whitten	Assistant County Manager, Venetta Valdengo <i>Venetta Valdengo</i>	



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

May 27, 2016

MEMORANDUM

TO: Jack Masson, Parks and Recreation Director

RE: Item II.B.1., Resolutions and Lease Agreements with Progressive Action Society, Inc., Titusville Area Model Railroad Club, Inc., and Shining Stars Learning Center for Usage of Building Space at the Gibson Complex and Field

The Board of Commissioners, in regular session on May 26, 2016, adopted Resolution Nos. 16-083, 16-084, and 16-085, and executed Lease Agreements with Progressive Action Society, Inc., Titusville Area Model Railroad Club, Inc., and Shining Stars Learning Center for usage of building space at the Gibson Complex and Field. Enclosed are two certified copies of each Resolution and Lease Agreement.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/kp

Encl. (6)

cc: Contracts Administration
Finance
Budget

Please call Melissa X52517 when ready for pick up. Thanks!

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT FORM

SECTION I

The following information must be completed on all new contracts submitted to the Board.

1. Contractor: Titusville Area Model Railroad Club, Inc.	
2. Fund/Account #:	3. Division Name: Parks and Recreation Department – Administration
4. Contract Description: Lease Agreement with Resolution	
5. Contract Monitor: Judy Lovelace/Jeff Davis	6. Mail Stop #: 82
7. Dept./Office Director: Jack Masson	8. Class Code:
ACTION DATE: <i>Upon Receipt</i>	ACTION REQUIREMENT: <i>Approval Signature</i>

SECTION II

The following departments must approve all contracts submitted to the Board:

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>INITIALS</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	X	_____	JM	5/16/16
Risk Management	_____	_____	_____	_____
County Attorney	<i>X</i>	_____	<i>MOS</i>	<i>5/16/16</i>

If any office denies approval, the package will be returned immediately to the User Agency.

NOTE: *This form should be attached to all new contracts being submitted to the Board for approval. After the contract has been approved, the contract package, including this form, will go to the Clerk to the Board. The Clerk's office will then forward the Initial Contract Form to Information Systems Division and the contract will be entered into the contract Monitoring System. This initial entry will generate an entry on your monthly contract report and the first report will always show a "Required Action" for the contract. See BC-20 for additional information.*

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Risk Management	X _____	_____	JLJ _____	5/17/2016
County Attorney	_____	_____	_____	_____

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BOARD OF COUNTY COMMISSIONERS**

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1. Contractor: Progressive Action Society, Inc.		3. Division Name: Parks and Recreation Department – Administration	
2. Fund/Account #:		6. Mail Stop #: 82	
4. Contract Description: Lease Agreement with Resolution			
5. Contract Monitor: Judy Lovelace/Jeff Davis			8. Class Code:
7. Dept./Office Director: Jack Masson			
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Risk Management	<u> </u>	<u> </u>	<u> </u>	<u> </u>
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**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

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The following information must be completed on all new contracts submitted to the Board.

1. Contractor: Shining Stars Learning Center, Inc.	
2. Fund/Account #:	3. Division Name: Parks and Recreation Department – Administration
4. Contract Description: Lease Agreement with Resolution	
5. Contract Monitor: Judy Lovelace/Jeff Davis	6. Mail Stop #: 82
7. Dept./Office Director: Jack Masson	8. Class Code:
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Risk Management	_____	_____	_____	_____
County Attorney	_____	_____	_____	_____

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Risk Management	X _____	_____	JLJ _____	5/17/2016
County Attorney	X _____	_____	_____	<i>Matt Signed Agent 5/18/16</i>

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RESOLUTION NO. 2016-083

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, PURSUANT TO SECTION 125.35, FLORIDA STATUTES AND SECTION 2-247 BREVARD COUNTY CODE OF ORDINANCES, AUTHORIZING THE LEASING OF REAL PROPERTY TO A NOT FOR PROFIT CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, PROGRESSIVE ACTION SOCIETY, INC., a 501(c)(3) tax exempt Not For Profit Corporation organized under the laws of the State of Florida (hereinafter referred to as "Lessee") has applied to the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA,** a political subdivision of the State of Florida (hereinafter referred to as "County") to lease a County owned facility which is a part of the County public park known as the **Gibson Complex & Field (Building H)** (hereinafter referred to as the "Facility");

WHEREAS, the Lessee desires to operate and maintain the Facility for the benefit and enjoyment of the population of Brevard County; and

WHEREAS, the County finds that the Lessee's proposed use of the Facility will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, constitutes a service that could be provided by the local government, and is compatible with the County purposes for which the Gibson Complex was constructed.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

1. The Gibson Complex & Field is a County owned facility and was constructed for the purpose of public programs and services.
2. The County has determined that the Facility is not needed by the County.
3. The Lessee shall operate and maintain the Facility for community events, functions and programs. Provide space for community usage and activities.
4. The County shall enter into a lease, attached as **Exhibit A,** with the Lessee beginning on the date of the Board approval of the Lease Agreement for a term of three (3) years with the option to renew for two (2) additional one (1) year terms.
5. The consideration for the lease shall be \$300.00 per month.
6. This Resolution shall take effect immediately upon its adoption. No obligation to Lease the Facility to the Lessee shall arise until the Lease is executed by both parties.
7. In the event the Lessee fails to comply with the Lease, then the Facility shall immediately revert to the County which shall thereafter have the right to reenter and repossess the property.

DONE, ORDERED AND ADOPTED this 26th day of May, 2016.

ATTEST:



Scott Ellis, Clerk

**BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA**

By: 

Jim Barfield, Chairman

As approved by the Board on May 26th, 2016

LEASE

THIS LEASE, made and entered into this ____ day of _____, 2016, by and between the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter referred to as the “County”), and the **PROGRESSIVE ACTION SOCIETY, 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 certain buildings, structures, grounds, equipment and facilities which is a part of the County public park known as **Gibson Complex & Field**; and

WHEREAS, the County may provide parks, preserves, playgrounds, recreation areas, and other recreational and cultural facilities and programs pursuant to Section 125.01(1)(f), Florida Statutes; and

WHEREAS, the Lessee has an interest in providing community services to the citizens of the County, is well situated to do so, and has previously contracted with the County to provide such services;

WHEREAS, the County has an interest in allowing programs and services to be provided to the citizens of the County;

WHEREAS, the County has by Resolution, a copy of which is attached hereto as **Exhibit A**, determined that these programs and services provided will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, constitute a service that could be provided by local government, and are compatible with the County purposes for which the Facility was constructed.

WITNESSETH:

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

Leased Property. The County hereby leases to the Lessee and Lessee hereby leases from the County, the Facility as presently constituted, commonly known as the **Gibson Complex Building H, 835 Sycamore Street, Titusville, FL 32780**, (hereinafter referred to as the “Facility”), and described in **Exhibit B**. The Facility 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 County. The Lessee shall also have license to use the cafeteria in Building I, 5:00 p.m. Friday through 8:00 a.m. Monday.

1. **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.
2. **Term.** This Lease shall be effective from the date of the last signature for a period of three (3) years. It is hereby mutually agreed and understood that the Lessee may request renewal of this Lease for two (2) additional one year terms by written notice from Lessee at least sixty (60) days prior to the expiration date of this Lease.

The Parks and Recreation Director, (herein referred to as the “Director”), shall be authorized to execute any renewals.

3. **Rent.** The rent for the Facility shall be three hundred dollars (\$300.00) per month, due the 5th day of each month and payable in advance by the Lessee. It is hereby mutually agreed and understood that the rent may be increased, at the Director’s discretion, annually by a maximum of three percent (3%) of the previous year’s rent.
4. **Laws, Rules and Regulations.** The Lessee’s use of the Facility will be in accordance with all applicable local, county, state and federal laws, rules, regulations, policies and procedures to include but are not limited to: the 1985 Florida Indoor Clean Air Act, Department Policy PRP-1 Prohibiting Smoking at Brevard County Youth Athletic Facilities, Department Procedure PRD-4 Background Screening and prescribed safety rules and regulations. The County reserves the right to disapprove any and all activities held at the Facility, which may be in conflict with the Department’s and/or the County’s Policies and Administrative Orders, and agrees to furnish the Lessee with a copy of such rules, regulations, policies, procedures, and amendments thereto, upon request.
5. **Supervision.** The Lessee will provide and administer adequate personnel to supervise all activities sponsored or sanctioned by the Lessee, which will take place at the Facility.
6. **Personal Property.** The Lessee will retain title to all personal property purchased by the Lessee and placed at the Facility, unless otherwise agreed to by the parties. The Lessee will obtain approval from the County prior to placing any personal property or equipment at the Facility. All personal property belonging to the Organization will be marked in a manner consistent with the character of the property.
7. **Utilization.** The Lessee shall not make any unlawful, immoral, improper, or offensive use of the Facility nor allow said Facility to be utilized for any purpose other than that hereinabove set forth. Failure of the Organization to comply with this provision shall be considered a material breach of this Agreement and subject same to immediate termination by the County, where upon the County shall be entitled to immediately re-enter and retake possession of the Facility and terminate this Agreement.
8. **Responsibility.** The Lessee’s President shall be responsible for ensuring the Lessee is abiding by the terms of this Agreement. The County shall be responsible for assuring the contents of this Agreement are properly applied.
9. **Safety and Training.** The Lessee shall be solely responsible for the proper safety, supervision, training and equipping of all participants. The Lessee shall be solely responsible for the proper training and background screening of all staff, volunteers, and the like. The Lessee understands and agrees that the County will not undertake any of the responsibilities outlined in this paragraph and that the Lessee takes full responsibility for these duties.
10. **Background Investigation Check.** The Lessee shall perform a High Level background screening on the Lessee’s staff and volunteers and other persons providing services at the Facility at no cost to the County. High Level Background screening includes the following:

- Clerk E-Facts – www.brevardclerk.us

- Fingerprinting (FDLE and National FBI Criminal check through VECHS)
- Department of Juvenile Justice check on individuals under the age of 18 when applicable and allowed in lieu of fingerprinting
- National Sex Offender Public Website – www.nsopw.gov
- Reference Checks
- Prior employment check
- Education/Licensing verification (case-by-case)
- Driver’s license check (case-by-case)
- Drug Testing (case-by-case)

The President is responsible for compliance and providing written verification that all staff, volunteers, and any other persons providing a service at the Facility have been screened. A completed Affidavit of Good Moral Character, attached as **Exhibit C**, and a copy of the background screening results, for all staff members, volunteers, and all other persons providing a service at the Facility shall be submitted to the County. The Director or designee may deny Lessee the ability to utilize a staff member, volunteer or any other person providing a service at the Facility based on the results of the background screening results, at the Director’s discretion. No person shall work/volunteer at the Facility without having submitted a completed a background check to the County and without having been approved to be present at the Facility by the Director. The Director shall abide by Brevard County’s policy on background screening in determining if a person shall be disqualified from working/volunteering at the Facility.

11. Insurance.

- A. General Liability:** Lessee agrees to provide and maintain at all times during the term of this Lease, without cost or expense to the County, policies 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 Facility and any improvements thereon. The County shall be named as an additional insured. The General Liability Insurance shall be issued by responsible insurance companies and in a form acceptable to the County, protecting and insuring against all the foregoing with combined single limits of not less than One Million dollars (\$1,000,000) for Bodily Injury, Property Damage and Sexual Abuse and Molestation Coverage; Fire Legal Liability in the amount of One Hundred Thousand dollars (\$100,000).
- B. Workers’ Compensation Insurance:** Lessee shall maintain Workers’ Compensation Insurance in accordance with Florida Statute.
- C.** All personal property housed or placed at the leased Facility shall be at the risk of the Lessee, whether owned by the County or the Lessee, and the County 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 County does not and shall not carry liability, theft or fire insurance on said property to cover the Lessee's interest therein.

