

CITY OF FORT WALTON BEACH
SAMPLE AGREEMENT

1. Parties

This lease is made between the City of Fort Walton Beach, Florida, a municipal corporation, with its principal place of business at 107 Miracle Strip Parkway SW, Fort Walton Beach, Florida 32548, as City/ Lessor, and _____, with its principal place of business at _____, as Lessee.

2. Description of Leased Premises

The City, hereby leases to the Lessee and Lessee hereby hires from the City the property and improvements situated at 139 Brooks Street, SE, Fort Walton Beach, Florida ("Premises"), and more fully described as:

Lease Area #1:

Legal Description

3. Use and Occupancy

a. Purpose

Lessee shall use and occupy the Premises as and for the legitimate public purpose of the (Bidder's name) for (Purpose/Use). Lessee shall not change its use of the Premises without the City's prior written consent.

b. Compliance with Law

Lessee shall comply with all applicable Federal, State, and municipal laws, ordinances and regulations and Premises rules, and shall not directly or indirectly make any use of the Premises which may be prohibited or may be dangerous to person or property or may increase the cost of insurance or require additional insurance coverage.

c. City's Credit Power

Nothing herein shall be construed as a pledge or use of the City's taxing power or credit.

4. Term

The Premises is Leased for a term to commence on XXX, and to end on the ____ day of _____ 20XX, unless renewed or terminated at an earlier time and date as this Lease may provide.

5. Option to Renew

The City grants to Lessee an option to renew this Lease for _____ (X) periods of _____ (X) additional years after the expiration of the initial term of this Lease. At least sixty (60) days prior to the date of termination of any term, either party to this Lease may notify the other party, in writing, of its intent to renew this Lease or to terminate this Lease. Upon a renewal of the Lease, all terms and conditions as stated herein, unless modified in writing by the parties or otherwise stated herein, shall continue in full force and effect. If either party notifies the other of its intent to terminate this Lease, this Lease shall terminate as of Midnight on the 30th day of September in the year such notice is given.

6. Rent

The total annual rent for the first term shall be \$_____ per year for Lease Area. The initial rent payment for Lease will be payable _____ on the XX day of the month. Subsequent rent payments for both leased areas are payable in _____ installment(s) on the first day of the month during the term of this Lease.

The rent amount shall be negotiable at the end of the first term and each term thereafter this Lease remains in effect. In addition, Lessee shall be solely responsible for timely payment of all ad valorem taxes assessed on the Premises.

7 Notice and Place for Payment of Rent

Payments shall be paid to City the fifteenth day of each month, for the operations of the preceding calendar month, and payments shall be to the order of the City of Fort Walton Beach, and mailed or delivered to **City of Fort Walton Beach - Accounts Receivable, 107 Miracle Strip Pkwy, SW, Fort Walton Beach, FL 32548.**

All payments must clearly indicate the City contract number and name: "FWB18-008, Property Management Services."

A fee of \$10.00 per day will be assessed for each business day the payment is late.

Any notice by either party to the other shall be in writing and shall be deemed to have been duly given only if delivered personally or sent by registered or certified mail in an addressed postpaid envelope. If to the Lessee, notice shall be sent to the Premises. If to the City, notice shall be sent to the City Manager at the principal place of business address stated above. Notice shall be deemed to have been duly given, if delivered personally, upon delivery, and if mailed, on the third (3rd) day after the mailing of such notice.

8. Maintenance, Repair, and Inspection of Premises

The Lessee shall maintain and make all necessary repairs to the Premises, to include the interior and exterior of any improvements, the parking lot, landscaping, and all areas of the Premises. The Lessee shall commit no act of waste and shall, in the use and occupancy of the Premises, conform to all applicable laws, orders, and regulations of any governmental entity as they pertain to the condition of the Premises. The City may enter the Premises at any reasonable time, upon adequate notice to the Lessee, except that no notice need be given in case of emergency, for the purpose of inspection of the Premises.

9. Alterations, Additions or Improvements

The Lessee, shall not, without first obtaining the written consent of the City, make any alterations, additions or improvements in, to or about the Premises. The parties understand that the improvements and appurtenances situated upon the Premises at the time of execution of the original Lease Agreement, dated _____, _____, 20XX are the property of the City.

Any alterations, additions or improvements shall comply with the City's Land Development Code, latest edition, and shall follow the City's Development Review Process in obtaining a Building Permit.

