A G E N D A

REGULAR MEETING OF THE STUART CITY COMMISSION
TO BE HELD April 10, 2017
AT 5:30 PM
121 SW FLAGLER AVE.
STUART, FLORIDA 34994

CITY COMMISSION

Mayor Tom Campenni
Vice Mayor Troy A. McDonald
Commissioner Kelli Glass Leighton
Commissioner Jeffrey A. Krauskopf
Commissioner Eula R. Clarke

ADMINISTRATIVE

City Manager, Paul J. Nicoletti
City Attorney, Michael J. Mortell
City Clerk, Cheryl White

Agenda items are available on our website at http://www.cityofstuart.us
Phone: (772) 288-5306 .Fax: (772) 288-5305 .E-mail: cwhite@ci.stuart.fl.us

Special Needs: Participants with special needs can be accommodated by calling the City Clerk at least 5 working days prior to the Meeting excluding Saturday and Sunday. We can be reached by phone at (772)288-5306, by fax at (772)288-5305, or by email at cwhite@ci.stuart.fl.us. If you are hearing impaired, please contact us using the Florida Relay Service, Customer Service: Dial 711 or English: (V) 800-682-8706, (TTY) 800-682-8786 Spanish: (V, TTY) 1-800-855-2886 If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he will need a record of the proceeding, and that for such purpose he 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.

(RC) next to an item denotes there is a City Code requirement for a Roll Call vote.
(QJ) next to an item denotes that it is a quasi-judicial matter or public hearing.

ROLL CALL

PLEDGE OF ALLEGIANCE

1. Arts Moment

PROCLAMATIONS

2. Guardian Ad Litem Month - April 2017
   Recipient: Circuit Director H.L. "Vern" Melvin
3. Autism Awareness Month - April 2017
4. Volunteer Week - April 23-29, 2017
5. Water Conservation Month
   Recipients: Anne Ellig, Recycling & Conservation Coordinator for City of Stuart and Adriana Mancini of Students4H2O.

PRESENTATIONS

6. Certificate of Recognition for USCG Auxiliary Flotilla 59
   Recipients: Marc Kiriakow, Flotilla 59 Commander, and Hank Cushard, Senior Public Affairs Officer
7. FPL SolarNow Tree and Canopies
8. Presentation: FPL Low Income Home Energy Assistance Program (LIHEAP)

COMMENTS BY CITY COMMISSIONERS

COMMENTS BY CITY MANAGER

APPROVAL OF AGENDA

COMMENTS FROM THE PUBLIC (5 min. max)

WHAT IS CIVILITY?: ***Civility is caring about one's identity, needs and beliefs without degrading someone else's in the process. Civility is more than merely being polite. Civility requires staying "present" even with those persons with whom we have deep-rooted and perhaps strong disagreements. It is about constantly being open to hear, learn, teach and change. It seeks common ground as a beginning point for dialogue. It is patience, grace, and strength of character. Civility is practiced in our City Hall.*** **PUBLIC COMMENT:** ***If a member of the public wishes to comment upon ANY subject matter, including quasi-judicial matters, please submit a Request to Speak form. These forms are available in the back of the Commission Chambers, and should be given to the City Clerk prior to introduction of the item number you would like to address.***

QUASI-JUDICIAL HEARINGS: ***Some of the matters on the Agenda may be "quasi-judicial" in nature. City Commissioners will disclose all ex-parte communications, and may be subject to voir dire by any interested party regarding those communications. All witnesses testifying will be "sworn" prior to their testimony. However, the public is permitted to comment without being sworn. Unsworn testimony will be given appropriate weight and credibility by the City Commission.***

CONSENT CALENDAR: ***Those matters included under the Consent Calendar are self-explanatory, non-controversial, and are not expected to require review or discussion. All items will be enacted by one motion. If discussion on an item is desired by any City Commissioner that item may be removed by a City Commissioner from the Consent Calendar and considered separately. If an item is quasi-judicial it may be removed by a Commissioner or any member of the public from***

the Consent Calendar and considered separately.

CONSENT CALENDAR

9. Minutes of 03/27/2017 Regular Commission Meeting for approval. (RC)

END OF CONSENT CALENDAR

COMMISSION ACTION

10. THIS IS A PLACEHOLDER FOR ANY AND ALL CITY COMMISSION ACTIONS ON ITEMS TO COME BEFORE THE 2017 FLORIDA LEGISLATIVE SESSION.

11. RESOLUTION No. 44-2017; Review and/or approval of a draft Northpoint Property Request for Developer Qualifications (RFDQ).

ORDINANCE FIRST READING

ORDINANCE SECOND READING

12. ORDINANCE No. 2348-2017; AN ORDINANCE OF THE CITY OF STUART, FLORIDA, ANNEXING A PARCEL OF LAND NORTH OF THE INTERSECTION OF NE SAVANNAH ROAD AND NE BAKER ROAD, CONSISTING OF 14.85 ACRES, SAID PARCEL BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES. (RC)

13. ORDINANCE No. 2351-2017; AN ORDINANCE OF THE CITY OF STUART, FLORIDA, AMENDING SECTIONS 4-1 THROUGH 4-4, INCLUSIVE OF THE CITY OF STUART, FLORIDA CODE OF ORDINANCES TO CLARIFY AND FURTHER REGULATE ALCOHOLIC BEVERAGES WITHIN THE CITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. (RC)

DISCUSSION AND DELIBERATION

14. FEC Seawall Discussion

15. 7-Eleven Discussion

ADJOURNMENT

CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION

Meeting Date: 4/10/2017 **Prepared by:** jchrulski

Title of Item:
Arts Moment - Joseph Dillard, Spoken Word Artist, Playwright, Videographer and Motivational Speaker.

Summary Explanation/Background Information on Agenda Request:
Mr.Dillard will recite an original poem.

Funding Source:
N/A

Recommended Action:
Enjoy the presentation.

CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION

Meeting Date: 4/10/2017 **Prepared by:** Ryanne Cavo

Title of Item:
Guardian Ad Litem Month - April 2017
Recipient: Circuit Director H.L. "Vern" Melvin

Summary Explanation/Background Information on Agenda Request:
The Guardian ad Litem Program speaks for the best interests of abused, abandoned and neglected children who are involved in the court system

Funding Source:
N/A

Recommended Action:
Issue the Proclamation

ATTACHMENTS:

	Description	Upload Date	Type
	Guardian Ad Litem Proclamation	2/24/2017	Proclamation

PROCLAMATION
APRIL, 2017
GUARDIAN AD LITEM MONTH

WHEREAS: The City of Stuart prides itself on giving back to the community, contributing to the quality of life among our citizens; and

WHEREAS: The Guardian ad Litem Program speaks for the best interests of abused, abandoned and neglected children who are involved in the court system; and

WHEREAS: Stuart community members are encouraged to join together, throughout the month of April to raise awareness for the more than 150 children annually who fall victim to abuse, neglect and abandonment.

NOW, THEREFORE, I, TOM CAMPENNI, as Mayor of the City of Stuart, do hereby proclaim April, 2017 as

GUARDIAN AD LITEM MONTH

in the City of Stuart and urge all citizens to give of their time to make a difference in the lives of our most vulnerable children by volunteering with the Guardian ad Litem Program.

_____

TOM CAMPENNI
MAYOR

CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION

Meeting Date: 4/10/2017 **Prepared by:** Ryanne Cavo

Title of Item:
Autism Awareness Month - April 2017

Summary Explanation/Background Information on Agenda Request:
April is Autism Awareness Month during which Americans with Autism Spectrum Disorder are recognized and citizens are encouraged to ensure equal opportunity in the workforce and community;

Funding Source:
N/A

Recommended Action:
Issue the Proclamation

ATTACHMENTS:

	Description	Upload Date	Type
🗋	Autism Awareness Month - April 2017	3/20/2017	Proclamation

PROCLAMATION
AUTISM AWARENESS MONTH
APRIL 2017

WHEREAS, April is Autism Awareness Month during which Americans with Autism Spectrum Disorder are recognized and citizens are encouraged to ensure equal opportunity in the workforce and community; and

WHEREAS, 1 in 68 young people are born with Autism Spectrum Disorder each year, with the highest number in the male community, and with an increase of 30% during the last two years, bringing more and more young people and their families seeking counseling, education, social skills and more; and

WHEREAS, Helping People Succeed, (HPS) a non-profit organization, is coordinating a series of programs and services for students and young people with Autism Spectrum Disorder, providing guidance and counseling for elementary, middle, and high school students; and

WHEREAS, HPS began its Autism Spectrum after-school programs more than five years ago which emphasize a transition program bringing these students into the adult world through college, employment, and other criteria.

NOW, THEREFORE, I, Tom Campenni, as Mayor of the City of Stuart, Florida do hereby proclaim April, 2017, as

AUTISM AWARENESS MONTH

in the City of Stuart, Florida. The City of Stuart further commends Helping People Succeed for its significant work with autism spectrum disorder to benefit children and young adults in expanding their lifestyles and accommodating a variety of tasks in social training, education, employment, advocacy and independent living.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Stuart, Florida to be affixed this 10th day of April, 2017.

_____

TOM CAMPENNI
MAYOR

CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION

Meeting Date: 4/10/2017 **Prepared by:** Ryanne Cavo

Title of Item:
Volunteer Week - April 23-29, 2017

Summary Explanation/Background Information on Agenda Request:
During the week of April 23-29, 2017 volunteers all over the county and, indeed, the country will be recognized for their commitment to service as a part of National Volunteer Week with the theme “Service Unites.”

Funding Source:
N/A

Recommended Action:
Issue the Proclamation

ATTACHMENTS:

	Description	Upload Date	Type
🗋	Volunteer Week - April 23-29, 2017	3/24/2017	Proclamation

PROCLAMATION
VOLUNTEER WEEK
APRIL 23-29, 2017

WHEREAS, individuals and communities are at the center of social change, discovering their power to make a difference; and

WHEREAS, the 1,258 volunteers currently registered with Martin Volunteers, a program of the United Way of Martin County, devoted 96,361 hours in service to nonprofit and government agencies providing an estimated dollar value of $2,270,265 for their volunteer time during the past year; and

WHEREAS, 559 of these registered volunteers are age 55 and better serving their fellow citizens; and

WHEREAS, during the week of April 23-29, 2017 volunteers all over the county and, indeed, the country will be recognized for their commitment to service as a part of National Volunteer Week with the theme "Service Unites;" and

WHEREAS, through many of these dedicated volunteers, Martin County is achieving the goal of meeting the needs of its citizens today and into the future.

NOW THEREFORE I, Tom Campenni, Mayor of the City of Stuart, Florida do hereby proclaim April 23-29, 2017 as:

VOLUNTEER WEEK

in the City of Stuart and the thousands of adults, youth, community groups, and businesses who volunteer their time, energy and service are hereby commended for their commitment to others.

IN WITNESS WHEREOF, I have hereto set my hand and caused the seal of the City of Stuart, Florida to be affixed this 10th day of April, 2017.

_____
TOM CAMPENNI
MAYOR

CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION

Meeting Date:4/10/2017 **Prepared by:**Anne Ellig

Title of Item:
Water Conservation Month
Recipients: Anne Ellig, Recycling & Conservation Coordinator for City of Stuart and Adriana Mancini of Students4H2O.

Summary Explanation/Background Information on Agenda Request:
The State of Florida, Water Management Districts, and the City of Stuart are working together with various agencies and dedicated students to increase water conservation awareness and support educational programs and events such as the City's H2O Expo Water Fest.

Funding Source:
N/A

Recommended Action:
Issue the Proclamation

ATTACHMENTS:

	Description	Upload Date	Type
	Proclamation	3/20/2017	Proclamation

PROCLAMATION
WATER CONSERVATION MONTH
APRIL 2017

WHEREAS, water is a basic and essential need for every living creature; and

WHEREAS, the State of Florida, Water Management Districts, and the City of Stuart are working together with various agencies and dedicated students to increase water conservation awareness and support educational programs and events such as the City's, H_2O Expo Water Fest; and

WHEREAS, April, typically a dry month when water demands are highest is annually designed as Water Conservation Month, to educate citizens about how they can help save Florida's precious water resources.

NOW, THEREFORE, I, Tom Campenni , Mayor of the City of Stuart, Florida do hereby proclaim the Month of April, 2017, as

Water Conservation Month

in the City of Stuart, Florida and encourages citizens to make a difference and help by efficiently using water, thus promoting a healthy economy and community.

IN WITNESS WHEREOF, I have set my hand and caused the seal of the City of Stuart, Florida to be affixed this 10th day of April, 2017.

_____

TOM CAMPENNI
MAYOR

CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION

Meeting Date: 4/10/2017 **Prepared by:** Ryanne Cavo

Title of Item:

Certificate of Recognition for USCG Auxiliary Flotilla 59
Recipients: Marc Kiriakow, Flotilla 59 Commander, and Hank Cushard, Senior Public Affairs Officer

Summary Explanation/Background Information on Agenda Request:

The City of Stuart hereby salutes the USCG Auxiliary Flotilla 59 on its 75th Anniversary

Funding Source:

N/A

Recommended Action:

Present the Certificate of Recognition

ATTACHMENTS:

	Description	Upload Date	Type
	Coast Guard	4/6/2017	Presentation

CERTIFICATE OF RECOGNITION

PRESENTED TO THE

USCG AUXILIARY FLOTILLA 59

The City of Stuart hereby salutes the USCG Auxiliary Flotilla 59 on its 75th Anniversary.

Started during the days when German U-Boat activity was suspected off our South Florida shores Flotilla 59 celebrates 75 years of service to the Stuart and Treasure Coast area in April 2017.

Flotilla 59's membership remains strong with 55 truly dedicated members providing services to the public including Waterway Patrols, Boating Safety Courses, Vessel Safety Checks, and Public Outreach Activities.

To show their support to the community they serve, the Flotilla will be having an Open House and Community Appreciation Cook-Out in Sandspirit Park on April 29, 2017.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Stuart to be affixed this _____ day of _____, 2017.

_____
TOM CAMPENNI
MAYOR

CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION

Meeting Date: 4/10/2017 **Prepared by:** Paul Nicoletti

Title of Item:
FPL SolarNow Tree and Canopies
Summary Explanation/Background Information on Agenda Request:
Presentation: FPL SolarNow Tree and Canopies
Funding Source:
N/A
Recommended Action:
Consider an Appropriate Motion following the Presentation

ATTACHMENTS:

	Description	Upload Date	Type
🗋	City Manager Presentation	4/6/2017	Backup Material
🗋	Kiwanis Park Concept	4/6/2017	Backup Material

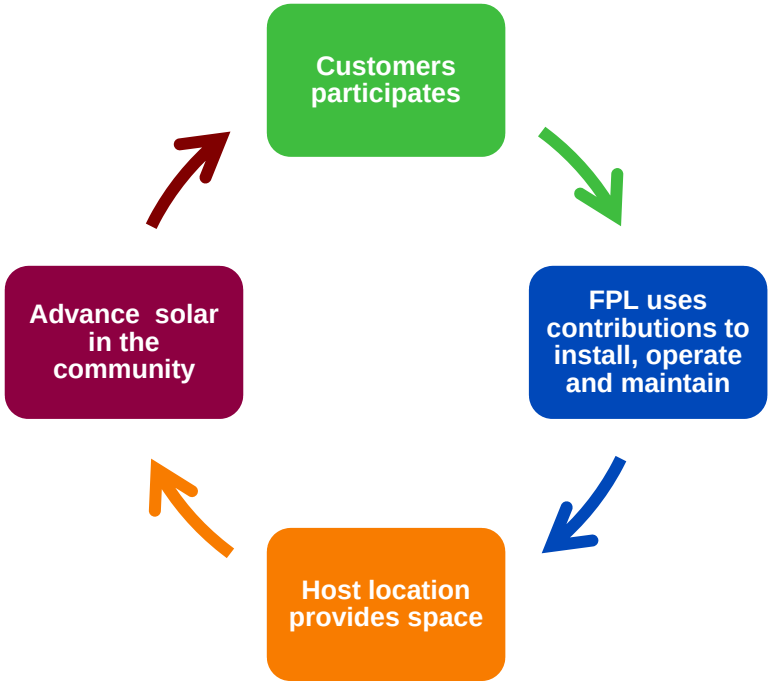
FPL SolarNow™ Program
Community Based Solar Offering

Stuart

FPL SolarNow™ is a community-supported solar program designed to provide customers with an easy way to help move solar energy forward in Florida

FPL SolarNow™ Program Overview

- Customers volunteer to support the program through an on bill contribution
- FPL installs, operates, and maintains the projects *at no cost*
- Host sites provide the space/location for the project
- Solar energy built in local communities
- www.fpl.com/solarnow



Host locations are an integral part of the program's success because they provide a unique experience that will engage and inspire the community

The FPL SolarNow™ Program is committed to building solar projects where participants live and come together as a community

FPL SolarNow™ Program - Participation

- **Stuart has high participation in the program with over 150 participants**

Host locations will be viewed as clean energy leaders in the community

FPL SolarNow™ projects work best in areas that are open to the public, highly visible, and viewed as a community asset

The Power of Community Solar

- Our Solar structures raise awareness of solar energy
- Brings solar generation into the community
- Offer very attractive designs that attract people
- Complements other investments in renewable energy and efficiency
- Promotes sustainability programs

Artist renderings

Ideal host locations are prominent open areas with limited shade where people of all ages and interests come together

Canopies have the flexibility to provide solar power and shading for a wide variety of applications

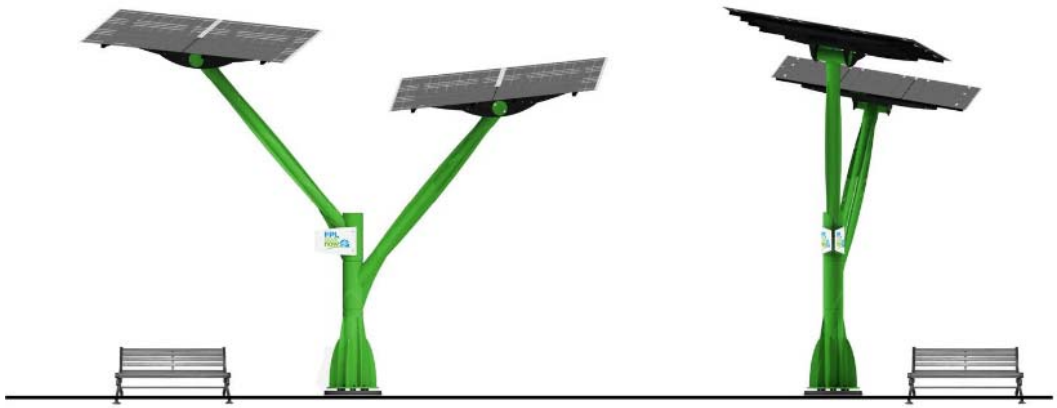
Canopies Designs

There are 2 models of solar trees

Solar Tree Designs

- ***Curve*** **solar tree is approximately 18 feet tall and creates up to 120 square feet of shade**
  - **Integrated table and USB chargers**

- ***Lift*** **solar tree is approximately 24 feet tall and creates up to 200 square feet of shade**



Artist renderings

Stuart would be an exciting place for FPL SolarNow structures

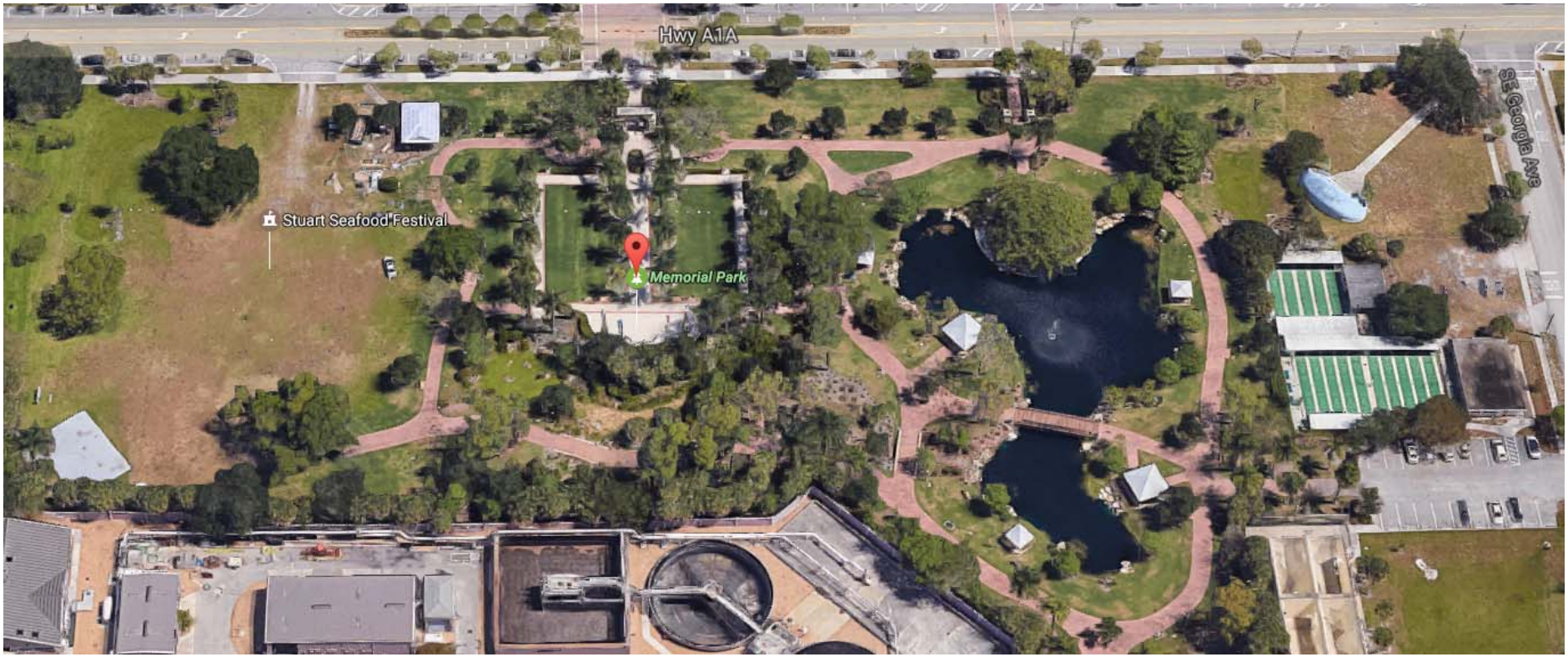
Proposed Locations

- **Flagler Park**
  - Solar Trees
  - Playground Canopy
- **Memorial Park**
  - Solar Trees
  - Shading Canopy

Process/Next Steps

Flagler Park

Memorial Park



Kiwanis Youth Park

Stuart, FL

Artist Rendering
Solar Trees
Solar Canopy
Solar Canopy
East Coast
Lumber & Supply
SE Dixie Hwy
Kiwanis Youth Park

Artist Rendering

Artist Rendering
THELMA A. MILLER
WILLIAM B. MILLER

CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION

Meeting Date: 4/10/2017 **Prepared by:** Paul Nicoletti

Title of Item:

Presentation: FPL Low Income Home Energy Assistance Program (LIHEAP)

Summary Explanation/Background Information on Agenda Request:

This program is currently available through House of Hope. It helps to fund energy costs for indigent and needy persons. This is an informational presentation.

Funding Source:

N/A

Recommended Action:

No action anticipated.

CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION

Meeting Date:4/10/2017 **Prepared by:**C White, City Clerk

Title of Item:
Minutes of 03/27/2017 Regular Commission Meeting for approval. (RC)
Summary Explanation/Background Information on Agenda Request:

Funding Source:
N/A
Recommended Action:
Approve Minutes

ATTACHMENTS:

	Description	Upload Date	Type
🗋	03/27/2017	4/5/2017	Attachment

MINUTES
REGULAR MEETING OF THE STUART CITY COMMISSION
HELD March 27, 2017
AT 5:30 PM
121 SW FLAGLER AVE.
STUART, FLORIDA 34994

CITY COMMISSION
Mayor Tom Campenni
Vice Mayor Troy A. McDonald
Commissioner Kelli Glass Leighton
Commissioner Jeffrey A. Krauskopf (Absent)
Commissioner Eula R. Clarke

ADMINISTRATIVE
City Manager, Paul J. Nicoletti (Absent)
Terry O'Neil for Paul Nicoletti
City Attorney, Michael J. Mortell
City Clerk, Cheryl White

5:30 PM ROLL CALL

Present: Tom Campenni, Kelli Glass Leighton, Eula R. Clarke, Troy McDonald.

5:30 PM PLEDGE OF ALLEGIANCE

5:30 PM PROCLAMATIONS

5:31 PM 1. Child Abuse Prevention Month - April 2017

Accepted by Kelly Haddox of the Castle Governing Board.

2. Certificate of Recognition - Bob's Gourmet Deli

Accepted by owner's Dave and Sue Farrell, retiring after 40 years in business.

5:37 PM 3. Certificate for 90th Anniversary of Lesser, Lesser, Landy & Smith

Accepted by Gary Lesser and Chad Hastings.

PRESENTATIONS

5:39 PM 4. March Service Awards

Recognition for 10 Years of Service: John Bradigan, James Minor, Deborah Smith, and Derek Wallace.

Recognition for 20 Years of Service: John Reddick and Captain Joseph Tumminelli.

5:43 PM 5. Character Counts - Martin County United Way

Holly Laiben, Director of Character Counts, presented Police Chief, David Dyess with the Employee Pillar of Character Award.

5:51 PM COMMENTS BY CITY COMMISSIONERS

Commissioner Glass Leighton commented that Bob's Deli will be greatly missed and sends them well wishes.
Mention of House Bill 269 Amendment.

Commissioner Clarke thanked Bob's Deli and wished them well.
Requested status update on unpaved street and drainage issues in St. Lucie Crescent area from Public Works Department.
Confirmed the discussion of backyard chickens for the April 10th meeting.

Vice Mayor McDonald complimented the Police Department as his neighborhood has experienced recent thefts and a perpetrator has been caught.
Would like to meet and review the budget with each department head.
Per his recent trip to Tallahassee, per the attack on Home Rule, he feels we have to work diligently to make a presence in Tallahassee to fight for our rights at City level.

Mayor Campenni complimented Chief Dyess, thanking him for his service and what he has done for the Police Department and the community.
He explained the Legislative Bills that the City is watching and agreed that the City must have a presence in Tallahassee.

COMMENTS BY CITY MANAGER

Terry O'Neil, Development Director, sitting in for City Manager Paul Nicoletti, announced a Density Workshop Meeting on April 19th at 5:30 p.m.

6:06 PM APPROVAL OF AGENDA

6:06 PM Motion: Approval of Agenda, Action: Approve, Moved by Kelli Glass Leighton, Seconded by Eula R. Clarke.
Motion passed unanimously.

6:06 PM COMMENTS FROM THE PUBLIC (5 min. max)

No public comment.

6:06 PM CONSENT CALENDAR

6. Minutes of 02/27/2017 Joint CRA/CRB/CCM and 03/13/2017 CCM meetings.

7. RESOLUTION No. 36-2017; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, APROVING AND AUTHORIZING A VOLUNTARY EARLY RETIREMENT AND EARLY SEPARATION INCENTIVE PROGRAM FOR THOSE CITY EMPLOYEES THAT MEET ELIGIBILITY CRITERIA; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

6:06 PM END OF CONSENT CALENDAR

Motion: Approval of Consent Calendar, Action: Approve, Moved by Kelli Glass Leighton, Seconded by Eula R. Clarke.
Motion passed unanimously.

COMMISSION ACTION

6:06 PM 8. THIS IS A PLACEHOLDER FOR ANY AND ALL CITY COMMISSION ACTIONS ON ITEMS TO COME BEFORE THE 2017 FLORIDA LEGISLATIVE SESSION.

Jim Chrulski, Community Services Director, gave a brief report on the legislative bills that the City is monitoring.

Added at the meeting: RESOLUTION No. 39-2017; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, SUPPORTING SENATE BILL 874 AND HOUSE BILL 551 RELATING TO NUTRIENT POLLUTION FROM ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS.

6:09 PM Motion: , **Action:** , **Moved by Troy McDonald, Seconded by Eula R. Clarke.**

Commissioner Glass Leighton requested that any Resolutions that are to be approved by the Commission be provided in advance of the meeting.

Attorney Mortell noted a place holder on the Agenda is for last minute items.

Ben Hogarth, Communications Coordinator, also discussed some of the bills in detail.

Attorney Mortell clarified the Snug Harbor Utility Service Agreement annexation language.

David Peters, Assistant Public Works Director, commented that the City currently has a grant and is waiting on another grant funding opportunity for the Sewer Expansion Program.

6:16 PM Motion: Resolution 39-2017, Action: Approve, Moved by Troy McDonald, Seconded by Eula R. Clarke.
Motion passed unanimously.

RESOLUTION No. 38-2017; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, OPPOSING SENATE BILL 596 AND HOUSE BILL 687 RELATING TO UTILITIES AND PROHIBITING LOCAL GOVERNMENTS FROM REGULATING, CHARGING, OR PROHIBITING SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY WHILE IMPOSING COSTS OF THESE FACILITIES ON LOCAL TAXPAYERS.

6:20 PM Motion: , Action: Approve, Moved by Troy McDonald, Seconded by Kelli Glass Leighton.
Motion passed unanimously.

Motion: Staff to generate a Resolution in support of House Bill 269 to be executed by the Mayor and submit it., Action: Approve, Moved by Kelli Glass Leighton, Seconded by Troy McDonald.
Motion passed unanimously.

6:22 PM 9. RESOLUTION No. 40-2017; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZATION TO MAYOR TO EXECUTE A LAND LEASE BETWEEN THE CITY OF STUART, FLORIDA AND PNR HOTELS INC., OR ITS ASSIGN, PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

City Attorney Mike Mortell gave a brief explanation of the land's history. The lease includes a 2-acre lot on the east side of US1. A fifty-year land lease reverting back to the City at the end of fifty years and all property improvements then become the property of the City. The improvements may lead to additional enhancements to Haney Creek. If lease agreement is approved, the Finance Department would be directed to assign Haney Creek is own project number to track expenses.

6:31 PM Proposal to execute a Motion: Execute Resolution 40-2017 to approve land lease between City of Stuart and PNR Hotels Inc., Action: Approve, Moved by Eula R. Clarke, Seconded by Kelli Glass Leighton.
Motion passed unanimously.

ORDINANCE FIRST READING

6:31 PM 10. ORDINANCE No. 2348-2017; AN ORDINANCE OF THE CITY OF STUART, FLORIDA, ANNEXING A PARCEL OF LAND NORTH OF THE INTERSECTION OF NE SAVANNAH ROAD AND NE BAKER ROAD, CONSISTING OF 14.85 ACRES, SAID PARCEL BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Pinal Gandhi-Savdas, Development Department, gave a presentation on the application for annexation of a single parcel as stated in Ordinance. Local Planning Agency recommends approval.

Vice Mayor McDonald requested an explanation of the historic drainage flow.

Terry O'Neil, Development Director, explained the historical flows are taken into account when a development plan is proposed and it is relatively standard.

6:36 PM Motion: , Action: Approve, Moved by Kelli Glass Leighton, Seconded by Eula R. Clarke.
Motion passed unanimously.

ORDINANCE SECOND READING

11. (Continued to April 10, 2017) ORDINANCE No. 2351-2017; AN ORDINANCE OF THE CITY OF STUART, FLORIDA, AMENDING SECTIONS 4-1 THROUGH 4-4, INCLUSIVE OF THE CITY OF STUART, FLORIDA CODE OF ORDINANCES TO CLARIFY AND FURTHER REGULATE ALCOHOLIC BEVERAGES WITHIN THE CITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion: , Action: Approve, Moved by Troy McDonald, Seconded by Kelli Glass Leighton.
Motion passed unanimously.

DISCUSSION AND DELIBERATION

6:37 PM 12. Discussion re: 2375 S. Kanner Highway (7-Eleven)

Attorney Mortell explained the lease options. Under the terms of the lease, the City, as the landlord may remove any and all structures, including underground tanks. However, may want to confirm whether the next tenant is a gas station before removing tanks.

Mayor Campenni suggested offering 7-Eleven a one year lease option.

Attorney Mortell agreed. He suggested that there should be a time frame to put together an RFP to bring it back on April 10th.

6:41 PM 13. Discussion Concerning the Possible Filing of a Lawsuit against Michael Gorman, Owner of the Property at 105 SE Seminole Street, for Residential Use of a Commercial Building on the Property; and Possible Dangerous Conditions Resulting from Hurricane Matthew.

6:44 PM Motion: File an Injunction and do it in-house., Action: Approve, Moved by Troy McDonald, Seconded by Eula R. Clarke.

Motion passed unanimously.

6:46 PM ADJOURNMENT

_____ **_____**

Cheryl White, City Clerk **Tom Campenni, Mayor**

Minutes to be approved at the Regular Commission Meeting this 10th day of April, 2017.

CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION

Meeting Date:4/10/2017 **Prepared by:**jchrulski

Title of Item:
THIS IS A PLACEHOLDER FOR ANY AND ALL CITY COMMISSION ACTIONS ON ITEMS TO COME BEFORE THE 2017 FLORIDA LEGISLATIVE SESSION.

Summary Explanation/Background Information on Agenda Request:
Legislative Update: Mid-Session Report on Resolutions and State Legislative Action.

Funding Source:
N/A

Recommended Action:
Approve any Resolutions presented (if needed) or comment on report.

CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION

Meeting Date: 4/10/2017 **Prepared by:** Michael Mortell

Title of Item:
RESOLUTION No. 44-2017; Review and/or approval of a draft Northpoint Property Request for Developer Qualifications (RFDQ).

Summary Explanation/Background Information on Agenda Request:
At its meeting of May 23, 2016, after lengthy staff-level negotiations, the City Commission granted Northpoint Ventures, LLC an additional thirty (30) days to comply with Resolution No. 46-2014 authorizing contract negotiations to develop a hotel and restaurant on the Northpoint Property.
Also at the May 23rd meeting, the City Commission directed staff to prepare a "Request for Developer Qualifications" (RFDQ) for the Northpoint Property and to bring it forward for consideration as soon as possible. The RFDQ was published for the limited purpose of a long term land lease and did not result in any compliant responses. After further discussion, the RFDQ has been amended to include the possible sale of the property after approval by referendum.
Note: The RFDQ is in draft form and will require minor corrections before publication.

CITY MANAGER'S NOTE: We are hopeful that by changing the RFQ from "Lease" to "Lease or Sale" we will attract someone to develop this property. It will come with the caveat that it will have to go to Referendum, unless the proposal is to build a boat barn as approved prior to the referendum requirement, or as amended to allow for a hotel and restaurant.

Funding Source:
N/A
Recommended Action:
Adopt a Motion to Issue the RFQ.

ATTACHMENTS:

	Description	Upload Date	Type
🗋	RFDQ Northpoint	4/5/2017	Exhibit

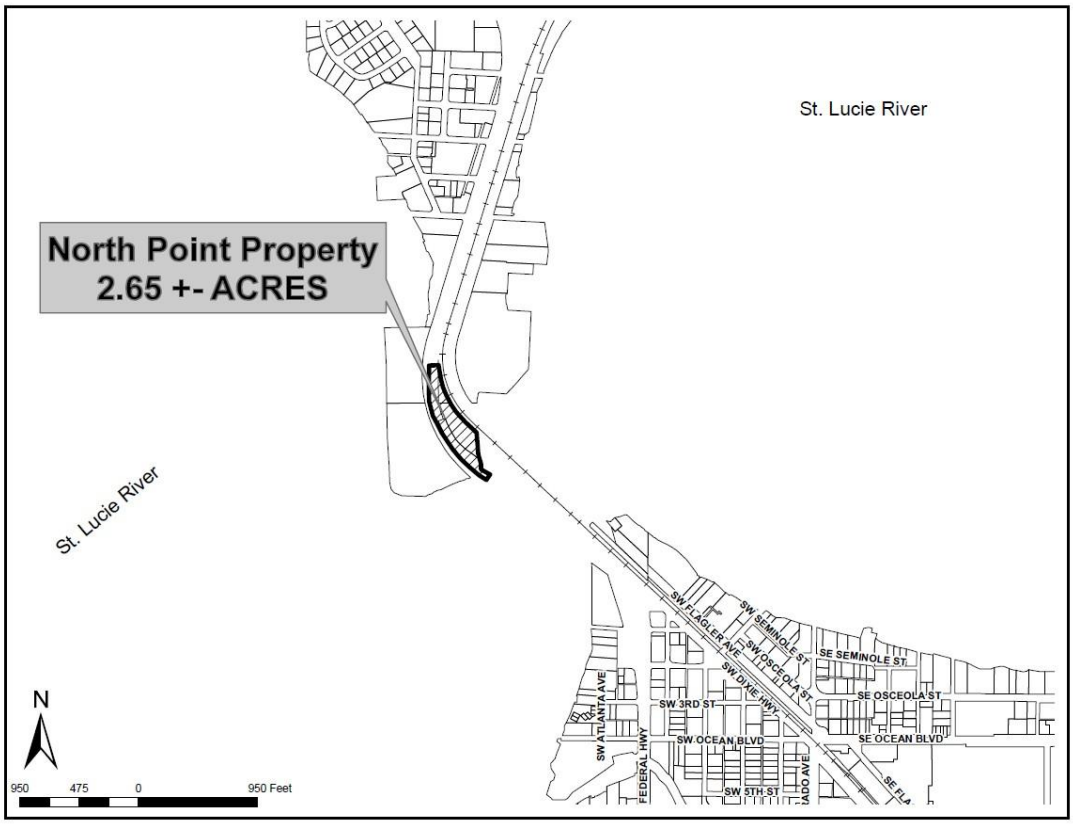
CITY OF STUART, FLORIDA RFDQ #2017-171

REQUEST FOR DEVELOPER QUALIFICATIONS (RFDQ) FOR

LEASE AND DEVELOPMENT OF THE 2.65-ACRE (+/1), CITY-OWNED

"NORTH POINT PROPERTY"

In furtherance of its redevelopment objectives, the City of Stuart, Florida is seeking statements of qualifications from highly experienced developers interested in a long term land lease or purchase and development of a vacant 2.65 acre (+/-) waterfront, city-owned parcel in the heart of Stuart's Community Redevelopment Area (CRA). This solicitation is being offered in accordance with Florida Statute Section *163.380, Disposal of property in community redevelopment area.* **Any subsequent lease or purchase of the subject property shall comply with Florida Statute Section *163.380*. Any requests for purchase will be required to obtain approval through public referendum.**



A complete RFP package can be requested from Onvia DemandStar at http://www.demandstar.com, or by calling (800) 711-1712. A complete RFP package may also be obtained by contacting the City's Procurement Office at 772-288-5320 or by email at purchasing@ci.stuart.fl.us. The City of Stuart is not responsible for the content of any RFP package received through any 3rd party service or any source other than DemandStar by Onvia or the City of Stuart Procurement Division.

Questions concerning terms, conditions and/or specifications will be accepted by the Stuart Procurement & Contracting Services Office until 5:00 pm, May 8, 2017. **Contact the Procurement office at purchasing@ci.stuart.fl.us or by fax at (772) 600-0134.**

In compliance with the Americans with Disabilities Act (ADA), anyone desiring to attend this proposal opening who needs a special accommodation should contact the City's ADA coordinator at 772-288-5306 or TDD at 772-288-5302 at least 48 hours in advance of the meeting, excluding Saturday and Sunday.

There will be a **non-mandatory pre-proposal conference** held at City Hall Commission Chambers, 121 SW Flagler Avenue , Stuart, Florida on **Wednesday, May 3, 2017 at 2:00 PM**. All prospective developers are encouraged to attend. Attendance is highly recommended, but is not mandatory. Pursuant to the requirements of Section 287, Florida Statutes, all proposers are subject to those provisions pertaining to Public Entity Crimes and the Convicted Vendor List.