12. **Insurance Certificates.** Lessee shall provide the County with Certificate(s) of Insurance on all policies of insurance and renewals thereof in a form(s) acceptable to the County. Said certificates shall provide that the County is an additional insured, and that County 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 responsible companies who are acceptable to the County and licensed and authorized under the laws of the State of Florida.
13. **Indemnification.** The Lessee shall indemnify and hold harmless the County and its employees from all claims, damages, losses, and expenses, including attorney's fees, arising out of or associated with the use, occupation, management or control of the Facility or any improvements or any furniture, furnishings, equipment and fixtures utilized in connection with the Facility by the Lessee unless such claims, damages, expenses, or losses are caused solely by acts of the County, its employees, or other persons not a party to this Lease acting on the County's request. Lessee agrees that it will, at its own expense, defend any and all such actions, suits, or proceedings which may be brought against the County in connection with the Lessee's use, occupation, management or control of said Facility and that it will satisfy, pay and discharge any and all judgments that may be entered against the County in such action or proceeding.
14. **Obligations of the Lessee.** The Lessee shall keep the interior of the buildings clean and orderly in accordance with any applicable laws, regulations or ordinances. The County reserves the right to perform, or have performed, periodic inspections of the cleanliness and sanitation conditions of the Facility. Lessee shall maintain said property in its present condition, ordinary wear and tear excepted. All improvements and any changes made by Lessee to the interior of buildings shall be at the cost of the Lessee and subject to prior written approval by the County.

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

All inspections, maintenance, repair monitoring and costs associated with the security systems shall be the responsibility of the Lessee. The Lessee shall pay the expense of fire alarm monitoring. Lessee understands that the Facility must be operated in such a fashion to comply with all federal, state and local all codes in order to operate the Facility or otherwise carry out the programs and activities authorized by the Lessee in compliance with this lease.

Any improvements or repairs to the Facility by the Lessee must be requested in writing to the County, and mutually agreed upon by the County and the Lessee, with written permission granted by the Parks and

Recreation Director or designee, prior to any actual work. The plans, specifications, and location for all improvements, structures, landscaping, and facilities made by the Lessee to the Facility shall be submitted in writing to and approved by the Parks and Recreation Director or designee prior to the construction or installation of such improvement, structure, landscaping or facility. It is hereby mutually agreed and understood that any building, structure, or facility located thereon and permanently attached thereto shall become the property of the fee simple title holder.

Except for those repairs/replacements which are the responsibility of the Lessee, the Lessee shall promptly notify the County of the necessity of any and all maintenance and repairs needed to the exterior and/or the utility systems for the Facility.

The Lessee shall submit a complete calendar of events or schedule outlining planned activities on a quarterly basis.

Lessee shall provide County or designee a list of Lessee's officers and designated liaison. Any changes in the officers and/or liaison during the year shall be provided to the County or designee. Lessee shall submit a monthly report of attendance and volunteer hours, due the first working day of following month to the County or designee. Membership must be open to the public without regard to race, color, religious creed, national origin, ancestry, age, gender, marital status, or disability.

Issuance of keys may be authorized by the County to provide access to facilities utilized by the Lessee. If a key is lost by the Lessee, the Lessee may be responsible, at the County's discretion, for all costs associated with the replacement of the key(s) and lock(s) as necessary, as well as all repairs and/or replacement of equipment and materials needed due to the loss of the key(s). These costs include but are not limited to personnel, materials, and equipment. The Lessee will be responsible for all organizational costs created by inappropriate use of key(s).

The County shall provide the Lessee with license to use Building I from 5:00 p.m. Friday through 8:00 a.m. Monday. The Lessee shall keep the interior of the building clean and orderly. Lessee is responsible for any damages to Building I, including any damage to furniture that results from Lessee's use of Building I.

In the event that Lessee is found by County staff to have left Building I in a state less than clean and orderly, Lessee shall be charged a cleaning fee of \$25.00/per hour per occurrence per building. Said fee shall be due within five (5) days of receiving an invoice for payment of the fee. Both parties agree that the Director or designee has complete discretion in determining if a building is left in a state less than clean and orderly.

The Lessee shall ensure the restrooms in Building I are cleaned and fully stocked with paper products and soap at the termination of each usage by Progressive Action Society, Inc.

15. Obligations of the County. The County 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 County 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 County shall mow, edge, and fertilize the lawns; weed and mulch landscapes; trim hedges, shrubs, and small trees; and remove dead, damaged or unwanted trees.

The County 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.

All inspections, maintenance and repair of the fire alarm and fire sprinkler systems shall be the responsibility of the County.

After consultation with the Lessee, the County shall determine with Lessee the proper climatic control to ensure comfort and promote energy efficiency. Lessee shall be responsible for utility costs resulting from excessive use of the Facility's utilities.

The County shall be responsible for any needed repair and/or replacement of the HVAC system, plumbing system, and electrical distribution system. However, interior lightbulb replacement shall be the responsibility of the Lessee. All light bulbs replaced by Lessee must meet current energy standards in use by County.

The County 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. The County shall be responsible for replacement of exterior light bulbs and all ballasts.

16. 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 County shall notify the Lessee of any violation of the 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 intent 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 County's reasonable satisfaction, the County 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 Facility. Any personal property not removed within fifteen (15) days from the effective date of termination of the Lease shall, at the option of the County, become property of the County.

17. **Reverter and Right of Re-Entry and Repossession.** In the event the Facility is not used or ceases to be used for the public purposes set forth herein, the Lease shall immediately cease and the Facility shall revert to the County which shall thereafter have the right to re-enter and repossess the Facility.
18. **ADA Compliance.** The County 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 Facility any condition causing the Facility to become non-compliant. The parties shall work together to cure any known violations of the ADA that may occur.
19. **Emergency Services.** In the case of a general emergency as declared by the County, the County retains the right to immediately resume occupation, management, and maintenance of the Facility, 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 County. The Lessee will be provided as much notice as is practicable dependent on how suddenly the need arises and predictability of how long the need will continue. The County shall not be responsible for the damage, loss of property or income created by the use of the Facility by agencies which support the emergency response and recovery such as Red Cross, Federal Emergency Management Agency and others. The County 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 County or other governmental or non-governmental agency occupies or manages the Facility, 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 County. 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 County, at the expense of the County prior to the Lessee reoccupying the Facility. As used herein, an "emergency" will be defined as a period of civil unrest or riot, a period during which the military needs the Facility 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 Facility, 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.
20. **Lessee's Assignment, Sublease or License for Occupation by Other Persons.** Lessee may not assign or sublease the Facility, any part thereof, or any right or privilege connected therewith without the consent of the County.
21. **Alterations, Changes and Additions.** No structural changes, alterations or additions shall be made by the Lessee to the Facility without the prior written consent of the County. Any such alterations, changes and additions shall remain for the benefit of and become the property of the County.
22. **No Use that Increases Insurance Risk.** The Lessee shall not use the Facility in any manner, even in its use for the purposes for which the Facility is leased, that will increase the risk covered by insurance on the building where the Facility is located, so as to increase the rate of insurance on the Facility, or to cause cancellation to

any insurance policy covering the building. Lessee further agrees not to keep at the Facility, or permit to be kept, used, or sold thereon, anything prohibited by the policy of fire insurance covering the Facility. 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 Facility.

23. **Licenses, Permits, and Taxes.** Lessee agrees to secure and maintain all licenses and permits required to operate, and to pay all fees, taxes, and costs, including any applicable sales or use tax, which shall be imposed or assessed by any governmental authorities in connection with the business or operation conducted under this Lease and to remit said fees, taxes, or costs to the assessing governmental authority. Lessee shall 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 Facility within thirty (30) days of the execution of this lease by both parties. Lessee agrees to pay directly to the appropriate governmental taxing authority before delinquency, any and all sales and use taxes on taxable transactions and all ad valorem taxes(if any) levied or assessed against the Lessee's FF&E or other taxable tangible personal property on the Facility, as well as any ad valorem taxes assessed against the Lessee's leasehold interest arising out of this lease.
24. **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.
25. **Successors in Interest.** This Lease and the covenants and conditions hereof apply to and are binding on the heirs, successors, legal representatives, and assigns of the parties.
26. **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.
27. **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.
28. **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.
29. **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.
30. **Compliance with Statutes.** It shall be the Lessee's and the County'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.
31. **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 County.

32. **Right to Audit Records.** The Lessee shall prepare an annual financial statement and shall submit same to the County. 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 County 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 County in connection with the activities or services provided by County 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.
33. **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.
34. **Surrender of Premises.** Lessee shall surrender the Facility to the County at the end of the Lease term or at the termination of the Lease, whichever is applicable, 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 Facility by the Lessee before surrendering the Facility and restore the portion of the Facility on which they were placed in the same condition as before placement.
35. **Partial Destruction of Premises.** Partial destruction of the Facility shall not render this Lease void, or terminate it except as herein provided. If the Facility is partially destroyed during the term of this Lease, County may endeavor to make repairs, providing the County 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. All insurance proceeds from insurance shall be used to repair any damage or destruction to the Facility covered by Lessee's insurance policies, at County's discretion, if the County decides not to repair or rebuild the Facility, the County shall still remain entitled to all insurance proceeds. If the repairs cannot be so made in ninety (90) days and the County does not elect to make them within a reasonable time, either party hereto has the option to terminate this Lease. If the leased Facility is more than one-third destroyed, County or Lessee may at its option terminate this Lease, giving ninety (90) day notice to Lessee.
36. **County's Entry for Inspection and Maintenance.** The County reserves the right to enter the Facility at reasonable times to inspect, to perform required maintenance and repair, or to make additions or alteration to any part of the building in which the Facility under Lease is located, and Lessee agrees to permit the County to do so. The County 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 Facility, or loss of occupation thereof, unless done so in an unreasonable, willful, or negligent manner.
37. **Modifications.** No modification of this Lease shall be binding on the County or the Lessee unless reduced to writing and signed by a duly authorized representative of County and the Lessee.

38. **Notice.** Notice under this Lease shall be given to the County at Brevard County Parks and Recreation: **North Area Parks Operations, 475 North Williams Avenue, Titusville, FL 32796.** Notice shall be given to Lessee by mailing written notice, postage prepaid to the Progressive Action Society, 835 Sycamore Street, Titusville, 32780. Notice shall be effective upon receipt or five (5) days from mailing, whichever even occurs first.
39. **Unauthorized Alien Workers.** Brevard County will not intentionally award publicly-funded contracts to any Lessee who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274A(e) of the Immigration and Nationality Act (“INA”). The County shall consider the employment by the Lessee of unauthorized aliens a violation of Section 274A (e) of the INA and such violation shall be grounds for unilateral cancellation of this Lease by the County.
40. **Public Entity Crimes.** A person or affiliate who had been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.
41. **Termination for Convenience.** Either party may terminate this Lease for their own convenience upon providing thirty (30) day 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.
42. **Illegal, Unlawful, or Improper Use.** The Lessee shall make no unlawful, improper, immoral, or offensive use of the Leased Facility nor will the Lessee use the Leased Facility or allow the use of the Leased Facility 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.
43. **Copyright.** No reports, data, programs or other materials produced, in whole or in part, for the benefit and use of the County under this Lease shall be subject to copyright by the Lessee in the United States or any other country.
44. **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 County from damages for unauthorized use or performance of copyrighted music.
45. **Entire Lease.** This Lease, together with any Exhibits, constitutes the entire Lease between the County and Lessee and supersedes all prior written or oral understandings. This Lease and any Exhibits may only be amended or supplemented by a written instrument duly executed by both parties hereto.