Upon termination of this Lease, the Lessee shall, at the Lessee's expense, remove all of the Lessee's personal property that is not permanently affixed to the Premises, repair all injury done by or in connection with the installation or removal of the personal property, and surrender the Premises in as good condition as they were at the beginning of the term, excepting reasonable wear and tear not due to the misuse or neglect by the Lessee.

All property of the Lessee remaining on the Premises after the last day of the term of this Lease shall be conclusively deemed abandoned and may be removed by the City, and the Lessee shall reimburse the City for the cost of the removal. The City may have any abandoned property stored at the Lessee's risk and expense.

10. Abandonment

The Lessee shall not, without first obtaining the written consent of the City, abandon the Premises, or allow the Premises to become vacant or deserted.

11. Assignment, Sub-Lease or Rental

The Lessee will not, without first obtaining the written consent of the City, (a) assign, convey, or mortgage this Lease or any interest under it; (b) allow any transfer or any lien on the Lessee's interest by operation of law; (c) sublet the Premises or any part of them; or (d) permit the use or occupancy of the Premises or any part of them by any person other than the Lessee. The City as the owner of the Premises may assign or otherwise transfer or convey all of its rights as owner and lessor under this Lease.

12. Insurance on Premises**a. Liability & Property Insurance**

The Lessee shall, during the entire term of this Lease, keep in full force and effect a policy of liability and property damage insurance covering the Premises and all activities conducted thereon, in which the limits of liability shall be no less than the standard insurance requirements in effect by the City on the date of the execution of this Lease. Such insurance policy shall name the City as an additional insured and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) days prior written notice.

Proof of insurance coverage shall be submitted each year with the annual rent payment.

13. Partial Destruction of Building.

- a. If at any time during the term of this agreement the building is damaged by fire, act of nature, or other cause beyond the control of Lessee, to the extent that continued use of the building is unfeasible, Lessee may, on written notice to City delivered within thirty (30) days after the damage has occurred, suspend or terminate this agreement without any liability of Lessee to City except for the payment of concession fees accrued to the date of termination.
- b. If Lessee does not elect to terminate this agreement, City shall, with due diligence, restore the building to operative condition, but City shall not be obligated under this provision to expend on such restoration more than the proceeds of any insurance received by it on account of damage.
- c. City shall not be responsible for any profits lost by Lessee due to the partial destruction of the building.

b. Indemnification

The Lessee will indemnify and defend the City and its officers, agents, representatives and employees harmless from and against all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in, on, or at the Premises or the Building or the occupancy use by the Lessee of the Premises or any part of the Premises, or the Building or any part of the Building occasioned wholly or in part by any act or omission of the Lessee or those holding under the Lessee or the Lessee's agents, employees, or customers. In the event that the City shall, without fault on its part, be made a party to any litigation commenced by or against the Lessee, the Lessee shall protect and hold the City and its agents, representatives and employees harmless and shall pay all costs, expenses and reasonable attorney's fees incurred or paid by the City, or any of them, in connection with any litigation. The Lessee shall also pay all costs, expenses, and reasonable attorney's fees that may be incurred or paid by the City in enforcing the terms, covenants and obligations of this Lease on the Lessee's part to be performed. The Lessee shall fully comply with all health and police regulations of insurance carriers writing policies covering the Building.

c. Sovereign Immunity

Nothing herein shall be deemed to be a waiver by the City of its rights to sovereign immunity.

14. Default

If the Lessee defaults in the payment of rent or in the performance of any of the other covenants or conditions of this Lease, the City may give the Lessee notice of that default. If the Lessee does not cure any rent or default within ten (10) calendar days, or otherwise on or before the date required by the City, then the City may terminate this Lease on not less than five (5) days' notice to the Lessee. On the date specified in the notice of termination, the term of this Lease

shall terminate and the Lessee shall then quit and surrender the Premises to the City. This provision shall not limit the City's right to seek any other available remedy allowed by law.

15. Effect of Failure to Insist on Strict Compliance With Conditions

The failure of either party to insist on strict performance of any covenant or condition of this Lease, or to exercise any option contained in this Lease, shall not be construed as a waiver of that covenant, condition, or option in any other instance.

16. Effect of Other Representations

No representations or promises shall be binding on the parties to this Lease except those representations and promises contained in this Lease or in some future writing signed by the party making those representations or promises. This Lease cannot be changed or terminated orally.

