

Agenda Item No. C - 4

VILLAGE OF ROYAL PALM BEACH

Agenda Item Summary

AGENDA ITEM: Approval and authorization for Mayor to execute Lease Agreement by and between the Village of Royal Palm Beach and Ferd and Gladys Alpert Jewish Family & Children's Service of Palm Beach County for Rooms 221 and 222 at the Harvin Center.

ISSUE:

The Village previously terminated the lease agreement with Ferd and Gladys Alpert Jewish Family & Children's Service of Palm Beach County in order to provide for a new lease agreement that includes rent and overhead costs based on square footage during the term of the five year lease. The overhead costs may be revised annually without modification to the lease except through substitution of a revised Exhibit "B". The lease may be renewed for an additional five (5) year terms as mutually agreed upon by both parties.

RECOMMENDED ACTION: Motion to Approve

Initiator	Village Manager Approval	Agenda Date	Village Council Action
Finance Director		09/17/09	

**VILLAGE OF ROYAL PALM BEACH
LEASE AGREEMENT**

THIS LEASE AGREEMENT is hereby entered into this ___ day of _____, 2009, effective October 1, 2009, by the Village of Royal Palm Beach, Florida, a municipal corporation organized and existing in accordance with the laws of the State of Florida, with offices located at 1050 Royal Palm Beach Boulevard, Royal Palm Beach, Florida 33411, hereinafter referred to as the "Village," and the Ferd and Gladys Alpert Jewish Family & Children's Service of Palm Beach County, Inc., a Florida Non Profit corporation, with offices located at 5841 Corporate Way, Suite 200, West Palm Beach, Florida 33422, hereinafter referred to as the "Tenant".

WHEREAS, the Tenant desires to enter upon, utilize and lease certain Village-owned property located at 1030 Royal Palm Beach Boulevard, Royal Palm Beach, Florida 33411 to conduct various activities usually associated with the Tenant; and

WHEREAS, The Village has considered this use of its property and believes such use to be in the best interests of the public health, safety and welfare, so long as certain conditions are met.

W I T N E S S E T H:

That for the faithful and timely performance of and compliance with the terms and conditions stated herein, the Village does hereby lease to the Tenant a certain portion of Village-owned property below subject to the following terms and conditions:

Section 1: **COMMENCEMENT**: This Lease Agreement shall commence on the 1st day of October, 2009, the effective date of this Lease Agreement, and shall be valid until September 30, 2014 (the "Initial Term"), unless terminated earlier as provided for herein. The Initial Term of the lease shall therefore commence on the effective date of this Lease Agreement and continue until September 30, 2014, and thereafter each subsequent renewal term, if any, shall be for five years and commence on October 1st to coincide with the Village's fiscal year. This Lease Agreement may be extended at the end of the Initial Term and each subsequent five (5) year term upon such terms and conditions as may be mutually agreed upon by the parties. Should the Tenant desire to extend this Lease, notice of intent to do so must be provided to the Village no later than one hundred eighty (180) days prior to the end of the Initial Term or any subsequent five (5) year renewal term, unless

the requirement for such notice has been waived by the Village in writing.

Section 2: **LEASED FACILITIES; TAXES:** The Village agrees to lease to the Tenant the area(s) located on the second floor of the Kevin M Harvin Center as shown on attached Exhibit “A”, attached hereto and incorporated herein, for the provision of various services associated with the Tenant’s activities (the “Leased Premises”). The Tenant shall pay the Village a monthly rent amount during the Initial Term and any subsequent five (5) year renewal term of the lease for the use of the Leased Premises based upon the square footage of the Leased Premises. The Tenant shall also pay a pro rata fee to the Village as set forth hereinbelow at Section 5. as compensation for the Village’s overhead costs associated with the Leased Premises. The combined total for the monthly rent amount plus the overhead costs is set forth on Exhibit “B”, attached hereto and incorporated herein, which total amount represents the “**Total Lease Amount.**” In addition, should the Palm Beach County Property Appraiser assess a property tax upon the Village-owned property related to the lease of the premises, the Tenant shall be responsible for the payment of such taxes as follows: the Tenant shall pay to the Village the sum equal to the annual amount of property taxes assessed as of each November by the Palm Beach County Property Appraiser on the Village-owned property which is the subject of this Lease (the “Annual Tax Amount”) in conformance with state law. The Annual Tax Amount shall be divided into four (4) approximately equal amounts (“Quarterly Tax Payment Amount”) with any uneven amount reflected in the last Quarterly Tax Payment Amount for each year. The Quarterly Tax Payment Amount shall be due and payable on December 1st , March 1st , June 1st and September 1st.