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

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**

Scott Ellis, Clerk of Court

By: _____
Jim Barfield, Chairman

As approved by the Board on May 26th, 2016

WITNESS:

PROGRESSIVE ACTION SOCIETY, INC.

By: _____
Leroy Smith, President

Reviewed for Legal Form and Content



Assistant County Attorney


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

ATTEST:




Scott Ellis, Clerk of Court

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 

Jim Barfield, Chairman

As approved by the Board on May 26th, 2016

WITNESS:



PROGRESSIVE ACTION SOCIETY, INC.

By: 

Leroy Smith, President

Reviewed for Legal Form and Content



Assistant County Attorney

GIBSON CENTER LAYOUT

EXHIBIT B

 Progressive Action Society, Inc.

SYCAMORE STREET

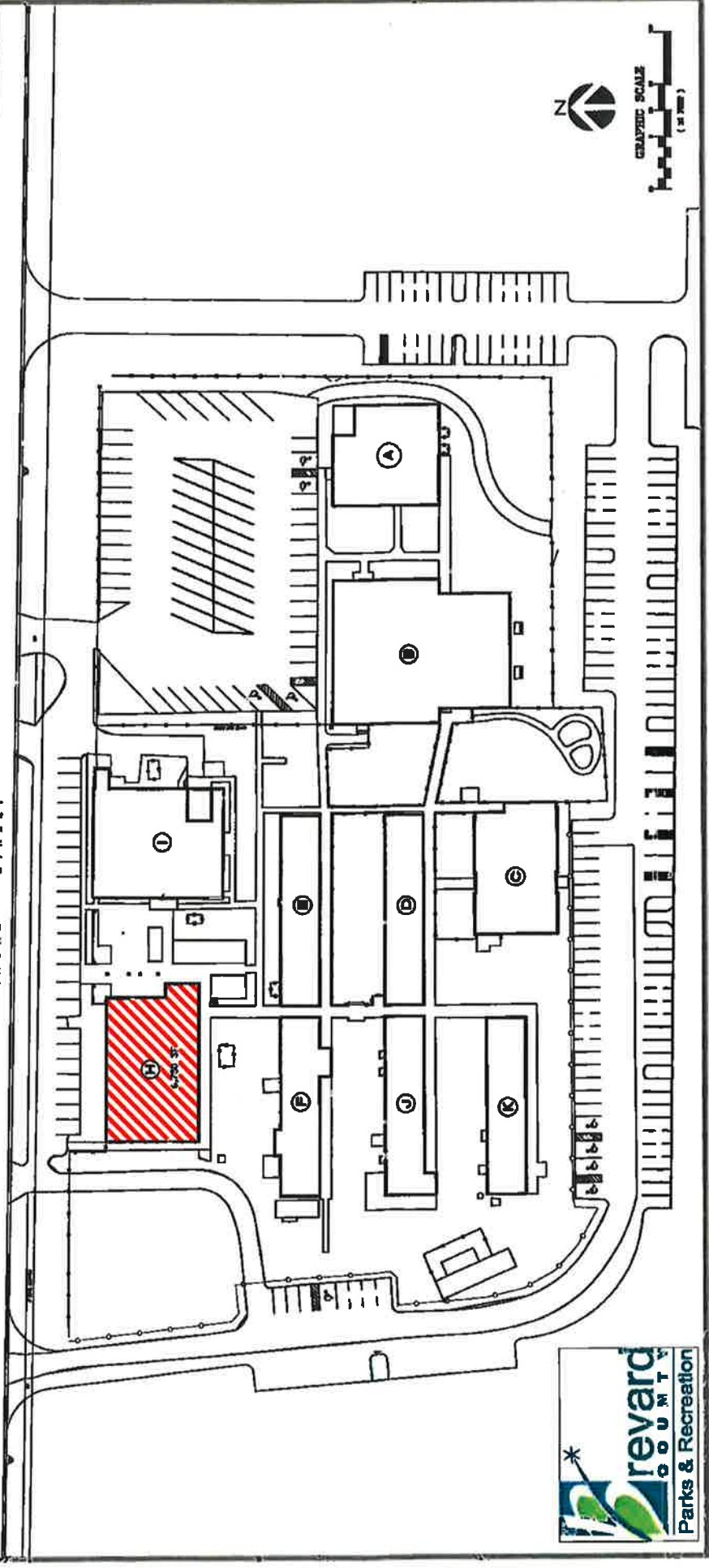




Exhibit C

Brevard County Parks & Recreation Department
AFFIDAVIT OF PRIOR CONVICTIONS



State of Florida, County of Brevard

Before me this day personally appeared _____ who, being duly sworn, deposes and says:
(Applicant's Name)

As an applicant, entity, organization, individual, volunteer or group desirous of employment or a partnership with Brevard County Parks and Recreation Department, I affirm and attest under penalty of perjury that I meet the moral character requirements, as defined in Chapter 435 Florida Statutes in that:

I have not been arrested with disposition pending or found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction for any of the offenses listed below:

Relating to:

- Section 393.135 sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct
Section 394.4593 sexual misconduct with certain mental health patients and reporting of such sexual misconduct
Section 415.111 adult abuse, neglect, or exploitation of aged persons or disabled adults or failure to report of such abuse
Section 741.28 criminal offenses that constitute domestic violence, whether committed in Florida or another jurisdiction
Section 777.04 attempts, solicitation, and conspiracy
Section 782.04 murder
Section 782.07 manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child
Section 782.071 vehicular homicide
Section 782.09 killing an unborn child by injury to the mother
Chapter 784 assault, battery, and culpable negligence, if the offense was a felony
Section 784.011 assault, if the victim of offense was a minor
Section 784.03 battery, if the victim of offense was a minor
Section 787.01 kidnapping
Section 787.02 false imprisonment
Section 787.025 luring or enticing a child
Section 787.04(2) taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceeding
Section 787.04(3) carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person
Section 790.115(1) exhibiting firearms or weapons within 1,000 feet of a school
Section 790.115(2) (b) possessing an electric weapon or device, destructive device, or other weapon on school property
Section 794.011 sexual battery
Former Section 794.041 prohibited acts of persons in familial or custodial authority
Section 794.05 unlawful sexual activity with certain minors
Chapter 796 prostitution
Section 798.02 lewd and lascivious behavior
Chapter 800 lewdness and indecent exposure
Section 806.01 arson
Section 810.02 burglary
Section 810.14 voyeurism, if the offense is a felony
Section 810.145 video voyeurism, if the offense is a felony
Chapter 812 theft and/or robbery and related crimes, if a felony offense
Section 817.563 fraudulent sale of controlled substances, if the offense was a felony
Section 825.102 abuse, aggravated abuse, or neglect of an elderly person or disabled adult
Section 825.1025 lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult
Section 825.103 exploitation of disabled adults or elderly persons, if the offense was a felony
Section 826.04 incest
Section 827.03 child abuse, aggravated child abuse, or neglect of a child
Section 827.04 contributing to the delinquency or dependency of a child
Former Section 827.05 negligent treatment of children
Section 827.071 sexual performance by a child
Section 843.01 resisting arrest with violence
Section 843.025 depriving a law enforcement, correctional, or correctional probation officer means of protection or communication
Section 843.12 aiding in an escape
Section 843.13 aiding in the escape of juvenile inmates in correctional institution

Chapter 847	obscene literature
Section 874.05(1)	encouraging or recruiting another to join a criminal gang
Chapter 893	drug abuse prevention and control only if the offense was a felony or if any other person involved in the offense was a minor
Section 916.1075	sexual misconduct with certain forensic clients and reporting of such sexual conduct
Section 944.35(3)	inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm
Section 944.40	escape
Section 944.46	harboring, concealing, or aiding an escaped prisoner
Section 944.47	introduction of contraband into a correctional facility
Section 985.701	sexual misconduct in juvenile justice programs
Section 985.711	contraband introduced into detention facilities

I understand that I must acknowledge the existence of any applicable criminal record relating to the above lists of offenses including those under any similar statute of another jurisdiction, regardless of whether or not those records have been sealed or expunged. Further, I understand that, while employed, contracted or volunteering with Brevard County Parks and Recreation Department in any position that requires background screening, I must immediately notify the appropriate supervisor and or representative of the Parks and Recreation Department of any arrest and any changes in my criminal record involving any of the above listed provisions of Florida Statutes or similar statutes of another jurisdiction whether a misdemeanor or felony. This notice must be made within one business day of such arrest or charge. Failure to do so could be grounds for termination .

I attest that I have read the above carefully and state that my attestation here is true and correct that **my record does not contain any of the above listed offenses**. I understand, under penalty of perjury, all employees in such positions of trust or responsibility shall attest to meeting the requirements for qualifying for employment , contracting or volunteering and agreeing to inform the Parks and Recreation Department immediately if arrested for any of the disqualifying offenses. I also understand that it is my responsibility to obtain clarification on anything contained in this affidavit which I do not understand prior to signing. I am aware that any omissions, falsifications, misstatements or misrepresentations may disqualify me from employment, contractor or volunteer consideration and, if I am hired, contracted or selected as a volunteer, may be grounds for termination or denial of an exemption at a later date.

SIGNATURE OF AFFIANT: _____

Sign Above OR Below, DO NOT Sign Both Lines

To the best of my knowledge and belief, **my record contains one or more of the applicable disqualifying acts or offenses listed above. I have placed a check mark by the offense(s) contained in my record.** (Please circle the number which corresponds to the offense(s) contained in your record.)

SIGNATURE OF AFFIANT: _____

Sworn to and subscribed before me this _____ day of _____, 20__.

SIGNATURE OF NOTARY PUBLIC, STATE OF FLORIDA

(Print, Type, or Stamp Commissioned Name of Notary Public)

(Check one)

Affiant personally known to notary

OR

Affiant produced identification
Type of identification produced: _____

RESOLUTION NO. 2016-084

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, PURSUANT TO SECTION 125.35, FLORIDA STATUTES AND SECTION 2-247 BREVARD COUNTY CODE OF ORDINANCES, AUTHORIZING THE LEASING OF REAL PROPERTY TO A NOT FOR PROFIT CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, TITUSVILLE AREA MODEL RAILROAD CLUB, INC., a 501(c)(3) tax exempt Not For Profit Corporation organized under the laws of the State of Florida (hereinafter referred to as "Lessee") has applied to the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") to lease a County owned facility which is a part of the County public park known as the Gibson Complex & Field (Building K) (hereinafter referred to as the "Facility");

WHEREAS, the Lessee desires to operate and maintain the Facility for the benefit and enjoyment of the population of Brevard County; and

WHEREAS, the County finds that the Lessee's proposed use of the Facility will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, constitutes a service that could be provided by the local government, and is compatible with the County purposes for which the Gibson Complex was constructed.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

1. The Gibson Complex & Field is a County owned facility and was constructed for the purpose of public programs and services.
2. The County has determined that the Facility is not needed by the County.
3. The Lessee shall operate and maintain the Facility to further the hobby of model railroad activities for youth and adult participants.
4. The County shall enter into a lease, attached as Exhibit A, with the Lessee beginning on the date of the Board approval of the Lease Agreement for a term of three (3) years with the option to renew for two (2) additional one (1) year terms.
5. The consideration for the lease shall be \$100.00 per month.
6. This Resolution shall take effect immediately upon its adoption. No obligation to Lease the Facility to the Lessee shall arise until the Lease is executed by both parties.
7. In the event the Lessee fails to comply with the Lease, then the Facility shall immediately revert to the County which shall thereafter have the right to reenter and repossess the property.