Firms desiring to provide the services described above shall submit one (1) original and eight (8) copies of their proposals, in a sealed envelope, plainly marked on the outside with the RFDQ submittal number and title, and **one (1) electronic copy (PDF format preferred)** containing all of the required information **no later than 2:30 pm, Wednesday, May 17, 2017.** Submittals will be accepted by hand delivery, overnight delivery or by U.S. Mail to Procurement and Contracting Services Division, 121 SW Flagler Avenue, Stuart, Florida 34994. Submittals received after that date and time will not be accepted or considered and will be retained unopened. Submittals will be opened as soon as practicable thereafter.

Mail/Overnight/Hand Deliver Submittal Responses to:

Stuart City Hall

Procurement & Contracting Services Office

121 S.W. Flagler Avenue

Stuart, Florida 34994

Mark outside of envelope:
RFDQ #2017-171 "Lease and/or sale and Development of the 2.65-Acre (+/1), City-Owned "North Point Property"

Publish Date: _____

Stuart City Commission,

City of Stuart, Florida

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SECTION 1: GENERAL SITE INFORMATION

Located in the heart of Stuart's vibrant Community Redevelopment Area (CRA) (see Exhibit "B"), the subject 2.65-acre vacant waterfront property, known as the "North Point Property," was acquired (and assembled) by the City of Stuart in the early 2000's through land transfers from the Florida Department of Transportation (FDOT) and through direct purchase of land by the City's CRA. Fronting Dixie Highway, the property on offer includes a 5,200 square foot concrete platform over the St. Lucie River – an abandoned remnant of the Old Roosevelt Bridge -- which is a suitable for open air use or for a structure. (See Exhibit H). A 22,540 sq. ft. active FDEP submerged land lease is also attached to the site. A portion of the site's north end is leased from the FDOT by the City at no cost, providing the land is used for no-cost public parking (See Exhibit G). Conversion to a paid lease to allow for private parking may be possible. City water and sewer services are immediately available to the site.

A part of the City's Transportation Concurrency Exemption Area (TCEA), the site is zoned *"Urban Waterfront"* (UW) under the City's award-winning Urban Code and has a Comprehensive Plan land use designation of "Downtown Redevelopment". The site allows for a wide range of uses, including multi-family residential (up to 30 units per acre under Conditional Use Approval), office, retail, hotels and restaurants, all of which may be horizontally or vertically integrated within a maximum building height of 45 feet and four stories. A link to the City's Land Development Code may be found at:

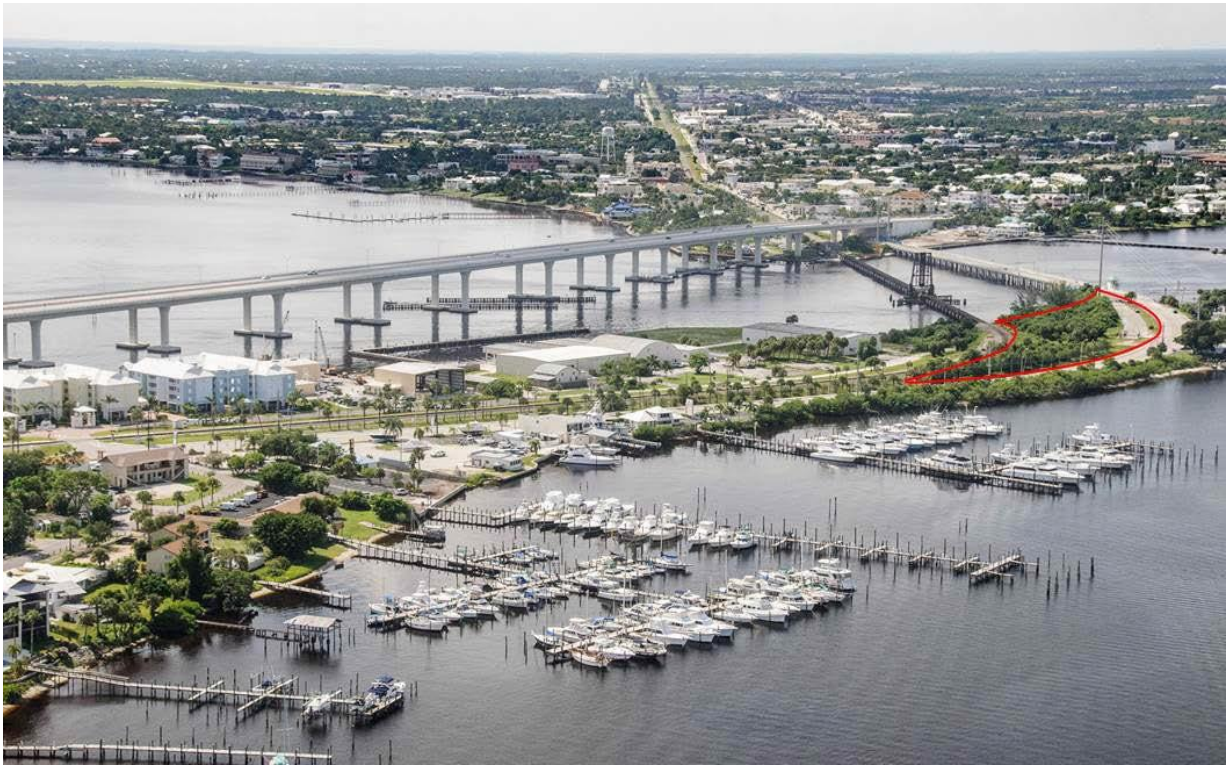
http://www.cityofstuart.us/index.php/land-dev-code.

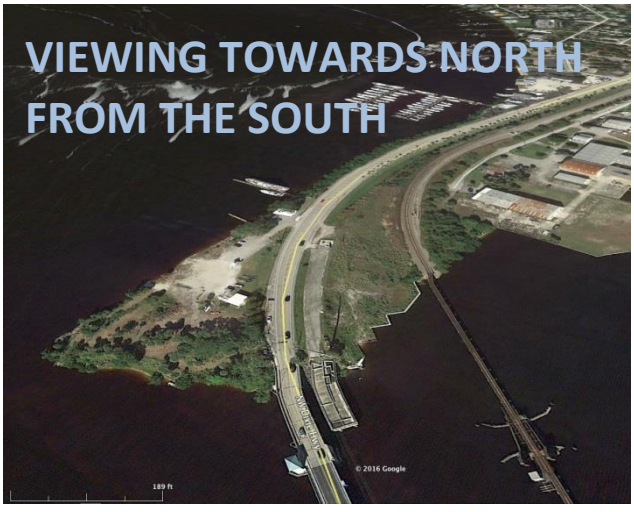
SECTION 2: ABOUT DOWNTOWN STUART

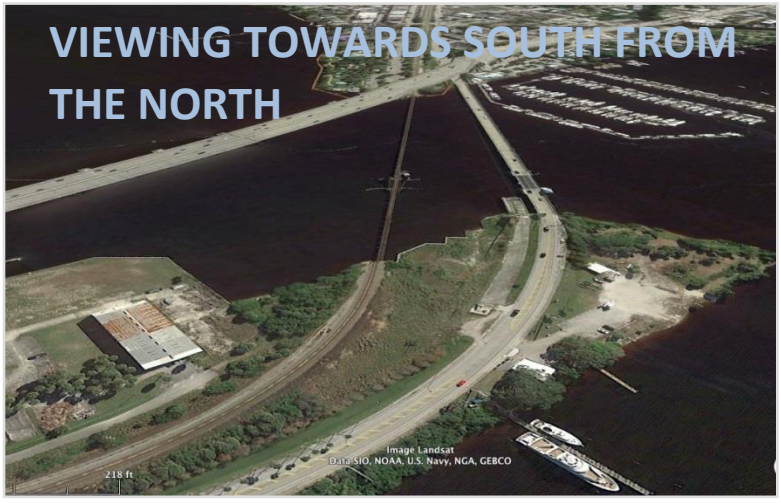
A virtual ghost town in the mid 1980's, today downtown Stuart is thriving. What brought about this transformation? The answers lie in several key decisions made by early champions of redevelopment. Among these were: creating the Stuart CRA, including Tax Increment Financing (TIF), aggressively pursuing CDBG and other grants, doing battle with FDOT over the design of the new high-span Roosevelt Bridge to prevent the downtown from becoming a no-man's-land; and adopting an innovative "Urban Code" to enhance development potential and boost property values.