Section 3: **EXTENT OF AGREEMENT:** This Lease Agreement covers the use of the Leased Premises for the sole purpose of utilizing the interior area of the second floor and the shared parking areas to conduct various services usually associated with the Tenant’s activities. Additionally, the Tenant may utilize the second floor Meeting Room for associated activities for two (2) hours per month at no charge, but subject to its availability and a prior scheduling of a reservation for such use in the Meeting Room with the Department of Parks and Recreation. The Village and all tenants in the Kevin M. Harvin Center shall utilize the parking area as set forth at Section 6. and shall be allowed reasonable access to the building and premises.

Section 4: **USE OF PREMISES; RESPONSIBILITIES:** The Tenant agrees to provide

and maintain all its own equipment including, but not limited to the following: data lines; telephone services lines and equipment; computers; and furniture. Tenant will be responsible for providing its own staff for technical support or other staffing functions. The Tenant shall also be responsible for all other service fees related to telephone, gas, cable TV, etc. by payment directly to the companies providing such service, if any. The Tenant shall be solely responsible for any personal property within the Leased Premises.

Section 5: **TOTAL LEASE AMOUNT PAYMENT; ANNUAL UPDATE**: The first payment of the **Total Lease Amount** for the month of October, 2009, shall be due with the execution of the Lease by the Tenant. Thereafter, the Total Lease Amount is **payable in advance no later than the 10th day of each month**. The Tenant shall pay as a portion of the Total Lease Amount a monthly pro rata fee in an amount which has been determined to cover the proportionate overhead costs normally provided for the upkeep of the facility. The amount of these pro rata overhead costs shall be subject to review and increase on October 1, 2010 and thereafter, on October 1st of each subsequent year during the Initial Term or any renewal term thereof. Notwithstanding the requirement that amendments to this Agreement be executed by the parties, the parties specifically agree to the following modification schedule: revised Exhibit "B", reflecting only modifications to the annual overhead costs but not to the monthly rent amount based upon the Leased Premises square footage, may be substituted in place of the current Exhibit "B" on October 1, 2010 and thereafter, on October 1st of each subsequent year of the Initial Term and also in each subsequent year during any renewal term of the lease by the Village; and the **revised Total Lease Amount**, resulting from modifications only to the overhead costs portion as depicted on revised Exhibit "B", will then be effective until September 30th of the following year during the Initial Term or until September 30th of the following year during any subsequent renewal term.

Section 6: **PARKING; ACCESS**: The Village shall provide shared parking spaces for use by all the Tenant(s) of the Kevin M. Harvin Center. The Village shall also be allowed reasonable access to the parking areas and to the premises in order to perform the functions necessary to manage the leased facilities.

Section 7: **INDEMNITY**: Each party to this agreement shall be liable for its own actions and negligence and, to the extent permitted by law, the Village shall indemnify, defend and

hold harmless the Tenant against any actions, claims or damages arising out of the Village's negligence in connection with this Agreement; and the Tenant shall indemnify, defend and hold harmless the Village against any actions, claims or damages arising out of the negligence of the Tenant in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity for the Village beyond the limits set forth at Sec. 768.28, *Florida Statutes*. In no case shall such limits extend beyond \$100,000 for any one person or beyond \$200,000 for any judgment which, when totaled with all other judgments, arises out of the same incident or occurrence. These provisions shall not be construed to constitute agreement by either party to indemnify the other for such other's negligent, willful or intentional acts or omissions.

Section 8: **ASSIGNMENT**: This Lease Agreement shall not be assigned in whole or in part without the prior written consent of the Village.

Section 9: **PROHIBITIONS AGAINST LIENS OR OTHER ENCUMBRANCES**: Fee title to the land included in this Lease Agreement is held by the Village. The Tenant shall not do or permit anything to be done which purports to create a lien or encumbrance of any nature against the real property vested in the Village.

Section 10: **BREACH OF COVENANTS, TERMS OR CONDITIONS**: Should the Tenant breach any of the covenants, terms or conditions of this Lease Agreement, the Village shall give written notice to the Tenant to remedy such breach within ten (10) days of such notice. In the event that the Tenant fails to remedy the breach to the satisfaction of the Village within ten (10) days of the receipt of the written notice, the Village may terminate this Lease Agreement immediately.