17. Peaceful Enjoyment

The City covenants that if and so long as Lessee pays the rent as provided in this Lease and performs the covenants of this Lease, the Lessee shall peaceably and quietly have, hold, and enjoy the Premises for the term mentioned here, subject to the provisions of this Lease.

18. Estoppel Certificate

The Lessee will from time to time on not less than ten (10) days prior request by the City, deliver to the City a statement in writing certifying (a) that this Lease is unmodified and in full force and effect; (b) the dates to which the rent and other charges have been paid; and (c) that the Lessee is not in default under any provision of this Lease.

19. Radon Gas Notification

Radon is a naturally occurring radioactive gas that, when it has accumulated in a premise in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in Premises in Florida. Additional information regarding radon and radon testing may be obtained from the Okaloosa County Health Department.

20. PUBLIC RECORDS

IF LESSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO LESSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**CITY CLERK – CITY OF FORT WALTON BEACH
107 MIRACLE STRIP PARKWAY SW
FORT WALTON BEACH, FLORIDA 32548
850-833-9509
clerk@fwb.org**

- a. Lessee shall keep and maintain public records required by the City to perform the services contained in this Agreement. Upon request from the City's custodian of public records, Lessee shall provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the costs provided for in Chapter 119, Florida Statutes or as otherwise provided by law.
- b. Lessee shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term, and following completion of the contract if the Lessee does not transfer the records to the City.
- c. Upon completion of the contract, Lessee shall transfer, at no cost, to the City all public records in possession of the Lessee or keep and maintain public records required by the City to perform the service. If Lessee transfers all public records to the City upon completion of the contract, Lessee shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Lessee keeps and maintains public records upon completion of the contract, Lessee shall meet all applicable requirements for retaining public records.
- d. All public records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- e. Failure of Lessee to comply with the City's request for records or any other provisions contained in this paragraph, shall be deemed a material breach of this contract and the parties agree that the City may seek immediate relief through a court of law as outlined in Section 119.11, Florida Statutes.
- f. If Lessee fails to provide the public records to the City within a reasonable time Lessee may be subject to penalties under Section 119.10, Florida Statutes. If it is found that Lessee has unlawfully refused to comply with a public records request within a reasonable time, and if the Notice requirements of Section 119.0701(4), Florida Statutes have been met, the City will be entitled to recover all reasonable costs and attorneys' fees for such violation in accordance with Section 119.0701(4), Florida Statutes.

21. Taxes.

Lessee shall pay all taxes on personal property belonging to Lessee, and Lessee shall pay all sales and other taxes levied against the operation of the business. The City at their discretion may request copies of any quarterly sales tax reports.

22. Miscellaneous

a. Section Headings

The section headings in this Lease are intended for convenience only and shall not be taken into consideration in any construction or interpretation of this Lease or any of its provisions.

b. Executed in Duplicate

Provisions inserted in this Lease or affixed to it shall not be valid unless the provisions also appear in the duplicate original Lease held by the City. In the event of variation or discrepancy, the City's duplicate shall control.

23. Notices.

All notices under the agreement shall be in writing and shall be effective when mailed by certified mail, return receipt requested, or when delivered personally, as provided hereafter, or to such other addresses as may be designated by notice:

To the City:

**City of Fort Walton Beach
City Manager
107 Miracle Strip Pkwy SW
Fort Walton Beach, FL 32548**

To the Lessee:

24. Entire Agreement.

This agreement represents the entire and integrated agreement between the City and Concessionaire and supersedes all prior negotiations, representations or agreements, either written or oral. Provisions of this agreement may be amended only by written instrument approved and signed by City and Concessionaire.

25. Binding Successors.

This agreement shall bind the successors, assigns, and legal representative of Concessionaire and of any legal entity that succeeds to the obligations of the City.

IN WITNESS WHEREOF, the City hereunto caused these presents to be subscribed and the Concessionaire has affixed their name and seal, as of the day and year first written above.

CITY OF FORT WALTON BEACH, FLORIDA

ATTEST:

By: _____
Richard A. Rynearson, Mayor

Kim M. Barnes, City Clerk

SEAL

LESSEE:

By: _____
(Signature)

(Printed Name)

SEAL

(Title)

Witness Signature

Witness Signature

(Printed Name)

(Printed Name)

(Title)

(Title)

Before me, the undersigned notary, on the _____ day of _____, 2018, personally appeared _____, in his/her representative capacity as President of the _____, who is personally known to me or has produced identification: