

IN THE CIRCUIT COURT FOR THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY,
FLORIDA

CIVIL DIVISION

CASE NO.:

PALM BEACH JEWELRY AND
ANTIQUÉ SHOW, INC.,
a Florida corporation, and
PROVIDENT JEWELRY &
LOAN, INC., a Florida corporation,

Plaintiffs,

v.

WEST PALM BEACH COMMUNITY
REDEVELOPMENT AGENCY,
a public body, corporate and politic
pursuant to Fla. Stat. §163.356,

Defendant.

_____ /

COMPLAINT FOR DECLARATORY RELIEF

Plaintiffs, PALM BEACH JEWELRY AND ANTIQUE SHOW, INC. (the “Palm Beach Show”) and PROVIDENT JEWELRY & LOAN, INC. (“Provident” or collectively “Plaintiffs”), by and through their undersigned counsel, hereby file their Complaint for Declaratory Relief against Defendant WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY (“CRA”), and state:

1. This is an action for declaratory judgment pursuant to Chapter 86, of the Florida Statutes.

2. Plaintiff, the Palm Beach Show, is a Florida corporation in the business of producing fine art, antique and jewelry shows and has done so in the City of West Palm Beach downtown on an annual basis since 2004.

3. Plaintiff Provident is a buyer and seller of estate jewelry, fine art, antiques and luxury timepieces, with its principal place of business at the property it owns at 331 Clematis Street in downtown West Palm Beach, Florida. Clematis Street, where Provident's business is located, is within the area identified by the City Commission of the City of West Palm Beach as in need of community redevelopment. Provident has also participated in the jewelry, art and antique shows produced by Palm Beach Show since 2008.

4. Defendant CRA is a public agency created through adoption of Ordinance No. 1805-84 by the city Commission of West Palm Beach in September 1984. The CRA is charged with redevelopment of a designated area within the City of West Palm Beach, Florida, and is duly organized and existing under Florida Statute §163.357.

5. On or about June 6, 2016, Defendants CRA entered into a License Agreement with the Los Angeles Art Show, LLC d/b/a ART MIAMI, LLC ("Art Miami"), for the use of 400 Lakeview Avenue, also known as the "Tent Site," a property owned by the City of West Palm Beach and within the jurisdiction of the CRA. The street address as set forth in Palm Beach County property records is 825 S. Dixie Highway, West Palm Beach, Florida.

6. The purpose of the License Agreement is to give Art Miami use of the Tent Site to conduct a multiple day art show on an annual basis in West Palm Beach, Florida.

7. Pursuant to the License Agreement, the first art show will be held in January 2017. A true and correct copy of the License Agreement is attached hereto and incorporated herein as “**Exhibit 1.**”

8. The License Agreement gives Art Miami the use of the Tent Site for a period of 24 days annually to set up, hold the event, and breakdown the exhibits and concessions following the event.

9. Art Miami also has two one-year options to renew the License Agreement.

10. The License Agreement was approved by the CRA as reflected in Resolution No. 16-56, a copy of which is attached as “**Exhibit 2.**”

11. The License Agreement was a late addition to the Agenda for the June 6, 2016 meeting of the CRA, having been added to the Agenda on or about the same day as the CRA meeting. A true and correct copy of the Agenda for the June 6, 2016 meeting is attached as “**Exhibit 3.**”

12. Due to the late addition of the License Agreement to the Agenda, and the failure of the CRA to comply with statutory notice requirements, adequate notice was not given to the public to speak out about this event and/or this agreement.

13. Nor did the License Agreement arise as a result of a request for proposal or an invitation to bid from the CRA as statutorily required. At no time did the CRA seek requests for proposals nor did it issue invitations to the public to bid for the use of the Tent Site for an art show.

14. The label License Agreement, however, is a misnomer. A license regulates an activity and does not have the characteristics of a contract. See Homestead-Miami Speedway, LLC v. City of Miami, 828 So.2d 411 (3rd DCA 2002). The License Agreement, conversely,

provides for exclusive use for a 24-day period of the Tent Site, was negotiated, assignable, and provided a cure period for any default. These are characteristics of a lease as a matter of law.

15. Since the agreement between Miami Art and the CRA was a lease transferring an interest in real property within the community redevelopment area for a period of 24 days, Florida Statute § 163.380(3)(a) requires notice as follows:

Prior to disposition of any real property or interest therein in a community redevelopment area, any county, municipality, or community redevelopment agency shall give public notice of such disposition by publication in a newspaper having a general circulation in the community, at least 30 days prior to the execution of any contract to sell, lease, or otherwise transfer real property and, prior to the delivery of any instrument of conveyance with respect thereto under the provisions of this section, invite proposals from, and make all pertinent information available to, private redevelopers or any persons interested in undertaking to redevelop or rehabilitate a community redevelopment area or any part thereof. Such notice shall identify the area or portion thereof and shall state that proposals be made by those interested within 30 days after the date of publication of the notice and that such further information as is available may be obtained at such office as is designated in the notice.

16. The CRA did not comply with Florida Statute § 163.380.

17. The CRA did not provide 30 days notice prior to the execution of the License Agreement.

18. The CRA did not invite proposals for the Tent Site by publishing a request for proposals in a newspaper of general circulation and provide 30 days for the proposals to be submitted.

19. Plaintiffs allege that the License Agreement was improperly entered into without adequate notice to the public.

20. Plaintiffs allege that the CRA should have invited proposals for the use of the Tent Site from interested individuals and/or entities.

21. Plaintiffs have a bona fide and actual need for a declaration by this Court that the License Agreement is a lease, is subject to the notice requirements under Florida Statute §163.380, and therefore that the License Agreement is voidable as being executed without due process.

22. The above-referenced disputes between Plaintiffs and Defendant are immediate; concern matters of great public importance; and, are otherwise bona fide.

23. The Court's declaration of the respective rights of the parties is required as a matter of law.

WHEREFORE, the PALM BEACH JEWELRY AND ANTIQUE SHOW, INC. and PROVIDENT JEWELRY & LOAN, INC., respectfully request that this Court enter judgment declaring the License Agreement a lease, declare the License Agreement void, order the CRA to provide 30 days notice to the public about this transaction, and invite proposals for the use of the Tent Site. Plaintiffs further pray for a judgment for costs of this action and any other relief this Court deems just and proper.

Respectfully submitted this 20th day of June, 2016.

CIKLIN LUBITZ & O'CONNELL
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(561)832-5900; Fax: (561)820-0389
Counsel for Plaintiff

By: 

BRIAN B. JOSLYN
Florida Bar. No. 332495
A. PATRICIA MORALES CHRISTIANSEN
Florida Bar No. 0027634

LAAS, LLC
LICENSE AGREEMENT
[Tent Site]

Contract No. 17727
Res. No. 16-56

THIS LICENSE AGREEMENT, made and entered into, by and between the **WEST PALM BEACH COMMUNITY DEVELOPMENT AGENCY**, a public body corporate and politic, under Part III, Chapter 163, Florida Statutes, (the "CRA") and **Los Angeles Art Show, LLC d/b/a ART MIAMI, LLC**, (hereinafter "Art Miami"), a State of Florida corporation whose address is 48 NW 29th Street, Miami, Florida 33127 (hereinafter "Art Miami");

WHEREAS, the downtown tent site is public property held by the CRA; and

WHEREAS, since 1990, Art Miami has been producing top quality very popular modern and contemporary art shows; and

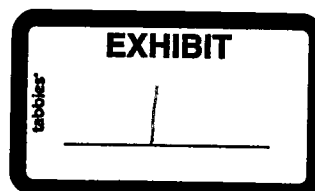
WHEREAS, the *Palm Beach Modern + Contemporary* event offers the citizens of West Palm Beach a cultural art experience, brings the public to the downtown and has a positive impact on the local economy; and

WHEREAS, Art Miami and the CRA desire to enter into a two-year License Agreement with a one-year option, to allow the *Palm Beach Modern + Contemporary* event to be held on certain CRA-owned property and rights-of-way;

NOW, THEREFORE, for and in consideration of the mutual covenants and promises as hereinafter set forth and of the faithful performance of all such covenants and conditions, CRA and Art Miami do hereby agree as follows:

1. **Grant of License.** CRA hereby grants to Art Miami a license and exclusive right of occupancy to conduct the *Palm Beach Modern + Contemporary* event within the property known as 400 Lakeview Avenue, also known as the "Tent Site", legally described in Attachment 1 to this Agreement (hereinafter "Permitted Area"), under the terms and conditions of this Agreement. CRA and Art Miami intend that this Agreement shall be a license and privilege and that no other leasehold or other interest in the Permitted Area is conferred to Art Miami by this document.
2. **"As Is" Condition: Inspection.** Art Miami takes the Permitted Area in "as is" condition. Representatives of the CRA and Art Miami shall inspect and document the condition of the Permitted Area prior to set up for the Event each year. Photographs of the Permitted Area may be taken to document the condition of the Permitted Area prior to the Event.
3. **Use of Permitted Area.** Art Miami shall utilize the Permitted Area only to produce a multiple day and evening art show, including a multitude of national and international art galleries, with vendors and concessions for food and alcoholic/non-alcoholic beverages, and other related activities known as "*Palm Beach Modern + Contemporary*" (hereinafter, the "Event").