Section 11: **PARTIAL INVALIDITY - SEVERABILITY**: If any term, covenant, condition or provision of this Lease Agreement shall be ruled by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 12: **NO WAIVER OF BREACH**: The failure of the Village to insist in any one or more instances upon strict performance of any one or more of the covenants, terms and conditions of this Lease Agreement shall not be construed as a waiver of such covenants, terms and conditions, but the same shall continue in full force and effect, and no waiver of the Village of any one of the provisions hereof shall in any event be deemed to have been made unless the waiver is set forth in

writing, signed by the Village.

Section 13: **INSURANCE REQUIREMENTS:** During each term of this Lease Agreement, the Tenant shall procure and maintain commercial general liability and property damage policies of insurance in amounts not less than one million dollars (\$1,000,000.00) per occurrence and one million dollars (\$1,000,000.00) general aggregate, personal injury, death and property damage on the lands covered by this Lease Agreement. The Village shall be named as an "additional insured" on all policies related to this agreement. In addition, the Tenant shall be solely responsible for obtaining insurance, if so desired, covering the loss of personal property during the term of the Lease.

Section 14: **TERMINATION:** In addition to the Village's remedy provided at Sec. 10., either party may terminate this Agreement prior to the end of the Initial Term or any renewal term by giving ninety (90) days written notice to the other party. The Total Lease Amount pro rated up and until the date of termination shall be paid by the Tenant. Upon termination of this Lease Agreement, for any reason, whatsoever, any permanent improvements placed upon the Village-owned property shall automatically become the sole and exclusive property of the Village free and clear of any liens and/or encumbrances from the Tenant. The Tenant may remove any of its own equipment from the premises.

Section 15: **NOTICE:** All notices given under this Lease Agreement shall be in writing and shall be served by certified mail, including, but not limited to, notice of any violations served to the last address of the party to whom the notice is to be given as designated by such party in writing. The Tenant and the Village hereby designate their addresses as follows:

As to Village:	As to JFCS
Village of Royal Palm Beach 1050 Royal Palm Beach Boulevard Royal Palm Beach, Florida 33411	Ferd and Gladys Alpert Jewish Family & Children's Service of Palm Beach County, Inc P.O. Box 220627

Attn: Village Manager	West Palm Beach, Florida 33422 Attn: Executive Director
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Section 16: **COMPLIANCE WITH LAWS**: The Tenant agrees that this Lease Agreement is contingent upon and subject to the Tenant obtaining all applicable permits and complying with all applicable permits, regulations, ordinances, rules and laws of the State of Florida or the United States, or any political subdivision or agency of either, which has legitimate jurisdictional authority regarding this property and its development.

Section 17: **GOVERNING LAW**: This Lease Agreement shall be governed by and interpreted according to the laws of the State of Florida; venue for the enforcement of this Lease Agreement shall be Palm Beach County, Florida, where the subject land is located.

Section 18: **DUPLICATE ORIGINALS**: This Lease Agreement is executed in duplicate originals, each of which shall be considered an original for all purposes.

Section 19: **ENTIRE UNDERSTANDING**: This Lease Agreement set forth the entire understanding between the parties and shall only be amended with the prior written consent of both parties.

IN WITNESS WHEREOF, the parties have caused this Lease Agreement to be executed on the day and year first above written.

Village of Royal Palm Beach, Florida

By: _____
David A. Lodwick, Mayor

Witness

Witness

THE STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 2009, by _____, who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

(Seal)

State of Florida
NOTARY PUBLIC

TENANT
By: *Arnold Lambert*
Arnold Lambert, President

(CORPORATE SEAL)

Diane Romano
Witness

Elizabeth Tannenbaum
Witness

THE STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 9th day of Sept, 2009, by Arnold Lambert, on behalf of the above-named entity, who is personally known to me or who has produced a Florida driver's license as identification and who did/did not take an oath.

(Seal)

Eleanor J. Shiffman
State of Florida *Eleanor J. Shiffman*
NOTARY PUBLIC

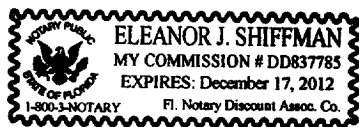


EXHIBIT "B"

HARVIN CENTER COSTS FOR JEWISH FAMILY SVC

Total Square Feet 4,426

JFC Square Feet (Including
Common Area) 500

Allocable % 11.30%

	<u>Current</u>	<u>Proposed</u>	<u>Annual Cost</u> <u>Sq Foot</u>
Rent	-	236.24	\$ 5.67
Overhead	378.00	276.79	6.64
	<u>378.00</u>	<u>513.03</u>	<u>\$ 12.31</u>