DONE, ORDERED AND ADOPTED this 26th day of May, 2016.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

By: 

Jim Barfield, Chairman

As approved by the Board on May 26th, 2016

LEASE

THIS LEASE, made and entered into this ____ day of _____, 2016, by and between the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter referred to as the “County”), and the **TITUSVILLE AREA MODEL RAILROAD CLUB, 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 certain buildings, structures, grounds, equipment and facilities which is a part of the County public park known as **Gibson Complex & Field**; and

WHEREAS, the County may provide parks, preserves, playgrounds, recreation areas, and other recreational and cultural facilities and programs pursuant to Section 125.01(1)(f), Florida Statutes; and

WHEREAS, the Lessee has an interest in providing community services to the citizens of the County, is well situated to do so, and has previously contracted with the County to provide such services;

WHEREAS, the County has an interest in allowing programs and services to be provided to the citizens of the County;

WHEREAS, the County has by Resolution, a copy of which is attached hereto as **Exhibit A**, determined that these programs and services provided will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, constitute a service that could be provided by local government, and are compatible with the County purposes for which the Facility was constructed.

WITNESSETH:

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

Leased Property. The County hereby leases to the Lessee and Lessee hereby leases from the County, the west four (4) rooms in a section of the Facility as presently constituted, commonly known as the **Gibson Complex Building K, 835 Sycamore Street, Titusville, FL 32780**, (hereinafter referred to as the “Facility”), and described in **Exhibit B**. The Facility 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 County.

1. **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.
2. **Term.** This Lease shall be effective from the date of the last signature for a period of three (3) years. It is hereby mutually agreed and understood that the Lessee may request renewal of this Lease for two (2) additional one year terms by written notice from Lessee at least sixty (60) days prior to the expiration date of this Lease.

The Parks and Recreation Director, (herein referred to as the “Director”), shall be authorized to execute any renewals.

3. **Rent.** The rent for the Facility shall be one hundred dollars (\$100.00) per month, due the 5th day of each month and payable in advance by the Lessee. It is hereby mutually agreed and understood that the rent may be increased, at the Director’s discretion, annually by a maximum of three percent (3%) of the previous year’s rent.
4. **Laws, Rules and Regulations.** The Lessee’s use of the Facility will be in accordance with all applicable local, county, state and federal laws, rules, regulations, policies and procedures to include but are not limited to: the 1985 Florida Indoor Clean Air Act, Department Policy PRP-1 Prohibiting Smoking at Brevard County Youth Athletic Facilities, Department Procedure PRD-4 Background Screening and prescribed safety rules and regulations. The County reserves the right to disapprove any and all activities held at the Facility, which may be in conflict with the Department’s and/or the County’s Policies and Administrative Orders, and agrees to furnish the Lessee with a copy of such rules, regulations, policies, procedures, and amendments thereto, upon request.
5. **Supervision.** The Lessee will provide and administer adequate personnel to supervise all activities sponsored or sanctioned by the Lessee, which will take place at the Facility.
6. **Personal Property.** The Lessee will retain title to all personal property purchased by the Lessee and placed at the Facility, unless otherwise agreed to by the parties. The Lessee will obtain approval from the County prior to placing any personal property or equipment at the Facility. All personal property belonging to the Organization will be marked in a manner consistent with the character of the property.
7. **Utilization.** The Lessee shall not make any unlawful, immoral, improper, or offensive use of the Facility nor allow said Facility to be utilized for any purpose other than that hereinabove set forth. Failure of the Organization to comply with this provision shall be considered a material breach of this Agreement and subject same to immediate termination by the County, where upon the County shall be entitled to immediately re-enter and retake possession of the Facility and terminate this Agreement.
8. **Responsibility.** The Lessee’s President shall be responsible for ensuring the Lessee is abiding by the terms of this Agreement. The County shall be responsible for assuring the contents of this Agreement are properly applied.
9. **Safety and Training.** The Lessee shall be solely responsible for the proper safety, supervision, training and equipping of all participants. The Lessee shall be solely responsible for the proper training and background screening of all staff, and volunteers, and the like. The Lessee understands and agrees that the County will not undertake any of the responsibilities outlined in this paragraph and that the Lessee takes full responsibility for these duties.
10. **Background Investigation Check.** The Lessee shall perform a High Level background screening on the Lessee’s staff and volunteers and other persons providing services at the Facility at no cost to the County. High Level Background screening includes the following:

- Clerk E-Facts – www.brevardclerk.us

- Fingerprinting (FDLE and National FBI Criminal check through VECHS)
- Department of Juvenile Justice check on individuals under the age of 18 when applicable and allowed in lieu of fingerprinting
- National Sex Offender Public Website – www.nsopw.gov
- Reference Checks
- Prior employment check
- Education/Licensing verification (case-by-case)
- Driver’s license check (case-by-case)
- Drug Testing (case-by-case)

The President is responsible for compliance and providing written verification that all staff, volunteers, and any other persons providing a service at the Facility have been screened. A completed Affidavit of Good Moral Character, attached as **Exhibit C**, and a copy of the background screening results, for all staff members, volunteers, and all other persons providing a service at the Facility shall be submitted to the County. The Director or designee may deny Lessee the ability to utilize a staff member, volunteer or any other person providing a service at the Facility based on the results of the background screening results, at the Director’s discretion. No person shall work/volunteer at the Facility without having submitted a completed a background check to the County and without having been approved to be present at the Facility by the Director. The Director shall abide by Brevard County’s policy on background screening in determining if a person shall be disqualified from working/volunteering at the Facility.

11. Insurance.

- A. **General Liability:** Lessee agrees to provide and maintain at all times during the term of this Lease, without cost or expense to the County, policies 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 Facility and any improvements thereon. The County shall be named as an additional insured. The General Liability Insurance shall be issued by responsible insurance companies and in a form acceptable to the County, protecting and insuring against all the foregoing with combined single limits of not less than One Million dollars (\$1,000,000) for Bodily Injury, Property Damage and Sexual Abuse and Molestation Coverage; Fire Legal Liability in the amount of One Hundred Thousand dollars (\$100,000).
- B. **Workers’ Compensation Insurance:** Lessee shall maintain Workers’ Compensation Insurance in accordance with Florida Statute
- C. All personal property housed or placed at the leased Facility shall be at the risk of the Lessee, whether owned by the County or the Lessee, and the County 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 County does not and shall not carry liability, theft or fire insurance on said property to cover the Lessee's interest therein.

12. **Insurance Certificates.** Lessee shall provide the County with Certificate(s) of Insurance on all policies of insurance and renewals thereof in a form(s) acceptable to the County. Said certificates shall provide that the County is an additional insured, and that County 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 responsible companies who are acceptable to the County and licensed and authorized under the laws of the State of Florida.
13. **Indemnification.** The Lessee shall indemnify and hold harmless the County and its employees from all claims, damages, losses, and expenses, including attorney's fees, arising out of or associated with the use, occupation, management or control of the Facility or any improvements or any furniture, furnishings, equipment and fixtures utilized in connection with the Facility by the Lessee unless such claims, damages, expenses, or losses are caused solely by acts of the County, its employees, or other persons not a party to this Lease acting on the County's request. Lessee agrees that it will, at its own expense, defend any and all such actions, suits, or proceedings which may be brought against the County in connection with the Lessee's use, occupation, management or control of said Facility and that it will satisfy, pay and discharge any and all judgments that may be entered against the County in such action or proceeding.
14. **Obligations of the Lessee.** The Lessee shall keep the interior of the buildings clean and orderly in accordance with any applicable laws, regulations or ordinances. The County reserves the right to perform, or have performed, periodic inspections of the cleanliness and sanitation conditions of the Facility. Lessee shall maintain said property in its present condition, ordinary wear and tear excepted. All improvements and any changes made by Lessee to the interior of buildings shall be at the cost of the Lessee and subject to prior written approval by the County.

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

All inspections, maintenance, repair monitoring and costs associated with the security systems shall be the responsibility of the Lessee. The Lessee shall pay the expense of fire alarm monitoring. Lessee understands that the Facility must be operated in such a fashion to comply with all federal, state and local all codes in order to operate the Facility or otherwise carry out the programs and activities authorized by the Lessee in compliance with this lease.

Any improvements or repairs to the Facility by the Lessee must be requested in writing to the County, and mutually agreed upon by the County and the Lessee, with written permission granted by the Parks and Recreation Director or designee, prior to any actual work. The plans, specifications, and location for all

improvements, structures, landscaping, and facilities made by the Lessee to the Facility shall be submitted in writing to and approved by the Parks and Recreation Director or designee prior to the construction or installation of such improvement, structure, landscaping or facility. It is hereby mutually agreed and understood that any building, structure, or facility located thereon and permanently attached thereto shall become the property of the fee simple title holder.

Except for those repairs/replacements which are the responsibility of the Lessee, the Lessee shall promptly notify the County of the necessity of any and all maintenance and repairs needed to the exterior and/or the utility systems for the Facility.

The Lessee shall submit a complete calendar of events or schedule outlining planned activities on a quarterly basis.

Lessee shall provide County or designee a list of Lessee's officers and designated liaison. Any changes in the officers and/or liaison during the year shall be provided to the County or designee. Lessee shall submit a monthly report of attendance and volunteer hours, due the first working day of following month to the County or designee. Membership must be open to the public without regard to race, color, religious creed, national origin, ancestry, age, gender, marital status, or disability.

Issuance of keys may be authorized by the County to provide access to facilities utilized by the Lessee. If a key is lost by the Lessee, the Lessee may be responsible, at the County's discretion, for all costs associated with the replacement of the key(s) and lock(s) as necessary, as well as all repairs and/or replacement of equipment and materials needed due to the loss of the key(s). These costs include but are not limited to personnel, materials, and equipment. The Lessee will be responsible for all organizational costs created by inappropriate use of key(s) including but not limited to light fees, etc.

The County shall provide the Lessee with exclusive use of the west four (4) rooms in Building K.

The Lessee shall keep the interior of the building clean and orderly. Lessee is responsible for any damages to their assigned section of Building K.

The Lessee shall ensure the restrooms are cleaned and fully stocked with paper products and soap at the commencement of scheduled usage.

15. **Obligations of the County.** The County 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 County 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 County shall mow, edge, and

fertilize the lawns; weed and mulch landscapes; trim hedges, shrubs, and small trees; and remove dead, damaged or unwanted trees.

The County 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.

The County 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. The County shall be responsible for replacement of exterior light bulbs and all ballasts.

All inspections, maintenance and repair of the fire alarm and fire sprinkler systems shall be the responsibility of the County.

After consultation with the Lessee, the County shall determine with Lessee the proper climatic control to ensure comfort and promote energy efficiency. Lessee shall be responsible for utility costs resulting from excessive use of the Facility's utilities.

The County shall be responsible for any needed repair and/or replacement of the HVAC system, plumbing system, and electrical distribution system. However, interior lightbulb replacement shall be the responsibility of the Lessee. All light bulbs replaced by Lessee must meet current energy standards in use by County.