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4. **Term.**

4.1 **Term.** The term of this License shall be for a period of one (1) year, and only during the time period set forth in this Agreement ("Term").

4.2 **Renewal.** Provided that Art Miami has satisfied the requirements of this Agreement, the parties shall have the option to renew the agreement for two (2) additional terms of one-year each.

4.3 **Event Time.** The Event shall be held annually in January of each year during a period which shall not exceed four (4) calendar days, excepting set-up and break-down. It is anticipated that set up will require approximately twelve (12) calendar days and breakdown will require eight (8) calendar days. The actual dates of the Event shall be submitted to the CRA for approval by no later than October 30th of each year. The actual dates will not be reserved for the exclusive use of Art Miami until the dates have been approved by the CRA. The parties agree that the 2017 Event will be on Thursday, January 12 through Sunday, January 15, 2017; with set-up commencing December 31, 2016.

5. **Event Preparation Process.**

5.1 **Permits.**

5.1.1 **Special Event Permitting.** Art Miami shall comply with the City of West Palm Beach (hereinafter "City") special event permitting process for each annual Event.

5.1.3 **Building Permit.** Any Installation with a structural foundation shall require a building permit.

5.1.4 **Lighting** – The installation of lighting for any Event shall require electrical permits.

5.1.5 **Other Permits.** Copies of all appropriate permits and licenses required by the City's Development Services Department and Fire Department. Such permits include, but are not limited to, permits necessary for tents, merchandise, food and beverage vendors and electrical connections.

5.1.6 **Other Government Permits.** Art Miami shall secure all governmental permits necessary for holding the Event, including permits necessary to construct and maintain the temporary structure necessary for the Event. Any sanitary and food facilities shall be provided by Art Miami in accordance with applicable laws and regulations of the Florida Department of Environmental Protection and the Palm Beach County Health Department.

5.2 **Site Plan.** Not less than ninety (90) calendar days prior to the opening day of each Event, Art Miami shall provide the CRA with a detailed site plan of the Event for the Permitted Area showing: the location of all art Installations; a description of each art Installation; the location of all existing utilities within fifty feet of each art Installation; details regarding foundations required for any Installation, or other improvements, including but not limited to, foundations, lighting, fencing, security ("Improvements"); and, the dates when such Installations will be constructed and dismantled. The site plan shall be reviewed by the City's Police Department to ensure Community Policing Through Environmental Design ("CPTED")

practices are included. Such site plan shall also be subject to review and approval by the appropriate City departments for compliance with the ADA and other applicable regulations. The CRA or City may require Art Miami to make reasonable revisions to such site plan. In the event Art Miami intends any material changes to the site plan after City approval, such changes require the prior approval of the City, which approval will not be unreasonably withheld.

5.4 Maintenance of Traffic. Not less than sixty (60) calendar days prior to each opening day of the Event, Art Miami shall provide to the City a traffic flow/maintenance of traffic plan, identifying the need for the temporary closure of any streets or alleys and including the use of variable message signs ("MOT Plan") for the City's review and approval. No street or alley closures will be permitted unless included in the MOT Plan and approved by the City. Art Miami shall ensure that a MOT-certified contractor installs all required traffic control devices, including VMS boards, as approved by the City traffic engineer and that such contractor is responsible for maintaining such equipment. The City may require Art Miami to make reasonable revisions to such MOT Plan. Art Miami shall be responsible for all fees associated with any street closures.

5.5 Security Plan.

5.5.1 Not less than forty-five (45) calendar days prior to each opening day of the Event, Art Miami shall provide to City, for the City's review and approval, a security plan; addressing emergency services, police and fire/rescue support ("Security Plan"), which shall have been previously mutually developed with City staff.

5.5.3 The Security Plan shall establish the number of West Palm Beach police officers deemed necessary to maintain order and protect persons and property during the Event. It is the intent of this Agreement that the City approves the number of police officers required for the Event, and Art Miami will coordinate directly with the special event coordinator for the Police Department to schedule off-duty officers to provide services.

5.5.4 The Security Plan shall also establish the number of West Palm Beach Fire Department personnel and emergency medical services to be available during the Event.

5.5.5 If, in the course of Event operations, CRA, City or its officers, agents and employees become aware of any condition in or about the Permitted Areas which may be dangerous, Art Miami shall immediately correct such condition or cease operations upon being notified, so as not to endanger persons or property.

5.5.6 Any mutually agreed revisions made to the Security Plan after submittal shall be documented in writing. No Event shall be held without a Security Plan mutually approved by the City and Art Miami.

5.6 City Services Plan. Not less than forty-five (45) calendar days prior to each opening day of the Event, Art Miami shall provide to City, for the City's review and approval, the City Services Plan, addressing the City services required for the Event, including but not limited to, traffic barricades, sanitation services, utility connections, and other required City services ("City Services Plan") which shall have been previously mutually developed with City staff. The City's Community Events Division employees may assist with the coordination of City Services; Community Events staff do not assist with the production or operation of the Event. No Event shall be held without a City Services Plan mutually approved by the City and

Art Miami. Any mutually agreed revisions made to these Plans after submittal shall be documented in writing.

5.7 Notification of Surrounding Businesses. At least thirty (30) calendar days prior to each Event, Art Miami shall provide written notice of the Event, including the dates and times of the Event and street closures to all businesses surrounding the Event. Art Miami shall also provide a copy of such notice to the City, the Downtown Merchants' Association (if any merchants are impacted), and the Downtown Development Authority.

5.8 Information to CRA. Not less than thirty (30) calendar days prior to the commencement of the Event each year during the term of this Agreement, Art Miami shall provide to CRA the following:

- A. A Security Deposit, as described in Section 9.
- B. Copies of all appropriate permits and licenses required by the City's Development Services Department and Fire Department. Such permits include, but are not limited to, permits necessary for tents, merchandise, food and beverage vendors and electrical connections.
- C. The cell and business phone numbers of the key Event staff of Art Miami.
- D. Complimentary passes as described in Section 8.2.
- E. Any other information reasonably required by the CRA or City.

5.9 Banners. Not less than thirty (30) calendar days prior to the commencement of the Event, Art Miami may request of the City the right to install Event banners on light stanchions in downtown West Palm Beach. City may grant such right provided the City is not using the banner stanchions to market a City event or the City does not have a contractual sponsorship for banners on such light stanchions. If the right to install Event banners is granted, such banners comply with the criteria in Section 78-158 of the City Code of Ordinances. Notwithstanding anything in the Ordinance to the contrary, if banners are allowed, Art Miami shall use a signage contractor to install and remove such banners at Art Miami's sole cost and expense. In the event Art Miami or its agents cause any damage to any light stanchion, Art Miami shall be responsible to reimburse the City for any and all repairs.

5.10 Insurance. Not less than fourteen (14) calendar days prior to the commencement of the Event, Art Miami shall provide to CRA the certificates of insurance, as described in Section 13.

6. Event.

6.1 Set-up. Art Miami shall have a set-up period of twelve (12) calendar days immediately prior to the opening of the Event each year in Permitted Area.

6.2 Inspections. Representatives of the CRA and Art Miami shall inspect and document the condition of the Permitted Area prior to set up for the Event each year. Photographs of the Permitted Area may be taken to document the condition of the Permitted Area. A final inspection will be conducted by the CRA immediately prior to the Event each year to ensure that Event elements are in accordance with the approved site plan.

6.3. Waste Disposal. Art Miami shall utilize only sanitation company(s) holding a City franchise for solid waste, to collect, haul and dispose of all garbage, waste and debris generated by the Event. Art Miami shall ensure that all such waste is disposed of properly in accordance with all laws and regulations.

6.4. Recycling. Art Miami agrees to utilize reasonable efforts to recycle materials.

6.5. Utilities. Art Miami acknowledges that Art Miami is solely responsible for payment for all Event utilities, including, but not limited to, electrical, water, sewer, and storm sewer hook-up requirements.

6.6. Break-down. Art Miami shall have a period of eight (8) calendar days to remove all Event materials and restore the Permitted Area to a condition equal to that existing on the date of inspection and Art Miami shall pay all costs for the repair and replacement of City property which is damaged during the Event.

6.7. Grass/Sod. In the event any grass/sod dies as a result of the Event, Art Miami shall replace the grass/sod within eight (8) calendar days of the conclusion of the Event.

6.8. Pressure Cleaning. Art Miami shall pressure clean all areas deemed necessary by the CRA, which cleaning shall be completed within eight (8) calendar days of the conclusion of the Event.

6.9. Repair of Holes. Art Miami agrees to repair all core drilling holes in the ground, asphalt, concrete, and all other surfaces made to facilitate the installations of the art and the erection of barriers, fences, tents, and other Improvements to the Permitted Areas, within eight (8) calendar days of the conclusion of the Event.

6.10. Additional Repairs. If, due to an Event, the Permitted Area, or any portion thereof, or any structure attached thereto, or any equipment, fixture, or other item located thereon, or any light stanchions utilized for an Art Miami banner, shall be destroyed, damaged, marred, altered, or physically changed in any manner whatsoever, then Art Miami shall be responsible to restore such destroyed, damaged, marred, altered, or physically changed feature of the Permitted Areas, or any structure or any equipment, fixture or other item, to its condition prior to the Event within eight (8) calendar days after the conclusion of the Event.

6.11. Property Left on Permitted Area. Excepting Temporary Art and any Improvements or appurtenances for such Temporary Art, any personal property remaining in the Permitted Area as of the expiration of the break-down period shall become the property of the CRA.

7. Street Closings; Maintenance of Access.

7.1. Business Access. Art Miami shall provide pedestrian and public access to the businesses located on the rights-of-way at all times, with limited vehicular access as may be provided in the approved MOT Plan. Art Miami agrees to coordinate and make the appropriate arrangements with any merchants affected by the street closures, including the Downtown Merchants Association, to ensure they are provided sufficient and reasonable access to their businesses.

7.2 Resident Access. Art Miami agrees to coordinate and make the appropriate arrangements with any residents affected by any street closures to ensure they are provided sufficient and reasonable access to their residences.

8 Duty of Art Miami to Provide.

8.1 Marketing Deliverables. Art Miami will provide the CRA and City with the following marketing deliverables:

a) A booth in the fair to conduct a public awareness campaigns. CRA and Art Miami shall mutually agree on the size and location of the CRA's booth;

b) CRA and City shall be prominently placed on a "sponsor sign" to be located at each of the main entrances/exits;

c) Inclusion of CRA and City's logo in/on:

1. The official show guide;
2. Show's website with a hyperlink to a located of City/CRA's choosing;
3. All official invitations, passes, signs, etc., related to the show;
4. Social media campaigns; and
5. All electronic marketing material.

8.2 Complimentary passes. Art Miami shall provide the City with complimentary passes to each Event as follows:

- i. One hundred (100) passes good for two (2) people each day of the show;
- ii. One hundred-fifty (150) VIP cocktail reception guest passes;
- iii. One private tour of the show for up to twelve (12) persons;
- iv. Up to one hundred (100) personalized VIP passes for each of the events Art Miami produces
- v. Up to twenty (20) Invitations and passes to any other official *Palm Beach Modern + Contemporary* events.

9. Fees & Security Deposit. Art Miami shall pay annually, without demand, together with any and all sales, use, and other applicable state taxes arising or accruing during the term of this License, the following fees and costs:

9.1 License Fee: In consideration of the CRA entering into this Agreement with Art Miami, which will bring a premier modern and contemporary art show to the City, the CRA shall waive any license fees for the initial term of this Agreement.

9.2 Security Deposit. As security for Art Miami's obligations to repair or replace damage to CRA property within the Permitted Area, Art Miami shall, not less than thirty (30) days prior to each Event, provide the CRA with a corporate check, cashier's check, performance bond, or other form of security acceptable to the CRA, in the amount of Twenty Thousand Dollars (\$20,000.00) per year, issued by a national or state bank or surety

company authorized to issue such bonds or other surety in the State of Florida, and having a Best's Guide rating of A+ or B+, VII or its equivalent (the "Security Deposit"). Art Miami hereby authorizes the CRA and City to apply the Security Deposit to any and all amounts due from Art Miami under this Agreement. CRA agrees to provide to Art Miami, not later than ninety (90) days after the Event each year, an itemized statement listing all charges applied to the Security Deposit. In the event the Security Deposit is not sufficient to cover all costs which may be charged to the Security Deposit under this Agreement, Art Miami shall reimburse the CRA or City the amount due in excess of the Security Deposit within thirty (30) calendar days of demand for such payment. If such payment is not made within said thirty days, the Security Deposit will be increased to \$50,000 per year for the remainder of the Term of this Agreement. Any Security Deposit funds remaining after deduction of all amounts due from Art Miami under this Agreement shall be refunded to Art Miami by the CRA. In the event the Security Deposit is not sufficient to cover all costs which may be charged to the Security Deposit under this Agreement for two or more years, the CRA may increase the Security Deposit amount so that it will be sufficient to cover all costs which may be charged to the Security Deposit under this Agreement, based on the recent historical costs.

10. Reimbursement and Payment.

10.1 Art Miami agrees to reimburse CRA or City, as applicable, within thirty (30) calendar days of receipt of an invoice therefore, for all expenses incurred by CRA/City for services provided for the Event including all emergency services and fire services and staffing identified in the Security Plan, as such Plan may be amended in writing, at the then-current rates and fees.

10.2 The cost to Art Miami for providing off-duty police services shall be the rate established by the City/Police Department for each applicable calendar year. The City will invoice Art Miami for the off-duty police services after the Event. Art Miami shall pay each officer directly within fourteen (14) calendar days of receipt of the invoice.

10.3 City Services Reimbursement. Art Miami agrees to reimburse City, within thirty (30) calendar days of receipt of an invoice therefore, for all expenses incurred by City for City Services provided for the Event, if any, including services identified in the City Services Plan, pursuant to Section 5.6 of this Agreement, as such City Services Plan may be amended in writing, at the then-current rates and fees. Art Miami shall also reimburse the City for on-call Community Events Division employees at the prevailing rates for any services provided by the employees of the City's Community Events Division during non-working hours, if any. All of the foregoing costs described in this Section shall be referred to as the "City Services Reimbursement". All rates for City Services are subject to change as new rates and fees are adopted by the City.

10.4 Parking Meter Fees. Art Miami shall be responsible for meter rental fees at the current prevailing rate established by the City for all meters bagged as a result of the Event, including those meters bagged at the direction of Police, Fire or Traffic Engineering because of the Event. Such fees shall be payable in accordance with the then-current fee resolution, as such resolution may be amended from time to time.

11. Payments Due.

11.1 Due Dates. Art Miami agrees to pay all fees and costs as follows:

- a) License Fee shall be paid no less than thirty (30) calendar days prior to the

Event;

- b) Security Deposit shall be paid no less than thirty (30) calendar days prior to the Event;
- c) City Services Reimbursement for police services shall be paid within fourteen (14) calendar days of receipt of the invoice for such services.
- d) City Services Reimbursement for all other services shall be paid within thirty (30) calendar days of the conclusion of the Event.

11.2 Payment Address. Payments shall be made payable to the City of West Palm Beach and addressed to:

City of West Palm
Beach Attn: Accounts
Receivable
P.O. Box 3366
West Palm Beach, FL 33402-3366.

11.3 Interest. Art Miami also covenants and agrees to pay interest at the maximum rate allowed by law or eighteen percent (18%) per annum, whichever is less, for any payment due and payable and not received by the City within thirty (30) calendar days from the due date.

12 Right of City to Modify the Permitted Areas. Throughout the term of this License, and notwithstanding any other term or condition of this License, the City retains the right in its sole discretion to modify and reconfigure any of the Permitted Area, including, but not limited to, Okeechobee Boulevard. Specifically, the parties acknowledge that the Permitted Area may be temporarily or permanently reconfigured, modified or closed. The City agrees to obtain Art Miami's input prior to undertaking any substantial physical change to the Permitted Area; however, in no event shall Art Miami have any right of consent or control over any determination made by the City in connection with any improvement or condition within the Permitted Area.