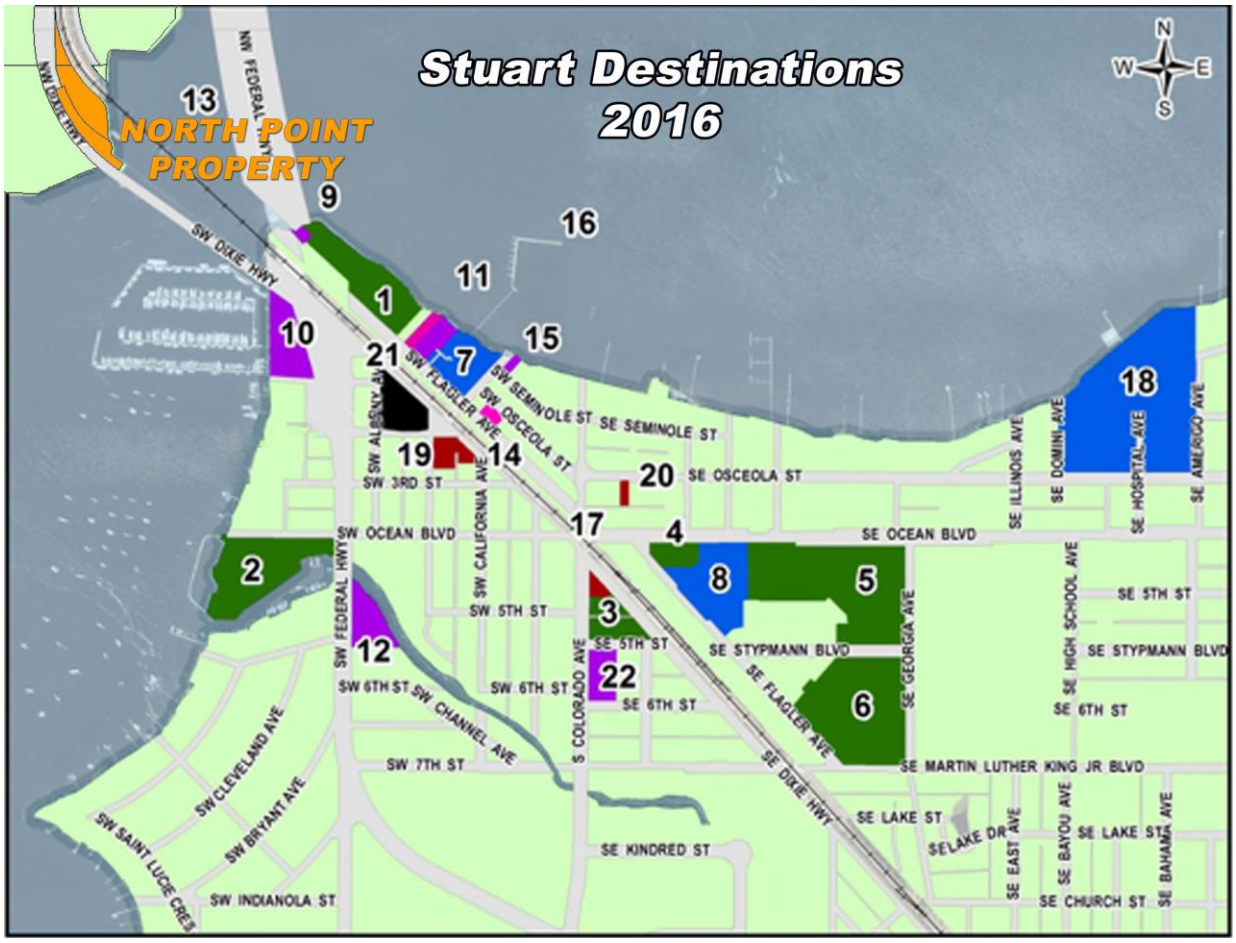
Also key has been the community's willingness to invest in public infrastructure. A few examples include the Stuart Feed Store Property, Shepard Park Fish Walk & River Walk System, Cultural Courthouse Center & Bandstand Park, Flagler Center & Park Restoration, City Anchorage and Marina, Memorial Park Restoration and most recently the Colorado Avenue streetscape project. Through grants and local sources, tens of millions of dollars have been invested.

This strong commitment to redevelopment continues with the City's current efforts to secure an experienced developer for the Property. The following exhibits are provided as an aid to potential respondents to help them understand the character of downtown Stuart. Respondents are encouraged to reflect this understanding in their submittals.









Stuart Destinations

1. *Flagler Park*
2. *Shepard Park*
3. *Kiwanis Park & Park 'n Ride Lot*
4. *Gazebo Park*
5. *Memorial Park*
6. *Sailfish Ballpark*
7. *Stuart City Hall*
8. *Martin County Courthouse*
9. *Pelican Café*
10. *Sunset Bay Marina/Sailor's Return*
11. *Spoto's Restaurant*
12. *Hog Snapper's Restaurant*
13. *Roosevelt Bridge*
14. *Lyric Theatre*
15. *The Boathouse Restaurant*
16. *City Hall Courtesy Dock*
17. *Confusion Corner*
18. *Martin Memorial Hospital*
19. *Sailfish Park 'n Ride Lot*
20. *Osceola Park 'n Ride Lot*
21. *Stuart Heritage Museum*
22. *555 Colorado*

TCPALM
June 8, 2009
Boaters wowed by new Sunset Bay Marina in Stuart
STUART
March 1, 2014
THE VAULT SHOWCASES SOME OF THE BEST ARTWORK FROM ACROSS THE WORLD!
The Stuart News
SCRIPPS TREASURE COAST NEWSPAPERS
Wednesday, December 10, 2014
Hog Snappers opens Stuart restaurant Friday
$1.00
The Stuart News
SCRIPPS TREASURE COAST NEWSPAPERS
Tuesday, January 3, 2012
Old Colorado Inn: new hit in downtown Stuart
$1.00
TCPALM
November 1, 2011
Stuart's Sunset Bay Marina and Anchorage exceeding expectations
TCPALM
August 21, 2011
'Dancin' in the Streets' returns to Stuart Aug. 27
PROFILE
Florida Trend
OLD COLORADO INN HOTEL
June 3, 2013
The Stuart News
SCRIPPS TREASURE COAST NEWSPAPERS
Friday, February 8, 2013
Electric tram moves people around downtown Stuart
$1.00
STUART
FROM GENERATION G.I. TO GENERATION Z, OUR GREAT CITY CELEBRATES
100
YEARS IN THE MAKING.
1914 - 2014
The Stuart News
SCRIPPS TREASURE COAST NEWSPAPERS
Wednesday, July 30, 2014
Childhood friends to open urban farm, community center in Downtown Stuart
$1.00
TCPALM
May 28, 2014
MSNBC Your Business to feature Stuart on 'Main Street USA'
The Stuart News
SCRIPPS TREASURE COAST NEWSPAPERS
Wednesday, December 19, 2007
Shuttle service in downtown Stuart riding on success
$1.00
The Stuart News
SCRIPPS TREASURE COAST NEWSPAPERS
Thursday, October 9, 2014
The Boathouse lives up to the hype, pretty waterfront location in Downtown Stuart
$1.00

STUART
ROBERTO CAVALLI
AN INTERVIEW WITH FASHION ROYALTY
CELEBRATE STUART ON THE ST. LUCIE
THE EQUESTRIAN ISSUE
HORSE POWER
THE LEGEND OF PAYSON PARK
EQUESTRIAN EXCELLENCE
TWO CHAMPION RIDERS TEAM UP
TCPALM
TCPalm.com
February 22, 2013
Terra Fermata lures Stuart pub crawlers up Colorado Avenue
The Palm Beach Post
Thursday, August 19, 2010
LOCAL NEWS
String Theory kicks off MusicFest's free concerts in downtown Stuart
The Stuart News
SCRIPPS TREASURE COAST NEWSPAPERS
TCPalm.com
Tuesday, September 3, 2013
$1.00
555 Place building brings shopping, food, fitness to Downtown Stuart
TCPALM
TCPalm.com
July 12, 2012
Stuart's Colorado Avenue beautification project could begin next month
The Stuart News
SCRIPPS TREASURE COAST NEWSPAPERS
TCPalm.com
Friday, February 8, 2013
$1.00
Seminole Street houses to be featured on Stuart Heritage Inc.'s annual home Tour
The Stuart News
SCRIPPS TREASURE COAST NEWSPAPERS
TCPalm.com
Tuesday, September 1, 2009
$1.00
The Sailors Return restaurant to open in October in Stuart
The Stuart News
SCRIPPS TREASURE COAST NEWSPAPERS
TCPalm.com
Sunday, January 25, 2015
$1.00
The Lyric Theatre presents an evening with Burt Reynolds
STUART
April 14, 2014
100 Things we love about Stuart
As Stuart celebrates 100 years, we count the reasons we wouldn't want to live anywhere else
TCPALM
TCPalm.com
April 17, 2011
Stuart Green Market is the 'Sunday morning rendezvous'
The New York Times
Tuesday, June 18, 2007
A TOWN LOVED FOR WHAT IT IS – AND ISN'T
STUART, FLA, JUNE 18

SECTION 3: CITY'S OBJECTIVES

The City is not an ordinary lessor/seller. The property's ultimate use must take into account the expectations of multiple constituencies, while at the same time adhering to Florida law regarding the disposal of property within a Community Redevelopment Area (CRA). (See Exhibit "C"). Purchase price or lease rate is only one of several factors. The City's overall goal is to secure a robust post-development Tax Increment Financing (TIF) Trust Fund revenues. The successful respondent will be required to obtain authority from the voters via referendum in the event it seeks to purchase the property or in the alternative assume an existing 45-year lease (with a 45 year renewal option) entered into in 2007, amendments to which will be required to accommodate a revised development plan and other lease terms. A copy of the existing lease may be requested from the Procurement and Contracting Services Division, purchasing@ci.stuart.fl.us.

Further, in reflecting the essential character of Stuart, the proposed use must be a good fit for the downtown and measurably advance the City's redevelopment objectives as set forth in its CRA Plan, please see link at:

http://www.cityofstuart.us/index.php/cra-plan

Of equal weight is the potential developer's track record of success in delivering similar projects. A clear demonstration of the project's financial strength is essential, as are commitments to superior site design, architecture and quality of public spaces. Job creation, robust economic activity, and, as mentioned, healthy financial returns to the TIF Trust Fund, are vitally important. Project linkages to downtown Stuart and the wider CRA area, including the City's waterfront, are essential considerations as well. It is anticipated that the proposed project will act as a catalyst for further redevelopment activities on nearby sites.

TAKEAWAYS

- *City seeks reasonable return on its investment and robust TIF revenues*
- *Developer's track record of success is vitally important*
- *Project must advance the City's CRA Plan and reflect the downtown's character*
- *Focus on superior design*
- *Project to act as catalyst for other development*
- *Consistency with Florida Statute Chapter 163*

SECTION 4: PROMOTING SUCCESSFUL NEGOTIATIONS

Upon selection of the top ranked respondent, as permitted by Florida Statutes section 288.075, the City will, if requested, observe confidentiality during an exclusive negotiation period of up to (90) ninety days, during which specific components of a potential *Development Program* will be determined. See Exhibit "E" attached for confidentiality documents. Assuming a superior development scheme can be reached, the City will strongly consider development via its Urban Code Conditional Use Approval (UCCUA) process which allows for greater design flexibility, residential density and commercial floor space. Exhibit "F" attached, which depicts an earlier approved site plan for an in-out boat storage facility and restaurant, is provided as an illustration of site dimensions only and is not intended to significantly influence a respondent's own design concepts. Under the City's economic development incentives program, fast track development approval, inside of (3) three months, can be accomplished (this does not include the referendum procedure). Site and building plan reviews average 7-10 days. Both application types can be processed simultaneously.