16. **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 County shall notify the Lessee of any violation of the 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 intent 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 County's reasonable satisfaction, the County 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 Facility. Any personal property not removed within fifteen (15) days from the effective date of termination of the Lease shall, at the option of the County, become property of the County.
17. **Reverter and Right of Re-Entry and Repossession.** In the event the Facility is not used or ceases to be used for the public purposes set forth herein, the Lease shall immediately cease and the Facility shall revert to the County which shall thereafter have the right to re-enter and repossess the Facility.
18. **ADA Compliance.** The County 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 Facility any condition causing the Facility to become non-compliant. The parties shall work together to cure any known violations of the ADA that may occur.

19. **Emergency Services.** In the case of a general emergency as declared by the County, the County retains the right to immediately resume occupation, management, and maintenance of the Facility, 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 County. The Lessee will be provided as much notice as is practicable dependent on how suddenly the need arises and predictability of how long the need will continue. The County shall not be responsible for the damage, loss of property or income created by the use of the Facility by agencies which support the emergency response and recovery such as Red Cross, Federal Emergency Management Agency and others. The County 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 County or other governmental or non-governmental agency occupies or manages the Facility, 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 County occupancy under this Lease will be the responsibility and the expense of the County. 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 County, at the expense of the County prior to the Lessee reoccupying the Facility. As used herein, an "emergency" will be defined as a period of civil unrest or riot, a period during which the military needs the Facility 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 Facility, 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.
20. **Lessee's Assignment, Sublease or License for Occupation by Other Persons.** Lessee may not assign or sublease the Facility, any part thereof, or any right or privilege connected therewith without the consent of the County.
21. **Alterations, Changes and Additions.** No structural changes, alterations or additions shall be made by the Lessee to the Facility without the prior written consent of the County. Any such alterations, changes and additions shall remain for the benefit of and become the property of the County.
22. **No Use that Increases Insurance Risk.** The Lessee shall not use the Facility in any manner, even in its use for the purposes for which the Facility is leased, that will increase the risk covered by insurance on the building where the Facility is located, so as to increase the rate of insurance on the Facility, or to cause cancellation to any insurance policy covering the building. Lessee further agrees not to keep at the Facility, or permit to be kept, used, or sold thereon, anything prohibited by the policy of fire insurance covering the Facility. 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 Facility.
23. **Licenses, Permits, and Taxes.** Lessee agrees to secure and maintain all licenses and permits required to operate, and to pay all fees, taxes, and costs, including any applicable sales or use tax, which shall be imposed or assessed by any governmental authorities in connection with the business or operation conducted under this

Lease and to remit said fees, taxes, or costs to the assessing governmental authority. Lessee shall 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 Facility within thirty (30) days of the execution of this lease by both parties. Lessee agrees to pay directly to the appropriate governmental taxing authority before delinquency, any and all sales and use taxes on taxable transactions and all ad valorem taxes (if any) levied or assessed against the Lessee's FF&E or other taxable tangible personal property on the Facility, as well as any ad valorem taxes assessed against the Lessee's leasehold interest arising out of this lease.

24. **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.
25. **Successors in Interest.** This Lease and the covenants and conditions hereof apply to and are binding on the heirs, successors, legal representatives, and assigns of the parties.
26. **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.
27. **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.
28. **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.
29. **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.
30. **Compliance with Statutes.** It shall be the Lessee's and the County'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.
31. **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 County.
32. **Right to Audit Records.** The Lessee shall prepare an annual financial statement and shall submit same to the County. 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 County 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 County in connection with the activities or services provided by County 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.

33. **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.
34. **Surrender of Premises.** Lessee shall surrender the Facility to the County at the end of the Lease term or at the termination of the Lease, whichever is applicable, 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 Facility by the Lessee before surrendering the Facility and restore the portion of the Facility on which they were placed in the same condition as before placement.
35. **Partial Destruction of Premises.** Partial destruction of the Facility shall not render this Lease void, or terminate it except as herein provided. If the Facility is partially destroyed during the term of this Lease, County may endeavor to make repairs, providing the County 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. All insurance proceeds from insurance shall be used to repair any damage or destruction to the Facility covered by Lessee's insurance policies, at County's discretion, if the County decides not to repair or rebuild the Facility, the County shall still remain entitled to all insurance proceeds. If the repairs cannot be so made in ninety (90) days and the County does not elect to make them within a reasonable time, either party hereto has the option to terminate this Lease. If the leased Facility is more than one-third destroyed, County or Lessee may at its option terminate this Lease, giving ninety (90) day notice to Lessee.
36. **County's Entry for Inspection and Maintenance.** The County reserves the right to enter the Facility at reasonable times to inspect, to perform required maintenance and repair, or to make additions or alteration to any part of the building in which the Facility under Lease is located, and Lessee agrees to permit the County to do so. The County 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 Facility, or loss of occupation thereof, unless done so in an unreasonable, willful, or negligent manner.
37. **Modifications.** No modification of this Lease shall be binding on the County or the Lessee unless reduced to writing and signed by a duly authorized representative of County and the Lessee.
38. **Notice.** Notice under this Lease shall be given to the County at Brevard County Parks and Recreation: **North Area Parks Operations, 475 North Williams Avenue, Titusville, FL 32796.** Notice shall be given to Lessee by mailing written notice, postage prepaid to the Titusville Model RR, 3460 W. Main Street, Mims, Fla 32754. Notice shall be effective upon receipt or five (5) days from mailing, whichever even occurs first.
39. **Unauthorized Alien Workers.** Brevard County will not intentionally award publicly-funded contracts to any Lessee who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274A(e) of the Immigration and Nationality Act

“INA”). The County shall consider the employment by the Lessee of unauthorized aliens a violation of Section 274A (e) of the INA and such violation shall be grounds for unilateral cancellation of this Lease by the County.

40. **Public Entity Crimes.** A person or affiliate who had been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.
41. **Termination for Convenience.** Either party may terminate this Lease for their own convenience upon providing thirty (30) day 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.
42. **Illegal, Unlawful, or Improper Use.** The Lessee shall make no unlawful, improper, immoral, or offensive use of the Leased Facility nor will the Lessee use the Leased Facility or allow the use of the Leased Facility 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.
43. **Copyright.** No reports, data, programs or other materials produced, in whole or in part, for the benefit and use of the County under this Lease shall be subject to copyright by the Lessee in the United States or any other country.
44. **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 County from damages for unauthorized use or performance of copyrighted music.
45. **Entire Lease.** This Lease, together with any Exhibits, constitutes the entire Lease between the County and Lessee and supersedes all prior written or oral understandings. This Lease and any Exhibits may only be amended or supplemented by a written instrument duly executed by both parties hereto.

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

ATTEST:



Scott Ellis, Clerk of Court

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 

Jim Barfield, Chairman

As approved by the Board on May 26th, 2016

WITNESS:



TITUSVILLE AREA MODEL RAILROAD CLUB,
INC.

By: 

Bill Gillespie, President

Reviewed for Legal Form and Content



Assistant County Attorney

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

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**

Scott Ellis, Clerk of Court

By: _____
Jim Barfield, Chairman

As approved by the Board on May 26th, 2016

WITNESS:

**TITUSVILLE AREA MODEL RAILROAD CLUB,
INC.**

By: _____
Bill Gillespie, President

Reviewed for Legal Form and Content



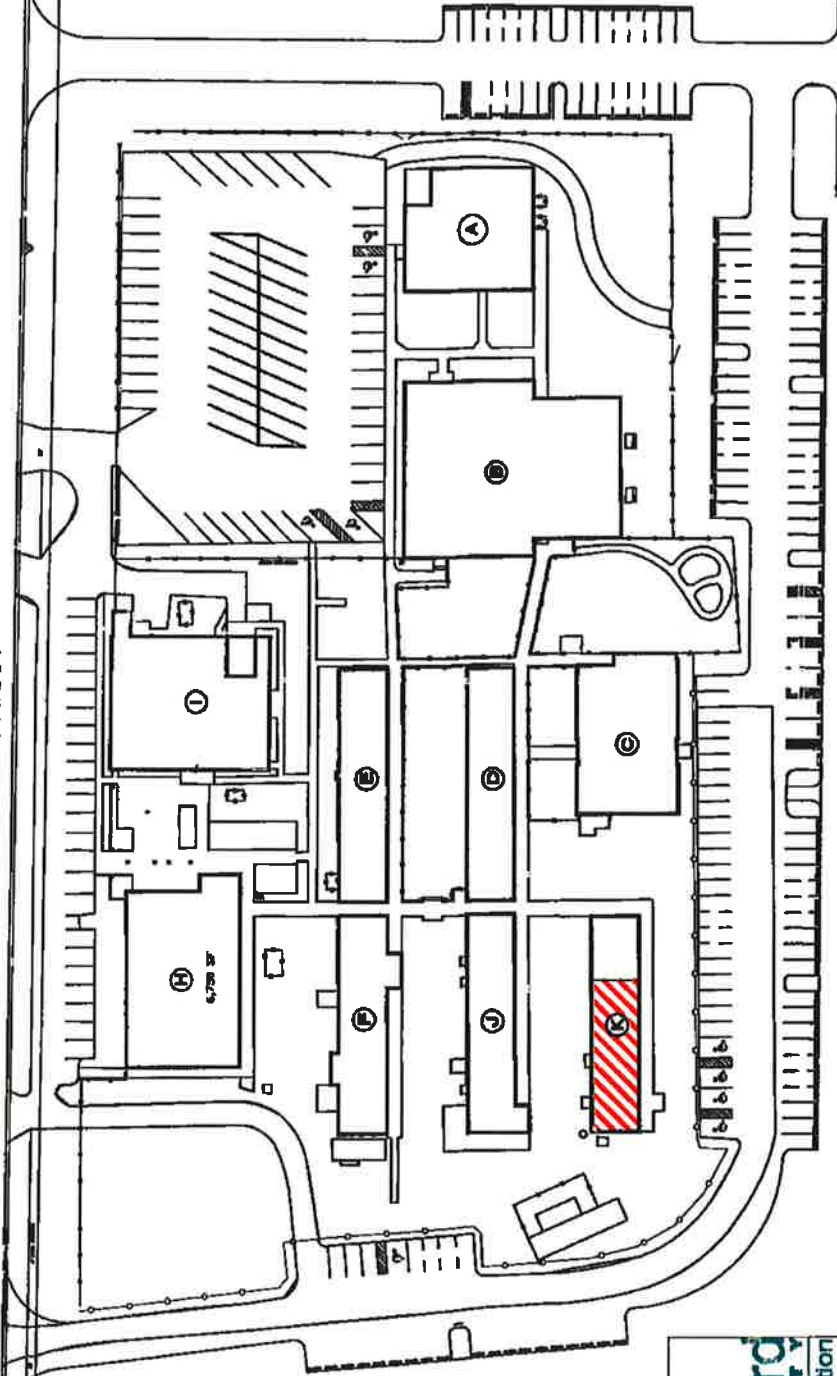
Assistant County Attorney

GIBSON CENTER LAYOUT

EXHIBIT B

 Titusville Area Model Railroad Club, Inc.