13 Insurance. Art Miami shall obtain and keep in force at all times during the full period for which the privileges hereunder are granted, a policy or policies of public liability and property damage insurance, protecting the CRA, its officers, agents and employees against any and all liability due to death, injury or damage to property arising out of, or any way incidental to Art Miami's operation. Art Miami agrees to provide the policy or policies in comprehensive form in an amount of not less than One Million Dollar (\$1,000,000.00) combined single limit, per occurrence, bodily injury, including death and property damage with an aggregate limit of no less than Five Million Dollars (\$5,000,000). The insurance policy shall also contain broad form contractual coverage applicable to this Agreement and specifically including the indemnification and hold harmless clause contained herein, and Liquor liability with minimum limits not less than that required for bodily injury and property damage. Additionally, Art Miami must provide that the "West Palm Beach Community Redevelopment Agency, its officers, employees and agents" are listed as additional insureds on all required policies. Additionally, all required policies shall be issued by carriers admitted to do business in the State of Florida, shall have a Best's rating of at least "A-", shall have deductibles not exceeding Five Thousand Dollars (\$5,000.00), and shall have been approved in writing by the CRA. A certificate of insurance evidencing compliance with

the requirements of this paragraph shall be submitted to CRA not less than fourteen (14) calendar days prior to each Event. Under no circumstances shall Art Miami be permitted to commence use of the Permitted Area licensed under this Agreement without receiving approval by the CRA of the certificate(s) of coverage.

14. **Indemnification.** Art Miami agrees that it will indemnify, hold and save the CRA and its board, the City, its commissioners, officers, employees and agents from any claim, demand, suit, loss, cost or expense or any damages which may be asserted, claimed or recovered against or from the CRA, CRA board, City or City's commissioners, officers, employees or agents ("the "Indemnified Parties") by reason of any damage to property or personal injury, including death, to the extent that any such damage or injury may be incident to, arise out of, or be caused, either proximately or remotely, wholly or in part, by an act, omission, negligence or misconduct on the part of Art Miami or any of its agents, servants, employees, contractors, patrons, guests, or invitee or of any other person entering upon the Permitted Area licensed hereunder with the express or implied invitation or permission of Art Miami, or otherwise, or when any such injury or damage is the result, proximate or remote, of the violation by Art Miami or any of its agents, servants, employees, contractors, patrons, guests, or invitee of any law, ordinance, or governmental order of any kind, or when any such injury or damage may in any other way arise from or out of the occupancy or use by Art Miami, its agents, servants, employees, contractors, patrons, guests, or invitee of the Permitted Area. Art Miami covenants and agrees that in case any Indemnified Parties shall be made a party to any litigation against Art Miami or in any litigation commenced by any party other than Art Miami relating to this Agreement or to the Permitted Area, then Art Miami shall and will pay all costs and expenses, including reasonable attorney's fees and court costs, incurred by or imposed upon the Indemnified Parties by virtue of any such litigation. These terms of indemnification shall be effective unless such damage or injury results from the negligence or willful misconduct of Indemnified Parties. These terms of indemnification survive the termination of this Agreement.

15. **Default and Remedies.**

15.1 **Events of Default.** Default shall be defined as the untimely performance of any and all obligations and provisions of this License Agreement. Default shall include:

- A. Failure to pay the Security Deposit by the dates specified in this Agreement;
- B. Failure to pay the License Fee by the dates specified in this Agreement;
- C. Failure to pay any reimbursement for repairs due under this Agreement;
- D. Failure to pay City Services Reimbursement due under this Agreement;
- E. Failure to provide the Event in any year during the Term of this Agreement. The City shall not have the right to terminate this Agreement if: (a) Art Miami fails to hold the Event as a result of any act of God, terrorism, or natural disaster out of the control of Art Miami; or (b) if any actions of the City prevent Art Miami from holding the Event.
- F. Art Miami's abandonment of the Permitted Area, whether partial or total.

- G. Failure to carry insurance as required by this Agreement.
- H. Failure to provide the Security Plan as required by this Agreement.
- I. Failure to provide the MOT as required by this Agreement.
- J. Any and all checks given by the Art Miami are returned for insufficient funds or N.S.F.
- K. Any other material default of this Agreement.

15.2 Notice and Cure. Should either party to this Agreement determine that the other is in default of any of the terms and conditions of this Agreement, written notice shall be given by the non-defaulting party allowing the defaulting party thirty (30) calendar days from the date of receipt of such written notice to cure the defaults.

15.2 City's Remedies. In the event Art Miami defaults or is in violation of any term, provision or condition of this Agreement and fails to cure, or fails to diligently pursue a cure, of such violation or default pursuant to the notice of default, the City shall have the right to terminate this Agreement.

15.3 Art Miami's Remedies. In the event the Permitted Areas are substantially and materially modified in such a manner as to impact Art Miami's ability to conduct the Event, Art Miami shall have the right to terminate this Agreement without further liability.

15.4 In the event of default by either party to this Agreement, both parties shall have all remedies available under the laws of the State of Florida including, but not limited to, injunction to prevent default or specific performance to enforce this Agreement, subject to state law. The rights of the parties shall be considered cumulative and shall not be waived now or in the future by the exercise of any rights and remedies provided under the terms of this Agreement and authorized by law.

16. Limitation of City's Liability. The City agrees to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability all such breaches for the term hereof never exceeds the sum of One Hundred Thousand Dollars (\$100,000.00). Art Miami hereby expresses its willingness to enter into this Agreement with Art Miami's recovery from the City for any damage action for breach of contract to be limited to the sum of \$5,000.00. Accordingly, and notwithstanding any other term or condition of this Agreement, Art Miami hereby agrees that the City shall not be liable to Art Miami for damages in an amount in excess of \$100,000 for any action or claim for breach of contract arising out of the performance of non- performance of any obligations imposed upon the City by this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be waiver by the City of sovereign immunity or the protections set forth in Florida Statutes, Section 768.28.

17. Notice. All notices shall be delivered in person or be sent by certified mail to the individual designated below, until such time as either party furnishes the other party written instructions to contact another individual.

For Art Miami:	For CRA:
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Art Miami, LLC
48 NW 29th Street
Miami, Florida 33127
Attention: Executive Director

West Palm Beach Community
Redevelopment Agency
401 Clematis Street
West Palm Beach, FL 33401
Attention: CRA Exec. Director

18. **Minor Changes.** The City hereby authorizes the Community Events Manager or his/her designee, to modify, alter or waive any minor requirements, conditions, or provisions of this Agreement, mutually agreed to by Art Miami, if in the best interest of the City and Art Miami, in order to facilitate the safe or efficient implementation of any provision of this Agreement, which modification, alteration, or waiver shall be in writing and signed by both parties. Art Miami has the right to appeal to the City Commission any alteration or requirement felt to be unreasonable.

19. **Non-Discrimination.** In the performance of this Agreement, Art Miami and its concessionaires shall not discriminate against any vendor, concessionaire, employee, patron, visitor, attendee or customer because of race, color, religion, sex, gender identity or expression, genetic information, national origin, age, disability, familial status, marital status or sexual orientation. In addition, to ensure that the Event is a true community event, Art Miami will encourage the participation of minority groups in all aspects of the Event, including its organization, planning, implementation, concessions and support services. Art Miami agrees to comply with the terms and provisions of the Americans With Disabilities Act and shall make the Permitted Area accessible for persons with disabilities.

20. **Compliance with Laws.** In the conduct of its activities under this Agreement, CANVAS shall comply in all materials respects with all applicable federal, state, county and city laws and regulations and ordinances

21. **Force Maieure.** Any deadline provided for in this Agreement shall be extended, as provided herein, if the deadline is not met because of one of the following conditions occurring with respect to the Event or Permitted Areas: fire, strike, explosion, power blackout, earthquake, volcanic action, flood, war, civil disturbances, hurricanes and acts of God. When one of the foregoing listed conditions interferes with performance, then the party affected shall be excused from performance on a day-to-day basis to the extent such party's obligations relate to the performance so interfered with; provided, the party so affected shall use reasonable efforts to remedy or remove such causes of nonperformance.

22. **Governing Law.** This Agreement shall be construed and interpreted, and the rights of the parties hereto determined, in accordance with Florida law, without regard to conflict of laws provisions. The City and Art Miami submit to the jurisdiction of Florida courts and federal courts located in Florida. The parties agree that proper venue for any suit concerning this Agreement shall be Palm Beach County, Florida, or the Federal Southern District of Florida. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

23. **Cost of Collection: Attorney's Fees.** In the event that the City is required to file legal action against Art Miami to collect any amounts due under this Agreement, City shall be entitled to its costs of collection, attorney's fees and costs, plus interest at the maximum rate allowable by law.