SYCAMORE STREET



GRAPHIC SCALE
(IN FEET)





Exhibit C

Brevard County Parks & Recreation Department
AFFIDAVIT OF PRIOR CONVICTIONS



State of Florida, County of Brevard

Before me this day personally appeared _____ who, being duly sworn, deposes and says:
(Applicant's Name)

As an applicant, entity, organization, individual, volunteer or group desirous of employment or a partnership with Brevard County Parks and Recreation Department, I affirm and attest under penalty of perjury that I meet the moral character requirements, as defined in Chapter 435 Florida Statutes in that:

I have not been arrested with disposition pending or found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction for any of the offenses listed below:

Relating to:

- Section 393.135 sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct
Section 394.4593 sexual misconduct with certain mental health patients and reporting of such sexual misconduct
Section 415.111 adult abuse, neglect, or exploitation of aged persons or disabled adults or failure to report of such abuse
Section 741.28 criminal offenses that constitute domestic violence, whether committed in Florida or another jurisdiction
Section 777.04 attempts, solicitation, and conspiracy
Section 782.04 murder
Section 782.07 manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child
Section 782.071 vehicular homicide
Section 782.09 killing an unborn child by injury to the mother
Chapter 784 assault, battery, and culpable negligence, if the offense was a felony
Section 784.011 assault, if the victim of offense was a minor
Section 784.03 battery, if the victim of offense was a minor
Section 787.01 kidnapping
Section 787.02 false imprisonment
Section 787.025 luring or enticing a child
Section 787.04(2) taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceeding
Section 787.04(3) carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person
Section 790.115(1) exhibiting firearms or weapons within 1,000 feet of a school
Section 790.115(2) (b) possessing an electric weapon or device, destructive device, or other weapon on school property
Section 794.011 sexual battery
Former Section 794.041 prohibited acts of persons in familial or custodial authority
Section 794.05 unlawful sexual activity with certain minors
Chapter 796 prostitution
Section 798.02 lewd and lascivious behavior
Chapter 800 lewdness and indecent exposure
Section 806.01 arson
Section 810.02 burglary
Section 810.14 voyeurism, if the offense is a felony
Section 810.145 video voyeurism, if the offense is a felony
Chapter 812 theft and/or robbery and related crimes, if a felony offense
Section 817.563 fraudulent sale of controlled substances, if the offense was a felony
Section 825.102 abuse, aggravated abuse, or neglect of an elderly person or disabled adult
Section 825.1025 lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult
Section 825.103 exploitation of disabled adults or elderly persons, if the offense was a felony
Section 826.04 incest
Section 827.03 child abuse, aggravated child abuse, or neglect of a child
Section 827.04 contributing to the delinquency or dependency of a child
Former Section 827.05 negligent treatment of children
Section 827.071 sexual performance by a child
Section 843.01 resisting arrest with violence
Section 843.025 depriving a law enforcement, correctional, or correctional probation officer means of protection or communication
Section 843.12 aiding in an escape
Section 843.13 aiding in the escape of juvenile inmates in correctional institution

Chapter 847	obscene literature
Section 874.05(1)	encouraging or recruiting another to join a criminal gang
Chapter 893	drug abuse prevention and control only if the offense was a felony or if any other person involved in the offense was a minor
Section 916.1075	sexual misconduct with certain forensic clients and reporting of such sexual conduct
Section 944.35(3)	inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm
Section 944.40	escape
Section 944.46	harboring, concealing, or aiding an escaped prisoner
Section 944.47	introduction of contraband into a correctional facility
Section 985.701	sexual misconduct in juvenile justice programs
Section 985.711	contraband introduced into detention facilities

I understand that I must acknowledge the existence of any applicable criminal record relating to the above lists of offenses including those under any similar statute of another jurisdiction, regardless of whether or not those records have been sealed or expunged. Further, I understand that, while employed, contracted or volunteering with Brevard County Parks and Recreation Department in any position that requires background screening, I must immediately notify the appropriate supervisor and or representative of the Parks and Recreation Department of any arrest and any changes in my criminal record involving any of the above listed provisions of Florida Statutes or similar statutes of another jurisdiction whether a misdemeanor or felony. This notice must be made within one business day of such arrest or charge. Failure to do so could be grounds for termination .

I attest that I have read the above carefully and state that my attestation here is true and correct that **my record does not contain any of the above listed offenses**. I understand, under penalty of perjury, all employees in such positions of trust or responsibility shall attest to meeting the requirements for qualifying for employment , contracting or volunteering and agreeing to inform the Parks and Recreation Department immediately if arrested for any of the disqualifying offenses. I also understand that it is my responsibility to obtain clarification on anything contained in this affidavit which I do not understand prior to signing. I am aware that any omissions, falsifications, misstatements or misrepresentations may disqualify me from employment, contractor or volunteer consideration and, if I am hired, contracted or selected as a volunteer, may be grounds for termination or denial of an exemption at a later date.

SIGNATURE OF AFFIANT: _____

Sign Above OR Below, DO NOT Sign Both Lines

To the best of my knowledge and belief, **my record contains one or more of the applicable disqualifying acts or offenses listed above. I have placed a check mark by the offense(s) contained in my record.** (Please circle the number which corresponds to the offense(s) contained in your record.)

SIGNATURE OF AFFIANT: _____

Sworn to and subscribed before me this ____ day of _____, 20 ____.

SIGNATURE OF NOTARY PUBLIC, STATE OFFLORIDA

(Print, Type, or Stamp Commissioned Name of Notary Public)

(Check one)

Affiant personally known to notary

OR

Affiant produced identification
Type of identification produced: _____

RESOLUTION NO. 2016- 085

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, PURSUANT TO SECTION 125.35, FLORIDA STATUTES AND SECTION 2-247 BREVARD COUNTY CODE OF ORDINANCES, AUTHORIZING THE LEASING OF REAL PROPERTY TO A FOR PROFIT CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, SHINING STARS LEARNING CENTER a For Profit Corporation organized under the laws of the State of Florida (hereinafter referred to as "Lessee") has applied to the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter referred to as "County") to lease a County owned facility which is a part of the County public park known as the **Gibson Complex & Field (Building D and F)** (hereinafter referred to as the "Facility");

WHEREAS, the Lessee desires to operate and maintain the Facility for the benefit and enjoyment of the population of Brevard County; and

WHEREAS, the County finds that the Lessee's proposed use of the Facility will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, constitutes a service that could be provided by the local government, and is compatible with the County purposes for which the Gibson Complex was constructed.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

1. The Gibson Complex & Field is a County owned facility and was constructed for the purpose of public programs and services.
2. The County has determined that the Facility is not needed by the County.
3. The Lessee shall operate and maintain the Facility for the provision of childcare services.
4. The County shall enter into a lease, attached as **Exhibit A**, with the Lessee beginning on the date of the Board approval of the Lease Agreement for a term of three (3) years with the option to renew for two (2) additional one (1) year terms.
5. The consideration for the lease shall be \$2,600.00 per month.
6. This Resolution shall take effect immediately upon its adoption. No obligation to Lease the Facility to the Lessee shall arise until the Lease is executed by both parties.
7. In the event the Lessee fails to comply with the Lease, then the Facility shall immediately revert to the County which shall thereafter have the right to reenter and repossess the property.

DONE, ORDERED AND ADOPTED this 26th day of May, 2016.

ATTEST:



Scott Ellis, Clerk

**BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA**

By: 

Jim Barfield, Chairman

As approved by the Board on May 26th, 2016

LEASE

THIS LEASE, made and entered into this ____ day of _____, 2016, by and between the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter referred to as the "County"), and the Melissa M. Anderson, DBA **SHINING STARS LEARNING CENTER**, (hereinafter referred to as the "Lessee").

WHEREAS, the Lessee desires to lease certain buildings, structures, grounds, equipment and facilities which is a part of the County public park known as **Gibson Complex & Field**; and

WHEREAS, the County may provide parks, preserves, playgrounds, recreation areas, and other recreational and cultural facilities and programs pursuant to Section 125.01(1)(f), Florida Statutes; and

WHEREAS, the Lessee has an interest in providing child care services to the citizens of the County, is well situated to do so, and has previously contracted with the County to provide such services;

WHEREAS, the County has an interest in allowing programs and services to be provided to the citizens of the County;

WHEREAS, the County has by Resolution, a copy of which is attached hereto as **Exhibit A**, determined that these programs and services provided will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, constitute a service that could be provided by local government, and are compatible with the County purposes for which the Facility was constructed.

WITNESSETH:

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

Leased Property. The County hereby leases to the Lessee and Lessee hereby leases from the County, a section of the Gibson Complex & Field as presently constituted, commonly known as the **Gibson Complex Buildings D and F, 835 Sycamore Street, Titusville, FL 32780**, (hereinafter referred to as the "Facility"), and described in **Exhibit B**. The Facility 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 County. The Lessee shall also have license to use the kitchen in Building I, 8:00 a.m. Monday through 5:00 p.m. Friday.

1. **Term.** This Lease shall be effective from the date of the last signature for a period of three (3) years. It is hereby mutually agreed and understood that the Lessee may request renewal of this Lease for two (2) additional one year terms by written notice from Lessee at least sixty (60) days prior to the expiration date of this Lease. The Parks and Recreation Director, (herein referred to as the "Director"), shall be authorized to execute any renewals.

2. **Rent.** The rent for the Facility shall be two thousand six hundred dollars (\$2,600.00) per month, due the 5th day of each month and payable in advance by the Lessee. It is hereby mutually agreed and understood that the rent may be increased, at the Director's discretion, annually by a maximum of three percent (3%) of the previous year's rent.
3. **Laws, Rules and Regulations.** The Lessee's use of the Facility will be in accordance with all applicable local, county, state and federal laws, rules, regulations, policies and procedures to include but are not limited to: the 1985 Florida Indoor Clean Air Act, Department Policy PRP-1 Prohibiting Smoking at Brevard County Youth Athletic Facilities, Department Procedure PRD-4 Background Screening and prescribed safety rules and regulations. The County reserves the right to disapprove any and all activities held at the Facility, which may be in conflict with the Department's and/or the County's Policies and Administrative Orders, and agrees to furnish the Lessee with a copy of such rules, regulations, policies, procedures, and amendments thereto, upon request.
4. **Supervision.** The Lessee will provide and administer adequate personnel to supervise all activities sponsored or sanctioned by the Lessee, which will take place at the Facility.
5. **Personal Property.** The Lessee will retain title to all personal property purchased by the Lessee and placed at the Facility, unless otherwise agreed to by the parties. The Lessee will obtain approval from the County prior to placing any personal property or equipment at the Facility. All personal property belonging to the Organization will be marked in a manner consistent with the character of the property.
6. **Utilization.** The Lessee shall not make any unlawful, immoral, improper, or offensive use of the Facility nor allow said Facility to be utilized for any purpose other than that hereinabove set forth. Failure of the Organization to comply with this provision shall be considered a material breach of this Agreement and subject same to immediate termination by the County, where upon the County shall be entitled to immediately re-enter and retake possession of the Facility and terminate this Agreement.
7. **Responsibility.** The Lessee's President shall be responsible for ensuring the Lessee is abiding by the terms of this Agreement. The County shall be responsible for assuring the contents of this Agreement are properly applied.
8. **Safety and Training.** The Lessee shall be solely responsible for the proper safety, supervision, training and equipping of all participants. The Lessee shall be solely responsible for the proper training and background screening of all staff and volunteers, and the like. The Lessee understands and agrees that the County will not undertake any of the responsibilities outlined in this paragraph and that the Lessee takes full responsibility for these duties.
9. **Background Investigation Check.** The Lessee shall perform a High Level background screening on the Lessee's staff and volunteers and other persons providing services at the Facility at no cost to the County. High Level Background screening includes the following:
 - Clerk E-Facts – www.brevardclerk.us
 - Fingerprinting (FDLE and National FBI Criminal check through VECHS)

- Department of Juvenile Justice check on individuals under the age of 18 when applicable and allowed in lieu of fingerprinting
- National Sex Offender Public Website – www.nsopw.gov
- Reference Checks
- Prior employment check
- Education/Licensing verification (case-by-case)
- Driver’s license check (case-by-case)
- Drug Testing (case-by-case)

The President is responsible for compliance and providing written verification that all staff, volunteers, and any other persons providing a service at the Facility have been screened. A completed Affidavit of Good Moral Character, attached as **Exhibit C**, and a copy of the background screening results, for all staff members, volunteers, and all other persons providing a service at the Facility shall be submitted to the County. The Director or designee may deny Lessee the ability to utilize a staff member, volunteer or any other person providing a service at the Facility based on the results of the background screening results, at the Director’s discretion. No person shall work/volunteer at the Facility without having submitted a completed a background check to the County and without having been approved to be present at the Facility by the Director. The Director shall abide by Brevard County’s policy on background screening in determining if a person shall be disqualified from working/volunteering at the Facility.