24. **Time of Essence.** Time is of the essence of this Agreement.

25. **Survival of Clauses.** In the event that any sentence, section, paragraph or portion of this Agreement shall be held by a court to be invalid for any reason, such invalidity shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

26. **Waiver.** Any waiver by either party hereto of any one or more of the covenants, conditions, or provisions of this Agreement, shall not be construed to be a waiver of any subsequent or other breach of the same or any covenant, condition or provision of this Agreement.

27. **Severability.** In the event that any sentence, section, paragraph or portion of this Agreement shall be held by a court to be invalid for any reason, such invalidity shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

28. **Attachments.** All attachments referenced in this Agreement are incorporated into and made a part of this Agreement.

29. **Entire Agreement.** This Agreement and the Attachment hereto embody the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersede all prior and contemporaneous agreements and understandings, oral or written, relating to said subject matter. This Agreement may only be modified by written amendment executed by the City and Art Miami.

IN WITNESS WHEREOF, the parties hereto have caused this License Agreement to be executed by their duly authorized representatives with all the formalities required by law, as of the date indicated below.

ATTEST:

CITY OF WEST PALM BEACH

By: Hazeline F. Carson
Hazeline F. Carson, City Clerk

By: Geraldine Muolo
Geraldine Muolo, Mayor

CITY ATTORNEY'S OFFICE
Approved as to form and legality
2016 By: John

Date: June 6, 2016

WITNESS:

ART MIAMI, LLC

Elaine R. Tedeschi
Print Name: ELAINE R. TEDESCHI

By: Brian S. Tyler
Brian S. Tyler
President

ATTACHMENT 1

LEGAL DESCRIPTION OF PERMITTED AREA

LOT(S) 2, 3, 4, 5, 6, 7, 8, 13, 14, 15, 16, 17, 18, 19 AND 20, BLOCK 58, TOGETHER WITH THE 14 FOOT ALLEY ADJACENT TO SAID LOTS AS SHOWN ON THE A SUBDIVISION OF BLOCK 58 MODEL LAND CO. ADDITION TO WEST PALM BEACH, FLORIDA, @ ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 2, PAGE 65. SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA LESS THAT PORTION OF SAID LOTS 2, 4, 5, 6, 7 AND 8, TAKEN FOR OKEECHOBEE BOULEVARD RIGHT-OF-WAY AS PER INSTRUMENT RECORDED IN OFFICIAL RECORD BOOK 7115, PAGE 457, OF THE SAID PUBLIC RECORDS, LESS THE EAST 12.00 FEET OF SAID LOTS 2, 3, 18 AND 19, AS PER INSTRUMENT(S) RECORDED IN DEED BOOK 399, PAGE 371 AND IN DEED BOOK 401, PAGE 3, OF SAID PUBLIC RECORDS AND LESS THE EAST 10.00 FEET OF LOT 20.

A RESOLUTION OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY, APPROVING A LICENSE AGREEMENT WITH ART MIAMI, LLC, TO ALLOW THE ANNUAL PALM BEACH MODERN AND CONTEMPORARY EVENT TO BE HELD ON CITY PROPERTY; AUTHORIZING THE CHAIR TO EXECUTE ALL APPROPRIATE RELATED DOCUMENTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the property located at 400 Lakeview Avenue, West Palm Beach, Florida is owned by the West Palm Beach Community Redevelopment Agency (CRA); and

WHEREAS, since 2009, Art Miami has been producing top quality very popular modern and contemporary art shows; and

WHEREAS, the *Palm Beach Modern + Contemporary* event offers the citizens of West Palm Beach a cultural art experience, brings the public to the downtown and has a positive impact on the local economy; and

WHEREAS, Art Miami and the CRA desire to enter into a two-year License Agreement with a one-year option to renew, to allow the *Palm Beach Modern + Contemporary* event to be held on certain CRA-owned property.

NOW, THEREFORE, BE IT RESOLVED BY THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY that:

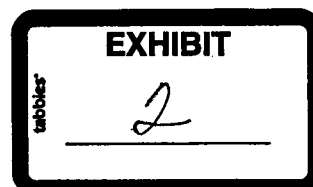
SECTION 1: The West Palm Beach Community Redevelopment Agency hereby approves the License Agreement with Art Miami, LLC, (the "License Agreement") in form and substance similar to that attached hereto as Exhibit A.

SECTION 2: Upon execution of two (2) originals of the License Agreement by Art Miami, LLC, the CRA Chair is hereby authorized to execute the License Agreement.

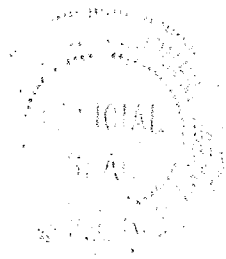
SECTION 3: The CRA Secretary shall retain one original as a public record of the CRA. The other original License Agreement shall be forwarded to the Deputy City Attorney for forwarding to Art Miami.

SECTION 4: This Resolution shall take effect in accordance with law.

[SIGNATURES ON FOLLOWING PAGE]



PASSED AND ADOPTED THIS 6TH DAY OF JUNE, 2016.



ATTEST:

X *Hazeline F. Carson*

SECRETARY
Signed by: Hazeline Carson

**CITY OF WEST PALM BEACH
COMMUNITY REDEVELOPMENT
AGENCY:**

X *Geraldine Muoio*

CHAIR
Signed by: Geraldine Muoio

**APPROVED AS TO FORM AND
LEGALITY:**

6/3/2016
X *Nancy Urcheck*

CRA ATTORNEY
Signed by: NUrcheck

A RESOLUTION OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY APPROVING A LICENSE AGREEMENT BETWEEN THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY AND ART MIAMI, LLC, TO ALLOW THE ANNUAL PALM BEACH MODERN AND CONTEMPORARY EVENT TO BE HELD ON CRA PROPERTY LOCATED AT 400 LAKEVIEW AVENUE, WEST PALM BEACH; AUTHORIZING THE CHAIR TO EXECUTE ALL APPROPRIATE RELATED DOCUMENTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 1392

Staff Recommended Motion:

Approve Resolution No. 16-56.

Background:

Since 2009, Art Miami has been producing top quality modern and contemporary art shows and desires to hold its annual event at the CRA "tent site" property. The West Palm Beach Modern + Contemporary Event will offer West Palm Beach citizens a cultural art experience bringing the public to the down town and will have a positive impact on the local economy.

The term of the License Agreement is one year with the option to renew for two additional years (3 years total). The Event will be a four day held annually in January of each year. The Tent Site would be occupied by the Event for approximately 24 days, including set-up and break-down during a period. The agreement provides that the 2017 Event will be on Thursday, January 12 through Sunday, January 15, 2017; with set-up commencing December 31, 2016.

The Agreement provides that in consideration of the Art Miami bringing a premier modern and contemporary art show to the City, the CRA shall waive any license fees for the initial term of this Agreement. However, as security for Art Miami's obligations to repair or replace damage to CRA property, Art Miami shall provide a security deposit in the amount of Twenty Thousand Dollars per year. Art Miami agrees to reimburse the CRA and City for any and all City services utilized for the Event. Art Miami will obtain insurance coverage and will indemnify the CRA and City.

Art Miami will also provide the CRA and City with marketing benefits, including a booth at the Event for public awareness campaigns, and the identification of the CRA and City as a sponsor on various signs and marketing materials. The CRA/City will also be provided complimentary passes for the Event and various related activities.

Resolution No. 16-56 approves the License Agreement with Art Miami.

DISTRICT: The Tent Site is located in the CRA CityPlace/Downtown District.



WEST PALM BEACH

**West Palm Beach
Community Redevelopment Agency**

AGENDA

**June 6, 2016
3:30 P.M.**

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY CLERK'S OFFICE, 401 CLEMATIS STREET, WEST PALM BEACH, FLORIDA 33401, {(561) 822-1210}

**MAYOR
GERALDINE MUOIO**

**CITY COMMISSION
PRESIDENT SHANON MATERIO
COMMISSIONER PAULA RYAN
COMMISSIONER KEITH JAMES
COMMISSIONER CORY NEERING
COMMISSIONER SYLVIA MOFFETT**

**ADMINISTRATION
CRA EXECUTIVE DIRECTOR, JON WARD
CITY ATTORNEY, KIMBERLY ROTHENBURG
CITY CLERK, HAZELINE CARSON**

1. ROLL CALL

CIVILITY AND DECORUM: The City of West Palm Beach is committed to civility and decorum by its officials, employees and members of the public who attend this meeting. The City Code, Secs. 2-31(8), 2-31(18) and 2-31(22), provides in pertinent part:

- Officials shall be recognized by the Chair and shall not interrupt a speaker.
- Public comment shall be addressed to the City Commission as a whole and not to any individual on the dais or in the audience.



- Displays of anger, rudeness, ridicule, impatience, lack of respect and personal attacks are strictly prohibited.
- Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted.
- Offenders may be removed from the meeting.

COMMENTS FROM THE PUBLIC FOR NON-AGENDA ITEMS:

COMMENTS FROM THE BOARD:

ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA:

CONSENT CALENDAR (2):

2. **Minutes of the Community Redevelopment Agency Meeting of May 9, 2016.**
Agenda Cover Memorandum No.: 1382

Staff Recommended Motion:

Approve the Minutes of the Community Redevelopment Agency Meeting held on May 9, 2016.

RESOLUTIONS (3– 12):

3. **Resolution No. 16-42 providing startup funding from the CRA in Fiscal Year 2016 in the amount of \$25,000.00 for the creation of the Palm Beach Tech Space and Resolution No. 16-47(F) providing the funding.**

RESOLUTION NO. 16-42: A RESOLUTION OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY SUPPORTING THE CREATION OF THE PALM BEACH TECH SPACE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 16-47(F): A RESOLUTION OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY (CRA), AUTHORIZING THE APPROPRIATION OR TRANSFER OF CRA FUNDS IN FISCAL YEAR 2015/2016 FOR THE PURPOSE OF AMENDING THE COMMUNITY REDEVELOPMENT AGENCY FUND BUDGET TO PROVIDE APPROPRIATIONS FOR REDEVELOPMENT INCENTIVES IN THE DOWNTOWN CORE TARGET AREA FOR THE PALM BEACH TECH SPACE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 1389

Staff Recommended Motion:

Approve Resolution No. 16-42 and Resolution No. 16-47(F).

Background:

As an element of attracting, developing and keeping creative talent in the West Palm Beach area, the Palm Beach Tech Space, a shared work space environment, was created by community leaders involved in the tech sector. Staff has seen examples of these kinds of "job incubators" in almost every urban area in the country, where emerging entrepreneurs have created shared work spaces, obviating the need for costly individual office suites and staff support. The work ethic and sense of community created by these shared spaces, in which ideas are created, exchanged and developed into working concepts, is especially attractive to creative millenials.

The Palm Beach Tech Space, proposed to be located at 313 Datura, Suite 100, will create a series of individual work stations, rented on a monthly basis by start-up entrepreneurs, and will provide common area and conference room support to be shared on an as-needed basis by the participants. A staff position, responsible for the daily management of the Space, will be created.

The developers of the Tech Space have prepared an initial budget, attached; and are seeking funding from other sources. Their request, as an element of the City's economic development initiatives is for assistance with the initial site construction and development in the amount of \$25,000.00. There will be a presentation by the startup's team at the June 6, 2016 CRA meeting.

Funds are available in the Redevelopment Incentives budget in the Downtown Core Target Area of the CRA.

Fiscal Note:

Startup funding is available in the Redevelopment Incentives budget in the Downtown Core Target Area of the CRA.

4. **Resolution No. 16-23 approving a grant and authorizing the Chair to execute a Facade and Exterior Improvement Grant Agreement with 401 Northwood Road, LLC for improvement to the property located at located at 415 Northwood Road.**

A RESOLUTION OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY ("AGENCY") APPROVING AND AUTHORIZING A GRANT UNDER THE FACADE AND EXTERIOR IMPROVEMENT PROGRAM TO 401 NORTHWOOD ROAD, LLC, FOR IMPROVEMENTS TO THE PROPERTY LOCATED AT 415 NORTHWOOD ROAD; APPROVING AND AUTHORIZING THE CHAIR TO EXECUTE A GRANT AGREEMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 1383

Staff Recommended Motion:

Staff recommends approval.

Background:

On November 7, 2005, the Community Redevelopment Agency (CRA) adopted the Strategic Finance Plan for the Northwood/Pleasant City CRA District. This consolidated plan includes redevelopment initiatives designed to attract private investment and promote redevelopment activities within the Northwood/Pleasant City Community Redevelopment Area.

The CRA Façade and Exterior Improvement Grant Program is an incentive available to businesses located within the Northwood/Pleasant City CRA for improvements to the exterior of commercial properties and buildings. The CRA grant provides a maximum of \$10,000 per property and eligible activities include painting, repair and other architectural elements attached to the building exterior, awnings, exterior door and window replacements, landscaping, parking lot improvements, lighting and decorative pavement. In order to be eligible, properties cannot be listed for sale and must be free and remain free of all municipal and county liens, judgments or encumbrances.

The subject grant application is being sought by 401 Northwood Road, LLC, the property owner, to assist in the exterior improvements of the building and property. The scope of work will involve stucco, painting, windows, doors, lighting and awnings. This project is part of a larger redevelopment effort which includes two properties adjacent and connected to it on the west and a parking area on the east side of the building. It is very visible location, the north side of the 400 block of Northwood Road and is currently surrounded by dynamic restaurants and retail establishments. The successful redevelopment of this property would complete this block.

The petitioner received two (2) bids, as required. The total exterior construction cost is estimated to be \$35,908.00. The petitioner is requesting a grant contribution of \$10,000. Staff recommends approval.

5. **Resolution No. 16-24 approving a grant and authorizing the Chair to execute a Facade and Exterior Improvement Program Grant Agreement with 401 Northwood Road, LLC for improvements to the property located at 417 Northwood Road.**

A RESOLUTION OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY (“AGENCY”) APPROVING AND AUTHORIZING A GRANT UNDER THE FACADE AND EXTERIOR IMPROVEMENT PROGRAM TO 401 NORTHWOOD ROAD, LLC, FOR IMPROVEMENTS TO THE PROPERTY LOCATED AT 417 NORTHWOOD ROAD; APPROVING AND AUTHORIZING THE CHAIR TO EXECUTE A GRANT AGREEMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 1384

Staff Recommended Motion:

Staff recommends approval.

Background:

On November 7, 2005, the Community Redevelopment Agency (CRA) adopted the Strategic Finance Plan for the Northwood/Pleasant City CRA District. This consolidated plan includes redevelopment initiatives designed to attract private investment and promote redevelopment activities within the Northwood/Pleasant City Community Redevelopment Area.

The CRA Façade and Exterior Improvement Grant Program is an incentive available to businesses located within the Northwood/Pleasant City CRA for improvements to the exterior of commercial properties and buildings. The CRA grant provides a maximum of \$10,000 per property and eligible activities include painting, repair and other architectural elements attached to the building exterior, awnings, exterior door and window replacements, landscaping, parking lot improvements, lighting and decorative pavement. In order to be eligible, properties cannot be listed for sale and must be free and remain free of all municipal and county liens, judgments or encumbrances.

The subject grant application is being sought by 401 Northwood Road, LLC, the property owner, to assist in the exterior improvements of the building and property. The scope of work will include stucco, painting, awning, new windows and doors and lighting. This project is part of a larger redevelopment effort which includes the two properties attached on either side, east and west. It is very visible location, the north side of the 400 block of Northwood Road and is currently surrounded by dynamic restaurants and retail establishments. The successful redevelopment of this property would complete this block.

The petitioner received two (2) bids, as required. The total exterior construction cost is estimated to be \$28,200.00. The petitioner is requesting a grant contribution of \$10,000. Staff recommends approval.

6. **Resolution No. 16-25 approving a grant and authorizing the Chair to execute a Facade and Exterior Improvement Grant Agreement with 401 Northwood Road, LLC for improvement to the property located at 419 Northwood Road.**

A RESOLUTION OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY ("AGENCY") APPROVING AND AUTHORIZING A GRANT UNDER THE FACADE AND EXTERIOR IMPROVEMENT PROGRAM TO 401 NORTHWOOD ROAD, LLC, FOR IMPROVEMENTS TO THE PROPERTY LOCATED AT 419 NORTHWOOD ROAD; APPROVING AND AUTHORIZING THE CHAIR TO EXECUTE A GRANT AGREEMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 1385

Staff Recommended Motion:

Staff recommends approval.

Background:

On November 7, 2005, the Community Redevelopment Agency (CRA) adopted the Strategic Finance Plan for the Northwood/Pleasant City CRA District. This consolidated plan includes redevelopment initiatives designed to attract private investment and promote redevelopment activities within the Northwood/Pleasant City Community Redevelopment Area.