10. Insurance.

- A. General Liability:** Lessee agrees to provide and maintain at all times during the term of this Lease, without cost or expense to the County, policies 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 Facility and any improvements thereon. The County shall be named as an additional insured. The General Liability Insurance shall be issued by responsible insurance companies and in a form acceptable to the County, protecting and insuring against all the foregoing with combined single limits of not less than One Million dollars (\$1,000,000) for Bodily Injury, Property Damage and Sexual Abuse and Molestation Coverage; Fire Legal Liability in the amount of One Hundred Thousand dollars (\$100,000).
- B. Workers’ Compensation Insurance:** Lessee shall maintain Workers’ Compensation Insurance in accordance with Florida Statute.
- C.** All personal property housed or placed at the leased Facility shall be at the risk of the Lessee, whether owned by the County or the Lessee, and the County 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 County does not and shall not carry liability, theft or fire insurance on said property to cover the Lessee’s interest therein.

11. **Insurance Certificates.** Lessee shall provide the County with Certificate(s) of Insurance on all policies of insurance and renewals thereof in a form(s) acceptable to the County. Said certificates shall provide that the County is an additional insured, and that County 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 responsible companies who are acceptable to the County and licensed and authorized under the laws of the State of Florida.
12. **Indemnification.** The Lessee shall indemnify and hold harmless the County and its employees from all claims, damages, losses, and expenses, including attorney's fees, arising out of or associated with the use, occupation, management or control of the Facility or any improvements or any furniture, furnishings, equipment and fixtures utilized in connection with the Facility by the Lessee unless such claims, damages, expenses, or losses are caused solely by acts of the County, its employees, or other persons not a party to this Lease acting on the County's request. Lessee agrees that it will, at its own expense, defend any and all such actions, suits, or proceedings which may be brought against the County in connection with the Lessee's use, occupation, management or control of said Facility and that it will satisfy, pay and discharge any and all judgments that may be entered against the County in such action or proceeding.
13. **Obligations of the Lessee.** The Lessee shall keep the interior of the buildings clean and orderly in accordance with any applicable laws, regulations or ordinances. The County reserves the right to perform, or have performed, periodic inspections of the cleanliness and sanitation conditions of the Facility. Lessee shall maintain said property in its present condition, ordinary wear and tear excepted. All improvements and any changes made by Lessee to the interior of buildings shall be at the cost of the Lessee and subject to prior written approval by the County.

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

All inspections, maintenance, repair monitoring and costs associated with the security systems shall be the responsibility of the Lessee. The Lessee shall pay the expense of fire alarm monitoring. Lessee understands that the Facility must be operated in such a fashion to comply with all federal, state and local all codes in order to operate the Facility or otherwise carry out the programs and activities authorized by the Lessee in compliance with this lease.

Any improvements or repairs to the Facility by the Lessee must be requested in writing to the County, and mutually agreed upon by the County and the Lessee, with written permission granted by the Parks and Recreation Director or designee, prior to any actual work. The plans, specifications, and location for all improvements, structures, landscaping, and facilities made by the Lessee to the Facility shall be submitted in writing to and approved by the Parks and Recreation Director or designee prior to the construction or

installation of such improvement, structure, landscaping or facility. It is hereby mutually agreed and understood that any building, structure, or facility located thereon and permanently attached thereto shall become the property of the fee simple title holder.

Except for those repairs/replacements which are the responsibility of the Lessee, the Lessee shall promptly notify the County of the necessity of any and all maintenance and repairs needed to the exterior and/or the utility systems for the Facility.

The Lessee shall submit a complete calendar of events or schedule outlining planned activities on a quarterly basis.

Lessee shall provide County or designee a list of Lessee's officers and designated liaison. Any changes in the officers and/or liaison during the year shall be provided to the County or designee. Lessee shall submit a monthly report of attendance and volunteer hours, due the first working day of following month to the County or designee. Membership must be open to the public without regard to race, color, religious creed, national origin, ancestry, age, gender, marital status, or disability.

Issuance of keys may be authorized by the County to provide access to facilities utilized by the Lessee. If a key is lost by the Lessee, the Lessee may be responsible, at the County's discretion, for all costs associated with the replacement of the key(s) and lock(s) as necessary, as well as all repairs and/or replacement of equipment and materials needed due to the loss of the key(s). These costs include but are not limited to personnel, materials, and equipment. The Lessee will be responsible for all organizational costs created by inappropriate use of key(s) including but not limited to light fees, etc.

In the event that Lessee is found by County staff to have left any building Lessee is entitled to use in a state less than clean and orderly, Lessee shall be charged a cleaning fee of \$25.00/per hour per occurrence per building. Said fee shall be due within five (5) days of receiving an invoice for payment of the fee. Both parties agree that the Director or designee has complete discretion in determining if a building is left in a state less than clean and orderly.

The Lessee shall ensure the restrooms are cleaned and fully stocked with paper products and soap at the termination of each daily use.

- 14. Obligations of the County.** The County 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 County 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 County shall mow, edge, and fertilize the lawns; weed and mulch landscapes; trim hedges, shrubs, and small trees; and remove dead, damaged or unwanted trees.

The County 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.

All inspections, maintenance and repair of the fire alarm and fire sprinkler systems shall be the responsibility of the County.

The County shall provide the Lessee with a license to the kitchen in Building I from 8 a.m. Monday through 5 p.m. Friday. The Lessee shall keep the interior of the kitchen clean and orderly. Lessee is responsible for any damages to Building I that result from Lessee's use.

After consultation with the Lessee, the County shall determine with Lessee the proper climatic control to ensure comfort and promote energy efficiency. Lessee shall be responsible for utility costs resulting from excessive use of the Facility's utilities.

The County shall be responsible for any needed repair and/or replacement of the HVAC system, plumbing system, and electrical distribution system. However, interior lightbulb replacement shall be the responsibility of the Lessee. All light bulbs replaced by Lessee must meet current energy standards in use by County.

The County 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. The County shall be responsible for replacement of exterior light bulbs and all ballasts.

15. **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 County shall notify the Lessee of any violation of the 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 intent 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 County's reasonable satisfaction, the County 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 Facility. Any personal property not removed within fifteen (15) days from the effective date of termination of the Lease shall, at the option of the County, become property of the County.
16. **Reverter and Right of Re-Entry and Repossession.** In the event the Facility is not used or ceases to be used for the public purposes set forth herein, the Lease shall immediately cease and the Facility shall revert to the County which shall thereafter have the right to re-enter and repossess the Facility.
17. **ADA Compliance.** The County 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 Facility any condition causing the Facility to become non-compliant. The parties shall work together to cure any known violations of the ADA that may occur.

18. **Emergency Services.** In the case of a general emergency as declared by the County, the County retains the right to immediately resume occupation, management, and maintenance of the Facility, 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 County. The Lessee will be provided as much notice as is practicable dependent on how suddenly the need arises and predictability of how long the need will continue. The County shall not be responsible for the damage, loss of property or income created by the use of the Facility by agencies which support the emergency response and recovery such as Red Cross, Federal Emergency Management Agency and others. The County 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 County or other governmental or non-governmental agency occupies or manages the Facility, 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 County. 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 County, at the expense of the County prior to the Lessee reoccupying the Facility. As used herein, an "emergency" will be defined as a period of civil unrest or riot, a period during which the military needs the Facility 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 Facility, 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 may not assign or sublease the Facility, any part thereof, or any right or privilege connected therewith without the consent of the County.
20. **Alterations, Changes and Additions.** No structural changes, alterations or additions shall be made by the Lessee to the Facility without the prior written consent of the County. Any such alterations, changes and additions shall remain for the benefit of and become the property of the County.
21. **No Use that Increases Insurance Risk.** The Lessee shall not use the Facility in any manner, even in its use for the purposes for which the Facility is leased, that will increase the risk covered by insurance on the building where the Facility is located, so as to increase the rate of insurance on the Facility, or to cause cancellation to any insurance policy covering the building. Lessee further agrees not to keep at the Facility, or permit to be kept, used, or sold thereon, anything prohibited by the policy of fire insurance covering the Facility. 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 Facility.
22. **Licenses, Permits, and Taxes.** Lessee agrees to secure and maintain all licenses and permits required to operate, and to pay all fees, taxes, and costs, including any applicable sales or use tax, which shall be imposed or assessed by any governmental authorities in connection with the business or operation conducted under this

Lease and to remit said fees, taxes, or costs to the assessing governmental authority. Lessee shall 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 Facility within thirty (30) days of the execution of this lease by both parties. Lessee agrees to pay directly to the appropriate governmental taxing authority before delinquency, any and all sales and use taxes on taxable transactions and all ad valorem taxes (if any) levied or assessed against the Lessee's FF&E or other taxable tangible personal property on the Facility, as well as any ad valorem taxes assessed against the Lessee's leasehold interest arising out of this lease.

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 heirs, 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 County'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 County.
31. **Right to Audit Records.** The Lessee shall prepare an annual financial statement and shall submit same to the County. 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 County 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 County in connection with the activities or services provided by County 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 Facility to the County at the end of the Lease term or at the termination of the Lease, whichever is applicable, 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 Facility by the Lessee before surrendering the Facility and restore the portion of the Facility on which they were placed in the same condition as before placement.
34. **Partial Destruction of Premises.** Partial destruction of the Facility shall not render this Lease void, or terminate it except as herein provided. If the Facility is partially destroyed during the term of this Lease, County may endeavor to make repairs, providing the County 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. All insurance proceeds from insurance shall be used to repair any damage or destruction to the Facility covered by Lessee's insurance policies, at County's discretion, if the County decides not to repair or rebuild the Facility, the County shall still remain entitled to all insurance proceeds. If the repairs cannot be so made in ninety (90) days and the County does not elect to make them within a reasonable time, either party hereto has the option to terminate this Lease. If the leased Facility is more than one-third destroyed, County or Lessee may at its option terminate this Lease, giving ninety (90) day notice to Lessee.
35. **County's Entry for Inspection and Maintenance.** The County reserves the right to enter the Facility at reasonable times to inspect, to perform required maintenance and repair, or to make additions or alteration to any part of the building in which the Facility under Lease is located, and Lessee agrees to permit the County to do so. The County 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 Facility, 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 County or the Lessee unless reduced to writing and signed by a duly authorized representative of County and the Lessee.
37. **Notice.** Notice under this Lease shall be given to the County at Brevard County Parks and Recreation: **North Area Parks Operations, 475 North Williams Avenue, Titusville, FL 32796.** Notice shall be given to Lessee by mailing written notice, postage prepaid to the Shining Star, 3563 Ridgeway Ave, Mims, Fla 32754. Notice shall be effective upon receipt or five (5) days from mailing, whichever even occurs first.
38. **Unauthorized Alien Workers.** Brevard County will not intentionally award publicly-funded contracts to any Lessee who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274A(e) of the Immigration and Nationality Act

“INA”). The County shall consider the employment by the Lessee of unauthorized aliens a violation of Section 274A (e) of the INA and such violation shall be grounds for unilateral cancellation of this Lease by the County.