The CRA Façade and Exterior Improvement Grant Program is an incentive available to businesses located within the Northwood/Pleasant City CRA for improvements to the exterior of commercial properties and buildings. The CRA grant provides a maximum of \$10,000 per property and eligible activities include painting, repair and other architectural elements attached to the building exterior, awnings, exterior door and window replacements, landscaping, parking lot improvements, lighting and decorative pavement. In order to be eligible, properties cannot be listed for sale and must be free and remain free of all municipal and county liens, judgments or encumbrances.

The subject grant application is being sought by 401 Northwood Road, LLC, the property owner, to assist in the exterior improvements of the building and property. The scope of work will include stucco, new windows and doors, painting, awning and lighting. This project is part of a larger redevelopment effort which includes the two properties connected and adjacent to it on the east. It is very visible location, the north side of the 400 block of Northwood Road and is currently surrounded by dynamic restaurants and stores. The successful redevelopment of this property would complete this block.

The petitioner received two (2) bids, as required. The total exterior construction cost is estimated to be \$27,989.00. The petitioner is requesting a grant contribution of \$10,000.

7. **Resolution 16-26 approving a grant and authorizing the Chair to execute a Façade and Exterior Improvement Grant Agreement with Table 427 Restaurant, LLC (Business) and The Narinedat Family Partnership (Owner) for improvements to the property located at 427 Northwood Road.**

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY ("AGENCY") APPROVING A GRANT AND AUTHORIZING THE CHAIR TO EXECUTE A FAÇADE AND EXTERIOR IMPROVEMENT GRANT AGREEMENT WITH TABLE 427 RESTAURANT, LLC, ("GRANTEE"), AND NARINEDAT FAMILY LIMITED PARTNERSHIP ("OWNER") FOR IMPROVEMENTS TO THE PROPERTY LOCATED AT 427 NORTHWOOD; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 1386

Staff Recommended Motion:

Staff recommends approval.

Background:

On November 7, 2005, the Community Redevelopment Agency (CRA) adopted the Strategic Finance Plan for the Northwood/Pleasant City CRA District. This consolidated plan includes redevelopment initiatives designed to attract private investment and promote redevelopment activities within the Northwood/Pleasant City Community Redevelopment Area.

The CRA Façade and Exterior Improvement Grant Program is an incentive available to businesses located within the Northwood/Pleasant City CRA for improvements to the exterior of commercial properties and buildings. The CRA grant provides a maximum of \$10,000 per property and eligible activities include painting, repair and other architectural elements attached to the building exterior, awnings, exterior door and window replacements, landscaping, parking lot improvements, lighting and decorative pavement. In order to be eligible, properties cannot be listed for sale and must be free and remain free of all municipal and county liens, judgments or encumbrances.

The subject grant application is being sought by Table 427 Restaurant, LLC, the business owner, with the support of the property owner, to assist in the exterior improvements of the building and property.

The scope of work includes a new patio, electrical work, two new entrances opened in the walls on the south and east sides of the building and the installation of an outdoor bar/wait station. This project will make an empty space come alive and give this restaurant the opportunity to attract double the amount of people to Northwood, as it does now. The nine foot opening of the front wall directly onto Northwood Road gives this improvement visibility from the street and at the same time, offers an intimate, outdoor dining space; exactly the type of unique design that complements the Northwood brand. Table 427 is an extremely popular restaurant with a strong social media presence and locally well-known chef. Sales figures for January, February and March of 2016 show an average 29% increase in sales over the same months in 2015. This improvement will add square footage (1250 - 2500), add seating capacity and add employees (kitchen staff, wait staff) to accommodate the increase in patrons. All of the above increases the chances that Table 427 could secure a liquor license adding another restaurant able to offer more options to Northwood customers.

This project also affects the alleyway between Northwood Road and 24th Street in a positive way. The alleyway is open to the public as there is no development opposite it on 24th Street. They will be adding an 8 foot wooden fence across the back of the patio and installing spotlights on the back fence that will shine into the alley allowing for a better lit, safer surrounding for all. The successful redevelopment of this property would bring additional people to Northwood Village each week.

The petitioner received two (2) bids, as required. The total cost is estimated to be

\$14,000.00. The petitioner is requesting a grant contribution of \$10,000.

8. Resolution No. 16-50 supporting the application for Northwood Village to become a Florida Main Street Community.

A RESOLUTION OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY (“AGENCY”) SUPPORTING THE APPLICATION OF NORTHWOOD VILLAGE MAINSTREET INC., FOR DESIGNATION OF NORTHWOOD VILLAGE AS A MAIN STREET COMMUNITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 1387

Staff Recommended Motion:

Approve Resolution No. 16-50.

Background:

Florida Main Street is a program of the Florida Department of State, Division of Historical Resources which provides training and technical assistance to local organizations in support of their efforts to revitalize their traditional downtown and neighborhood commercial districts. From small towns to large cities, these areas are often a reflection of the community as whole. However, this symbolic heart of the community is often a complex environment that is affected by a diversity of physical, economic, cultural, and political influences. In order to revitalize and sustain these districts, a community must address this broad range of influences. The Florida Main Street Program can assist in this process, and is structured around the “Main Street Approach”, a strategy for revitalization developed by the National Trust for Historic Preservation.

The Main Street Approach was developed by the National Main Street Center of the National Trust for Historic Preservation, a partner of Florida Main Street. Over 1200 local revitalization programs nationwide have adopted this preservation-based approach. While concentrating on revitalization of the community’s historic commercial center, these local volunteer-based programs enhance the economic vitality, quality of life, and civic pride of the whole community while countering sprawl and encouraging greater citizen participation in the decisions that are shaping their future. Since 1985, the Florida Main Street Program has assisted downtown revitalization efforts in over 90 communities across the state.

The Main Street Approach is not a quick fix. It builds sustainable, positive change on incremental steps. Communities that establish and maintain a focus on the Main Street Approach in their district can achieve greater economic stability and vitality and greater quality of life and civic pride.

The Northwood Village Target Area is the perfect place for a Main Street Community. It is located in the middle of the Northwood/Pleasant City CRA and is the approximate

center of the north end of the City. The Village serves as the only true business corridor for the northern section of the City and is crucial to the success of other focus areas within the CRA. This grass roots movement is being spearheaded by Northwood Village Main Street, Inc. who is completing and submitting the Main Street application. This organization is made up of a Board of Directors and through the formation of four committees will work with the CRA and current Merchants Association to identify the tactical projects to be accomplished (i.e., banners, street cleaning, additional lighting, etc.) as well as taking a strategic look at business composition, promotion and social media.

As the popularity of the district continues to grow, the CRA anticipates a shift in focus to other highly blighted areas of the Northwood/Pleasant City CRA in the coming years. If designated, the CRA will work closely with the Main Street Program to facilitate this transition and support the Village in developing their own sustainable funding mechanisms. This is an effective solution to continue the level of activity within Northwood Village.

The application for Main Street designation is due on July 1, 2016 and requires local government support and financial support. Local Government support from the West Palm Beach City Commission will be requested, via resolution, at the meeting scheduled for June 20, 2016. As the CRA Board will not meet again until after the application deadline, staff is requesting approval of the financial support resolution before the City Commission approval.

Upon designation of Northwood Village as a Florida Main Street Community, the Agency will commit to funding the local government portion of the Program in an amount not to exceed \$50,000.00 each year, for three consecutive years. The funding shall be secured by a contractual agreement between the Agency and the Program to come back to the Board in the future and budgeted in the 5 year Strategic Finance Plan.

Fiscal Note:

This funding would begin in the 2016-2017 fiscal year. An additional ACM will be brought to the CRA Board, for approval of the agreement, along with the F-Resolution to record appropriations.

9. **Resolution No. 16-52 approving the Revocable License Agreement for D'Best BBQ (Licensee) to use the CRA owned vacant lot located at 919 N. Tamarind Avenue, as more particularly described in Exhibit "A" attached hereto ("Property");**

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY ("AGENCY") AUTHORIZING THE CHAIR TO EXECUTE AN AGREEMENT FOR A REVOCABLE LICENSE BETWEEN THE AGENCY AND D'BEST BBQ TO USE VACANT PUBLIC PROPERTY LOCATED AT 919 N. TAMARIND AVENUE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 1388

Staff Recommended Motion:

Approve of Resolution No. 16-52.

Background:

Pursuant to Resolution 11-5, the Board of Commissioners of the West Palm Beach Community Redevelopment Agency approved a Revocable License with D'Best BBQ (Licensee) for the use of a CRA owned vacant lot located at 919 N. Tamarind Avenue, as more particularly described in Exhibit "A" attached hereto ("Property"). Prior to the expiration of the 5 year term, the Board approved Resolution No. 14-25 Amending the License Agreement with D'Best BBQ (Licensee) to adjust the fee to \$100.00 per month from the original \$250.00 per month.

As the the original 5 year term expired on January 10, 2016, the Agency desires to enter into a new Revocable License Agreement with D'Best BBQ (Licensee) for the use of a CRA owned vacant lot located at 919 N. Tamarind Avenue with a five (5) year term and fee of \$250.00 per month.

The Board of Commissioners of the West Palm Beach Community Redevelopment Agency hereby approves and authorizes the Chair to execute the Revocable License Agreement between the Agency and D'Best BBQ in substantially the form attached as Exhibit "B" (the "Agreement").

10. **Resolution No. 16-51 approving the disposition of certain CRA Owned properties located in the Downtown Historic Northwest Neighborhood Redevelopment Area.**

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY AUTHORIZING DISPOSITION OF CERTAIN CRA OWNED PROPERTIES LOCATED IN THE DOWNTOWN HISTORIC NORTHWEST NEIGHBORHOOD REDEVELOPMENT AREA; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 1390

Staff Recommended Motion:

Approve Resolution No. 16-51.

Background:

The West Palm Beach Community Redevelopment Agency owns certain property in the Downtown/Historic Northwest Neighborhood Redevelopment Area (the "Property"), more specifically described in Exhibit "A" to Resolution 16-51. The Strategic Finance Plan for the Downtown/Historic Northwest Neighborhood Redevelopment Area has identified the need to reduce the number of vacant parcels in the area for the purposes of encouraging redevelopment. In furtherance of that objective, pursuant to Section 163.380(3) (a), Florida Statutes and approved Resolution No. 16-17, on March 20, 2016 the agency published notice in Palm Beach Post of its intent to dispose of the Property

and inviting proposals. In response to the publication CRA staff received five (5) proposals.

In order to evaluate the proposals a selection committee, made up of three (3) CRA staff members, was formed. The five proposals received include 3T Technologies, Habitat for Humanity, Stuart and Shelby Development, SSCC Group, Inc. and the Community Development Coalition. The selection committee ranked the proposals based upon a set of criteria including, Experience, Personnel Qualifications, Approach to Project Management, Resources and Commitment and Location. Habitat for Humanity, Stuart and Shelby Development, SSCC Group, Inc. and the Community Development Coalition submitted the top scoring proposals and were invited to make oral presentations. From this group Habitat for Humanity, SSCC Group, Inc., and the Community Development Coalition were the top three proposers and were selected for award of the lots. The lots were allocated as follows:

Habitat for Humanity (8 lots): 801 5th Street; 809 5th Street; 716 6th Street; 623 Division Avenue; Division Avenue Lot 1.2 Block 10; Division Avenue Lot 1.3 Block 10; 6th Street Lot 3.1 Block 11 and 6th Street Lot 3.2 Block 11.

SSCC, Group, Inc. (2 lots): 401 Division Avenue and 816 3rd Street.

Community Development Coalition (5 lots): 639 4th Street; 631 6th Street; 621 10th Street; 613 10th Street and 1109 Henrietta Avenue.

The final disposition of the properties will be conditioned upon the Agency's approval of a development agreement between the Agency and the three proposers. The Development Agreement will include provisions that ensure performance, acceptable project design and schedules. The conveyance instruments will contain appropriate provisions to return the property to the Agency in the event of default.

CRA staff recommends approval.

11. Resolution No. 16-55(F) providing the funding for CANVAS event.

A RESOLUTION OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY (CRA), AUTHORIZING THE APPROPRIATION OR TRANSFER OF CRA FUNDS IN FISCAL YEAR 2015/2016 FOR THE PURPOSE OF AMENDING THE COMMUNITY REDEVELOPMENT AGENCY FUND BUDGET AND THE NORTHWOOD/ PLEASANT CITY CRA FUND BUDGET TO PROVIDE APPROPRIATIONS FOR SPONSORSHIP OF THE CANVAS 2016 ART INITIATIVE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 1391

Staff Recommended Motion:

Approve Resolution No. 16-55(F).

Background:

As the Board is aware, this Agency supported the initial CANVAS initiative in 2015. The art program was well received by the public and greatly enhanced the image of West Palm Beach as a creative destination for cultural tourists and residents, alike and produced a significant economic benefit for local businesses. The Agency's contribution to CANVAS in 2015 was \$10,000.00.

The City has expressed a desire to develop a third keynote event, in addition to SunFest and the Boat Show, to further define West Palm Beach and enhance its attractiveness to creative businesses and business people. Cultural tourists and the Creative Class are precisely the kinds of sophisticated target audiences that the City's economic development efforts are focused on.

Nicole Henry, the driving force behind CANVAS, will make a second presentation before the Board at the June 6 meeting, further defining her vision for the November, 2016 event.

Ms. Henry and staff have held a series of meetings to discuss the impact of the show, the creation of a much more noticeable local production in Northwood Village and an enhanced downtown component. The City's Art in Public Places committee has already approved sponsorship to cover the art component of the Northwood Village show but additional funding in the amount of \$25,000.00 is required to cover ancillary construction and set up costs. The downtown show has grown exponentially from the 2015 version and the artwork will have a much more prominent presence along the City's waterfront and other areas. To support the increased impact of the show, staff has suggested that Agency support be capped for the downtown component at \$100,000.00.

To recap, staff is requesting the Board approve Agency fiscal support for CANVAS in the amount of \$125,000.00 (\$100k for downtown and \$25k for Northwood Village).

Funding for the Northwood Village component is being reallocated from un-needed funds that were budgeted for the 24TH/ 25TH Street Parking project in the Northwood Business District Target Area.

Funding for the Downtown component is being reallocated from un-needed funds that were budgeted for Redevelopment Incentive Grants.

Fiscal Note:

Approval will provide sponsorship funds for CANVAS 2016: \$100,000 for the CANVAS Art Initiative in the Downtown CRA and \$25,000 for the CANVAS: Local Showdown in the Northwood CRA.

12. **Resolution No. 16-56 approving a license agreement for Art Miami to use the CRA owned "Tent Site" property for the West Palm Beach Modern and Contemporary Event.**

A RESOLUTION OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY APPROVING A LICENSE AGREEMENT BETWEEN THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY AND ART MIAMI, LLC, TO ALLOW THE ANNUAL PALM BEACH MODERN AND CONTEMPORARY EVENT TO BE HELD ON CRA PROPERTY LOCATED AT 400 LAKEVIEW AVENUE, WEST PALM BEACH; AUTHORIZING THE CHAIR TO EXECUTE ALL APPROPRIATE RELATED DOCUMENTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 1392

Staff Recommended Motion:

Approve Resolution No. 16-56.

Background:

Since 2009, Art Miami has been producing top quality modern and contemporary art shows and desires to hold its annual event at the CRA "tent site" property. The West Palm Beach Modern + Contemporary Event will offer West Palm Beach citizens a cultural art experience bringing the public to the down town and will have a positive impact on the local economy.

The term of the License Agreement is one year with the option to renew for two additional years (3 years total). The Event will be a four day held annually in January of each year. The Tent Site would be occupied by the Event for approximately 24 days, including set-up and break-down during a period. The agreement provides that the 2017 Event will be on Thursday, January 12 through Sunday, January 15, 2017; with set-up commencing December 31, 2016.

The Agreement provides that in consideration of the Art Miami bringing a premier modern and contemporary art show to the City, the CRA shall waive any license fees for the initial term of this Agreement. However, as security for Art Miami's obligations to repair or replace damage to CRA property, Art Miami shall provide a security deposit in the amount of Twenty Thousand Dollars per year. Art Miami agrees to reimburse the CRA and City for any and all City services utilized for the Event. Art Miami will obtain insurance coverage and will indemnify the CRA and City.

Art Miami will also provide the CRA and City with marketing benefits, including a booth at the Event for public awareness campaigns, and the identification of the CRA and City as a sponsor on various signs and marketing materials. The CRA/City will also be provided complimentary passes for the Event and various related activities.

Resolution No. 16-56 approves the License Agreement with Art Miami.

DISTRICT: The Tent Site is located in the CRA CityPlace/Downtown District.

ADJOURNMENT:

NOTICE: IF ANY PERSON DECIDES TO APPEAL ANY DECISION OF THE CITY COMMISSION AT THIS MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR THAT PURPOSE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY OF WEST PALM BEACH DOES NOT PREPARE OR PROVIDE SUCH A RECORD.