39. **Public Entity Crimes.** A person or affiliate who had been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.
40. **Termination for Convenience.** Either party may terminate this Lease for their own convenience upon providing thirty (30) day 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 Leased Facility nor will the Lessee use the Leased Facility or allow the use of the Leased Facility 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 County 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 County 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 County and Lessee and supersedes all prior written or oral understandings. This Lease and any Exhibits may only be amended or supplemented by a written instrument duly executed by both parties hereto.

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

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**

Scott Ellis, Clerk of Court

By: _____
Jim Barfield, Chairman

As approved by the Board on May 26th, 2016

WITNESS:

SHINING STARS LEARNING CENTER

By: _____
Melissa Anderson, President

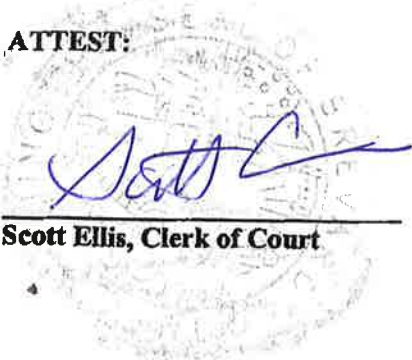
Reviewed for Legal Form and Content




Assistant County Attorney

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

ATTEST:





Scott Ellis, Clerk of Court

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**

By: 

Jim Barfield, Chairman

As approved by the Board on May 26th, 2016

WITNESS:




SHINING STARS LEARNING CENTER

By: 

Melissa Anderson, President

Reviewed for Legal Form and Content



Assistant County Attorney

GIBSON CENTER LAYOUT

EXHIBIT B

 Shining Stars Learning Center

SYCAMORE STREET

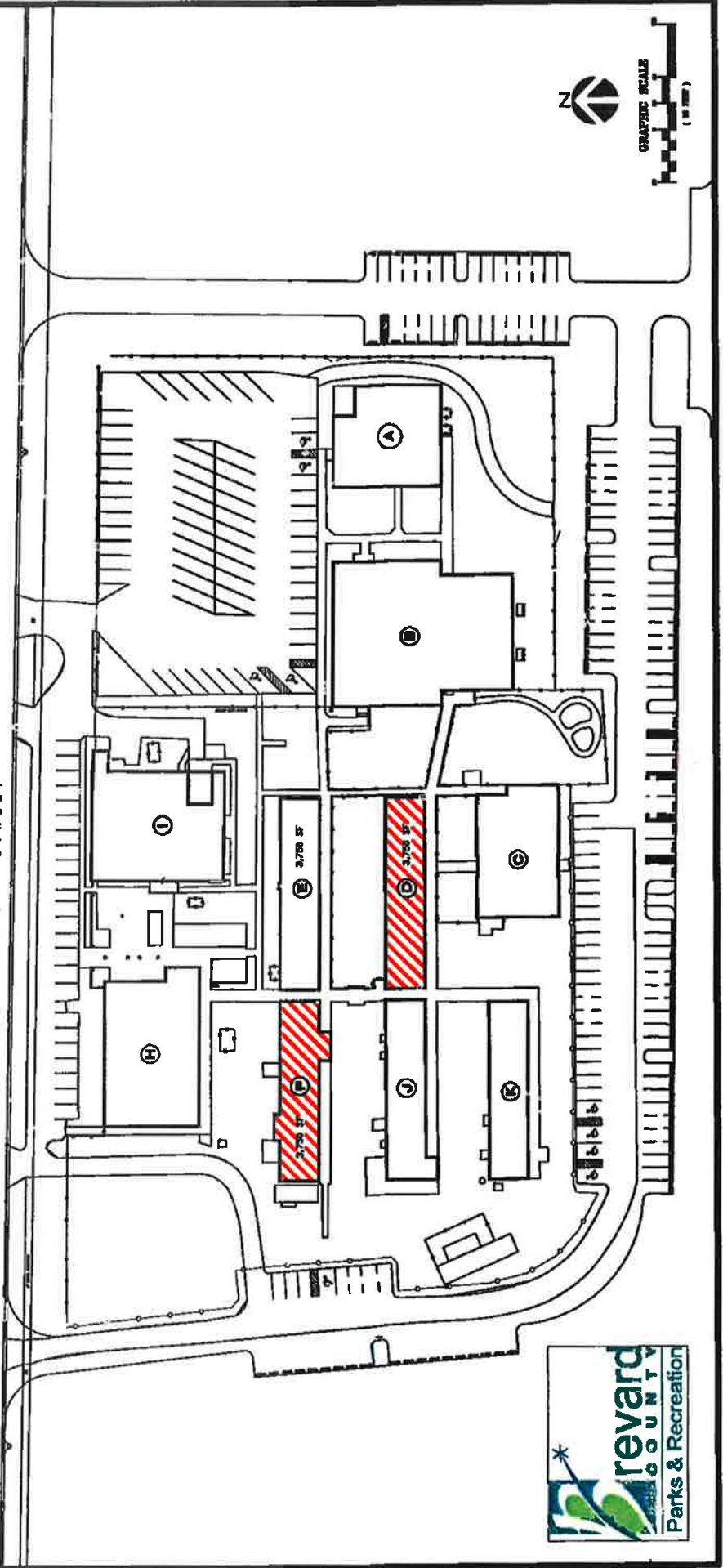


Exhibit C



Brevard County Parks & Recreation Department
AFFIDAVIT OF PRIOR CONVICTIONS



State of Florida, County of Brevard

Before me this day personally appeared _____ who, being duly sworn, deposes and says:
(Applicant's Name)

As an applicant, entity, organization, individual, volunteer or group desirous of employment or a partnership with Brevard County Parks and Recreation Department, I affirm and attest under penalty of perjury that I meet the moral character requirements, as defined in Chapter 435 Florida Statutes in that:

I have not been arrested with disposition pending or found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction for any of the offenses listed below:

Relating to:

- Section 393.135 sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct
- Section 394.4593 sexual misconduct with certain mental health patients and reporting of such sexual misconduct
- Section 415.111 adult abuse, neglect, or exploitation of aged persons or disabled adults or failure to report of such abuse
- Section 741.28 criminal offenses that constitute domestic violence, whether committed in Florida or another jurisdiction
- Section 777.04 attempts, solicitation, and conspiracy
- Section 782.04 murder
- Section 782.07 manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child
- Section 782.071 vehicular homicide
- Section 782.09 killing an unborn child by injury to the mother
- Chapter 784 assault, battery, and culpable negligence, if the offense was a felony
- Section 784.011 assault, if the victim of offense was a minor
- Section 784.03 battery, if the victim of offense was a minor
- Section 787.01 kidnapping
- Section 787.02 false imprisonment
- Section 787.025 luring or enticing a child
- Section 787.04(2) taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceeding
- Section 787.04(3) carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person
- Section 790.115(1) exhibiting firearms or weapons within 1,000 feet of a school
- Section 790.115(2) (b) possessing an electric weapon or device, destructive device, or other weapon on school property
- Section 794.011 sexual battery
- Former Section 794.041 prohibited acts of persons in familial or custodial authority
- Section 794.05 unlawful sexual activity with certain minors
- Chapter 796 prostitution
- Section 798.02 lewd and lascivious behavior
- Chapter 800 lewdness and indecent exposure
- Section 806.01 arson
- Section 810.02 burglary
- Section 810.14 voyeurism, if the offense is a felony
- Section 810.145 video voyeurism, if the offense is a felony
- Chapter 812 theft and/or robbery and related crimes, if a felony offense
- Section 817.563 fraudulent sale of controlled substances, if the offense was a felony
- Section 825.102 abuse, aggravated abuse, or neglect of an elderly person or disabled adult
- Section 825.1025 lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult
- Section 825.103 exploitation of disabled adults or elderly persons, if the offense was a felony
- Section 826.04 incest
- Section 827.03 child abuse, aggravated child abuse, or neglect of a child
- Section 827.04 contributing to the delinquency or dependency of a child
- Former Section 827.05 negligent treatment of children
- Section 827.071 sexual performance by a child
- Section 843.01 resisting arrest with violence
- Section 843.025 depriving a law enforcement, correctional, or correctional probation officer means of protection or communication
- Section 843.12 aiding in an escape
- Section 843.13 aiding in the escape of juvenile inmates in correctional institution

Chapter 847	obscene literature
Section 874.05(1)	encouraging or recruiting another to join a criminal gang
Chapter 893	drug abuse prevention and control only if the offense was a felony or if any other person involved in the offense was a minor
Section 916.1075	sexual misconduct with certain forensic clients and reporting of such sexual conduct
Section 944.35(3)	inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm
Section 944.40	escape
Section 944.46	harboring, concealing, or aiding an escaped prisoner
Section 944.47	introduction of contraband into a correctional facility
Section 985.701	sexual misconduct in juvenile justice programs
Section 985.711	contraband introduced into detention facilities

I understand that I must acknowledge the existence of any applicable criminal record relating to the above lists of offenses including those under any similar statute of another jurisdiction, regardless of whether or not those records have been sealed or expunged. Further, I understand that, while employed, contracted or volunteering with Brevard County Parks and Recreation Department in any position that requires background screening, I must immediately notify the appropriate supervisor and or representative of the Parks and Recreation Department of any arrest and any changes in my criminal record involving any of the above listed provisions of Florida Statutes or similar statutes of another jurisdiction whether a misdemeanor or felony. This notice must be made within one business day of such arrest or charge. Failure to do so could be grounds for termination .

I attest that I have read the above carefully and state that my attestation here is true and correct that **my record does not contain any of the above listed offenses**. I understand, under penalty of perjury, all employees in such positions of trust or responsibility shall attest to meeting the requirements for qualifying for employment , contracting or volunteering and agreeing to inform the Parks and Recreation Department immediately if arrested for any of the disqualifying offenses. I also understand that it is my responsibility to obtain clarification on anything contained in this affidavit which I do not understand prior to signing. I am aware that any omissions, falsifications, misstatements or misrepresentations may disqualify me from employment, contractor or volunteer consideration and, if I am hired, contracted or selected as a volunteer, may be grounds for termination or denial of an exemption at a later date.

SIGNATURE OF AFFIANT: _____

Sign Above OR Below, DO NOT Sign Both Lines

To the best of my knowledge and belief, **my record contains one or more of the applicable disqualifying acts or offenses listed above. I have placed a check mark by the offense(s) contained in my record.** (Please circle the number which corresponds to the offense(s) contained in your record.)

SIGNATURE OF AFFIANT: _____

Sworn to and subscribed before me this _____ day of _____, 20____.

SIGNATURE OF NOTARY PUBLIC, STATE OF FLORIDA

(Print, Type, or Stamp Commissioned Name of Notary Public)

(Check one)

Affiant personally known to notary

OR

Affiant produced identification
Type of identification produced: _____