In sum, the successful respondent's steps to development are: (1) Successfully negotiate assumption of existing lease, including amendments to the development plan, rental terms and timetable for development or negoatiate a fair

purchase price contingent upon referendum approval, (2) obtaining site plan approval through the City's Urban Code Conditional Use Approval process, which involves one public hearing before the Community Redevelopment (advisory) Board (CRB) and one public hearing before the Stuart City Commission, and (3) obtaining a site plan permit and an (architectural) building permit from the City Development Department

TAKEAWAYS

- *Exclusive, confidential negotiations*
- *Design and use flexibility through Urban Code Conditional Use Approval*
- *City willing to pursue economic development grants if applicable*
- *Fast track development approval*

SECTION 5: MINIMUM CONTENTS OF STATEMENTS OF QUALIFICATIONS

5.1 RULES FOR SUBMISSIONS

The submission must name all persons or entities interested in the submission as principals. The proposal must declare that it is made without collusion with any other person or entity submitting a proposal pursuant to the RFDQ. The interested firm must submit one (1) unbound original and eight (8) bound copies of their proposal with each marked "**COPY**", and **one (1) electronic copy (PDF format preferred) on a CD or flash drive** of the requested data for evaluation in a sealed envelope received by the Procurement and Contracting Services Division no later than 2:30 p.m. on May 17, 2017.

5.2 PROPOSAL FORMAT

Respondents should prepare their submittals using the following format. Proposers shall label, tab and organize submittal documents utilizing the following format as outlined below. All attachments as requested shall be inserted in the back of each corresponding section.

In preparing your submittal, proposer should assume that the City has no previous knowledge of capabilities. The City expects that special attention will be paid to the respondent's ability to fund or secure construction and permanent financing for the proposed project. In the event that a respondent refers to another specific development project describing the respondent's qualifications, experience and capability, the respondent should be prepared to fully describe the role the respondent played in each such project.

Letter of Transmittal: The response format shall contain a letter of transmittal reflecting the following: Experience of development team, track record of delivering similar projects, financial strength of developer, understanding of the City's redevelopment objectives and commitment to a superior design. An agent authorized to contractually bind Contractor must sign the Letter of Transmittal indicating the agent's title or authority. The transmittal letter shall not exceed two pages in length.

Respondents shall submit, at a minimum, the following information. To the extent that a respondent is comprised of one or more business entities or persons, information relative to each member of such team shall be provided:

Tab 1 - Qualifications/Experience: A detailed description of the respondent's qualifications and experience. The respondent's professional qualifications and experience in development, financing and management of comparable projects. The specific role played by the respondent in any project, which is referred to in regard to the respondent's experience, shall be described in detail.

The Statement of Qualifications shall be submitted in an 8 1/2 x 11 format and a digital copy in PDF format. Respondents may include documents larger than 8 1/2 x 11 provided that such documents are folded and/or inserted in a pocket, which is bound into the statement.

Tab 2 - Project Lists: Submit a list of previous completed projects within the past five years and a list of current projects; include colored photos of representative projects carried out by the respondent with complete descriptions.

Tab 3 - Financial Capacity: A demonstration of the respondent's ability to fund or secure financing for the proposed project along with a statement of lender's requirements, if applicable. Provide list of outstanding contingent liabilities, pending legal actions or claims against the firm. Financial statements should demonstrate capacity to fund project costs upfront. Preference will be given to Respondents who can obtain their own financing.

Tab 4 - Respondent's Organizational Structure: Name and address of respondent, including all team members, if any, including personnel who will be involved and the business addresses of key individuals. Provide resumes of key personnel (name, company address, phone number, e-mail address) involved with this project. Resumes shall include job skills, education, training, experience and professional affiliations/membership.

Tab 5 – Respondent's Business Profile: Nature of respondent's business organization, including state of incorporation or formation of partnership, if any. Include their history, locations of their corporate and satellite offices, location of their project team, corporate structure, ownership interest, and the length of company's existence.

Tab 6 - Approach/Operational Plan: Describe Respondent's ability to operate and manage proposed redevelopment projects.

Tab 7 - Prohibition Non-Collusion/Conflict of Interest Disclosure Statements:

Include the following Statement of Non-Collusion: "The respondent certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, that in connection with this solicitation the information provided has been arrived at independently, without consultation, communication, or agreement with any other respondent or with any competitor for the purpose of restricting competition, or in any other way influencing the competitive arena."

Include a disclosure statement advising the City of any potential conflict of interest, real or apparent, that the Respondent, employee, officer, or agent of the firm may have due to ownership, other clients, contracts or interests associated with this project. Signature on the transmittal letter shall certify the veracity of these statements.

Tab 8 - Optional Information: Provide any information pertinent to this project that will provide insight to the evaluators about the qualifications, fitness and abilities of the Respondent (please limit this information to two pages).

Tab 9 - Addenda (if applicable): All addenda issued pursuant to this solicitation must be acknowledged and submitted as part of the proposal package.

SECTION 6: REVIEW PROCESS

Upon receipt of submittals, a review committee, appointed by the City Manager and consisting of five senior City staff members, the Community Redevelopment Board (CRB) Chairman and a representative of the Stuart Main Street organization will rank the top three respondents. Thereafter, upon the City Commission's authorization to do so, exclusive negotiations, for a period of up to 90 days, will be entered into with the top ranked entity, if desired. Assuming successful negotiations, the nature of the proposed development project and terms of compensation, in the form of a revised lease and "Development Program", will be prepared and considered by the Stuart CRA and City Commission at one or more public meetings. If an agreement to enter into negotiations cannot be reached with the

first-ranked respondent, the City may seek negotiations with the next ranked respondent, and so on, until an acceptable agreement has been reached. The review committee will rank the RFDQ submittals using the following general criteria:

Evaluation Categories	Maximum Points Possible
Qualifications and Experience of development team	25
Track record of delivering similar projects	25
Financial strength of developer	25
Understanding of the City's redevelopment objectives/commitment to a superior design	25

SECTION 7: TENTATIVE SCHEDULE

Tentative Schedule	Dates
Opportunity advertised	April 17, 2017
RFDQ available	April 12, 2017
Non-Mandatory Pre-proposal Conference Q&A session	May 3, 2017
Deadline for written requests/inquiries for additional information	May 8, 2017
RFDQ responses due (closing time and date)	May 17, 2017
Selection Committee's evaluation review, short list, and rank top three respondents no later than	June 14, 2017
CRA/City Commission authorizes staff to enter into exclusive negotiations with the top ranked respondent	June 26, 2017
Exclusive negotiation period ends (90 days)	September 30, 2017
Results of negotiations reported to the CRA/City Commission. If acceptable, staff is authorized to return with revised lease, including terms for completion of the project.	August 14, 2017

SECTION 8: ISSUES TO BE DETERMINED DURING NEGOTIATIONS

As a result of negotiations, the City expects that a *Development Program*, addressing at a minimum the following issues, will be produced for consideration by the CRA and City Commission:

- Agreement on a draft lease revisions or purchase agreement.
- A conceptual site plan, including phasing and associated off-site improvements.
- Proposed uses and their intensity.
- Public/private components, if any.
- Types and numbers of structures, including anticipated dimensions and architectural characteristics.

- Special amenities or design features.
- Pedestrian accessibility to and through the property.
- Reasonable impact on local traffic conditions.
- A description of how the "final product" furthers City's Community Redevelopment Plan and other objectives, including linkages, utility as a community focal point and spin off development benefits.
- The development's financial structure and fiscal benefits to the City.
- The *Development Program's* compliance with Florida Statute Section 163.380

SECTION 9: GENERAL TERMS AND CONDITIONS

9.1 DEVELOPMENT COSTS

Neither the City, nor its representatives shall be liable for any expenses incurred in connection with preparation of a response to this RFDQ. Proposers should prepare their proposals simply and economically, providing a straightforward and concise description of the proposer's ability to meet the requirements of the RFDQ.

9.2 INQUIRIES

With the exception of the May 3, 2017 Pre-proposal Conference, the City will not respond to oral inquiries. Questions or requests for additional information shall be directed to the Procurement and Contracting Services Division, at (772) 288-5320, fax (772) 600-0134, or email: purchasing@ci.stuart.fl.us between the hours of 8:30 a.m. and 5:00 p.m., local time, weekdays. The Division will receive written requests for clarification concerning the meaning or interpretation of this RFDQ, until seven (7) days prior to the submittal date. Questions shall be in writing, faxed or emailed with reference to the RFDQ number. All proposers are expected to carefully examine the proposal documents. Any ambiguities or inconsistencies should be brought to the attention of the City through written communication with the Procurement office prior to the opening of the proposals.

Respondents may not contact any member of the selection committee, City employee or City elected officials during the solicitation process (Cone of Silence). All questions or requests for clarification must be routed through the Procurement and Contracting Services Division.

9.3 ADDENDA

If revisions become necessary, the City will provide written addenda to all respondents who received the Request for Developers Qualifications. All addenda issued by the City of Stuart in regard to this RFDQ shall be acknowledged. Failure to acknowledge all addenda may result in disqualification.

The City will make every effort to notify registered Proposers by email that an addendum has been made to the RFDQ. The City shall not be responsible for providing notice of addenda to potential proposers who receive a RFDQ package from sources other than the City or DemandStar by Onvia.

All addenda issued by the City must be acknowledged within the proposal at the time it is submitted to the City.

9.4 EQUAL OPPORTUNITY

The City recognizes fair and open competition as a basic tenet of public procurement and encourages participation by minority and women owned business enterprises.

9.5 PROPOSAL AS PUBLIC DOMAIN

Except as provided in F.S. 288.075 regarding confidentiality, all documents and other materials made or received in conjunction with this project will be subject to public disclosure requirements of chapter 119, Florida Statutes. The proposal will become part of the public domain upon opening. **Vendors shall not submit pages marked "proprietary" or otherwise "restricted".**

9.6 PUBLIC RECORDS: Public Records Relating to Compliance with F.S. 119.0701, Request for Records; Noncompliance, & Civil Action shall;

Note: If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this contract, contact the office of the City Clerk as the custodian of Public Records for the City of Stuart, and all the respective departments at 772-288-5306 or cwhite@ci.stuart.fl.us , City of Stuart, City Clerk 121 SW Flagler Avenue, Stuart, Fl. 34994 per F.S. 119.12.

Keep and maintain public records required by the public agency to perform the service.

Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

A request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency. If the public agency does not possess the requested records, the public agency shall immediately notify the contractor of the request, and the contractor must provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.

If a contractor does not comply with the public agency's request for records, the public agency shall enforce the contract provisions in accordance with the contract.

A contractor who fails to provide the public records to the public agency within a reasonable time may be subject to penalties under F.S. 119.10.

If a civil action is filed against a contractor to compel production of public records relating to a public agency's contract for services, the court shall assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney fees, if:

- The court determines that the contractor unlawfully refused to comply with the public records request within a reasonable time; and
- At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the contractor has not complied with the request, to the public agency and to the contractor.

A notice complies with subparagraph 2 above, if it is sent to the public agency's custodian of public records and to the contractor at the contractor's address listed on its contract with the public agency or to the contractor's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.

A contractor who complies with a public records request within eight (8) business days after the notice is sent is not liable for the reasonable costs of enforcement.

SECTION 10: DISCLOSURES AND DISCLAIMERS

The information contained in this RFDQ is provided solely for the convenience of the respondent. The City has assembled the information in a good faith effort to engage a qualified developer(s) in negotiations regarding the potential sale or lease and development of the property in question. However, the City makes no representation, warranty or guarantee as to the accuracy of the presented information. It is the responsibility of the respondent to verify that the information presented, is accurate and complete, and any reliance on the information contained herein or from communications with City representatives or its advisor(s), is and shall be, at the respondent's sole and exclusive risk.

The City reserves the right to accept any submittal deemed to be in the best interest of the City, to waive any irregularities in any submittal, or to reject any submittals and to re-advertise. The City welcomes submittals presented through a realtor. Any brokerage, finders or referral fees should be included as a part of the overall agreement. The City assumes no financial or any other obligation to any respondent. Any Statement of Qualifications submitted in response to this RFDQ is the sole responsibility of the party submitting such Statement.

Except as permitted by Florida Statute, all submittals made in connection with this RFDQ will be available as public record. In the event of any conflict between this section and the rest of the RFDQ, the provisions of this section shall take precedence.

The responsibility for submitting a Statement of Qualifications, to the City of Stuart, on or before the stated time and date will be solely and exclusively the responsibility of the respondent. No Statement of Qualifications received after the stated time and date will be considered.

Each respondent shall examine all RFDQ documents and shall judge all matters relating to the adequacy and accuracy of such documents. The City shall not be responsible for oral interpretations given by any employee, representative, or others. The issuance of a written addendum is the only official method whereby interpretation, clarification, or additional information may be given. If any addenda are issued to this RFDQ, the City will attempt to notify all prospective firms who have secured a copy of it. However, it shall be the responsibility of each firm, prior to submitting the proposal, to contact the City of Stuart Procurement and Contracting Services Division Manager at (772) 288-5320 to determine if addenda were issued and to make such addenda a part of the proposal.

Written responses, other submissions, correspondence, and all records made thereof, as well as, negotiations conducted pursuant to this request, shall be handled in compliance with Chapters 119 and 286, Florida Statutes. The City gives no assurance as to the confidentiality of any portion of the response once submitted. Any actual or prospective Respondent who disputes the reasonableness, necessity or competitiveness of the terms and conditions of this request for developers qualifications process shall file such dispute in writing with the City Manager, not later than close of business on the proposal opening date, as to the terms and conditions, and within ten (10) days of Commission action as to the selection or award recommendation. By offering a submission to the RFDQ, the respondent certifies that the respondent has not divulged to, discussed or compared his/her competitive response with other responders and has not colluded with any other responders or parties to this competitive response whatsoever.

The respondent shall defend, indemnify, save and hold the City harmless from any and all claims, suits, judgments and liability for death, personal injury, bodily injury, or property damage arising directly or indirectly from any performance under this RFDQ, or a subsequent purchase order or contract entered into by City, its employees, subcontractors, or assigns, including legal fees, court costs, or other legal expenses. Respondent acknowledges sole

responsibility for complying with the terms of this RFDQ. In addition, the respondent shall, at its expense, secure and provide to City, prior to beginning performance under this RFDQ, or a subsequent purchase order or contract, all insurance coverage as required by the City.

Any party providing services or product to the City will be expected to enter into a written agreement, contract, or purchase order with the City that incorporates, either in writing or by reference, all of the pertinent provisions relating to insurance and insurance requirements as required by the City. A failure to do so may, at the sole option of the City, disqualify any respondent.

SECTION 11: EXHIBITS

Exhibit A	**Newspaper Advertisement**
Exhibit B	**Property Location vs. CRA Boundary**
Exhibit C	**Florida Statute Section 163.380**
Exhibit D	**City code regarding sale or lease of City-owned property**
Exhibit E	**Resolution & Confidentiality Documents**
Exhibit F	**Illustrative Development Plan**
Exhibit G	**Survey**
Exhibit H	**Engineer's Statement on Bridge Platform**
Exhibit I	**Photo Array of Site**

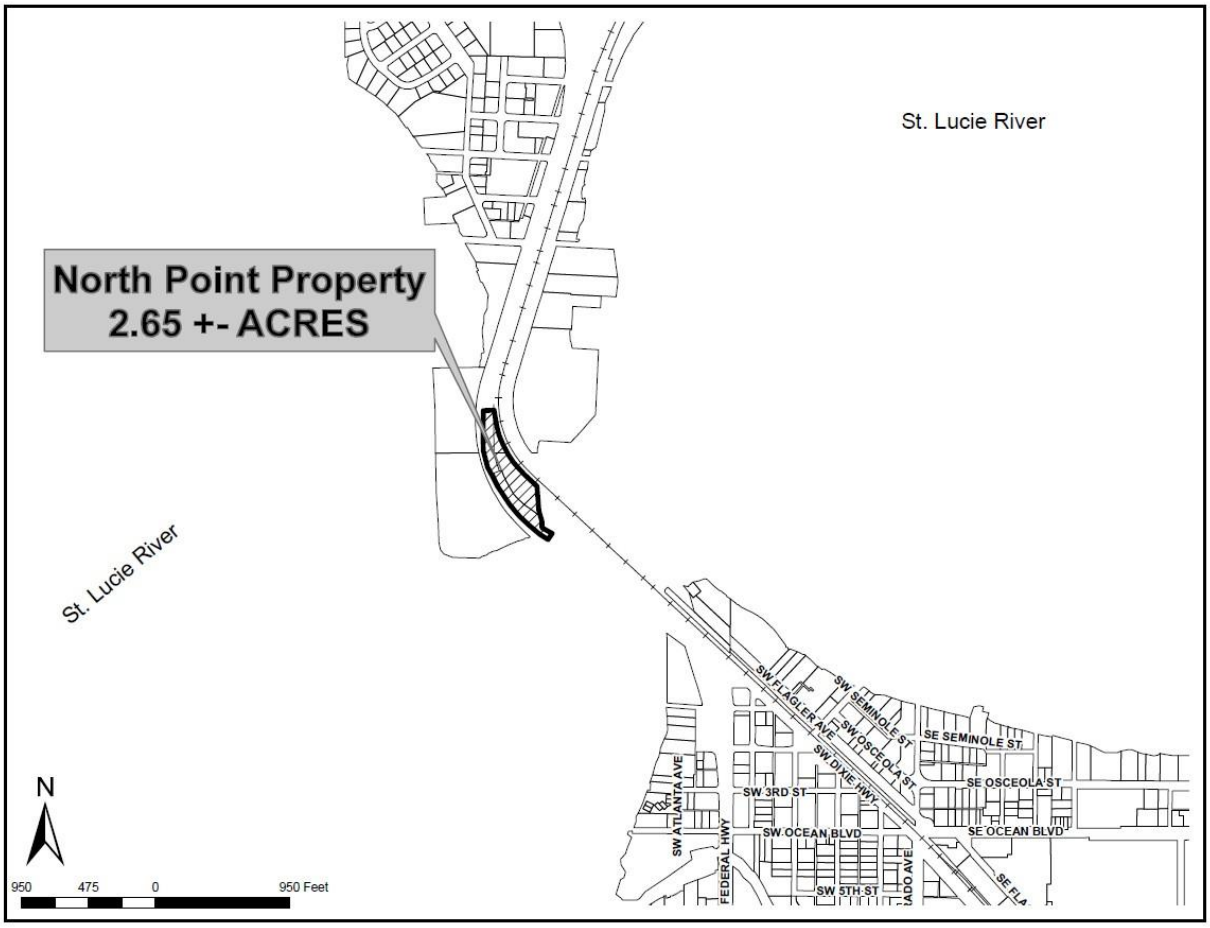
EXHIBIT "A" NEWSPAPER AD

CITY OF STUART, FLORIDA

PUBLIC NOTICE OF POTENTIAL LEASE OF THE 2.65- ACRE (+/-)

CITY-OWNED "NORTH POINT PROPERTY"

Pursuant to Florida Statute Section 163.380, *Disposal of property in community redevelopment area*, the City of Stuart, Florida hereby gives public notice of its interest in leasing a 2.65-acre parcel of city-owned land known as the "North Point Property". (See map below):



A complete RFP package can be requested from Onvia DemandStar at http://www.demandstar.com, or by calling (800) 711-1712. A complete RFP package may also be obtained by contacting the City's Procurement Office at 772-288-5320 or by email at purchasing@ci.stuart.fl.us. The City of Stuart is not responsible for the content of any RFP package received through any 3rd party service or any source other than DemandStar by Onvia or the City of Stuart Procurement Division.

Questions concerning terms, conditions and/or specifications will be accepted by the Stuart Procurement & Contracting Services Office until 5:00 pm, February 8, 2017. **Contact the Procurement office at purchasing@ci.stuart.fl.us or by fax at (772) 600-0134.**

In compliance with the Americans with Disabilities Act (ADA), anyone desiring to attend this proposal opening who needs a special accommodation should contact the City's ADA coordinator at 772-288-5306 or TDD at 772-288-5302 at least 48 hours in advance of the meeting, excluding Saturday and Sunday.

There will be a **non-mandatory pre-proposal conference** held at City Hall Commission Chambers, 121 SW Flagler Avenue , Stuart, Florida on **Wednesday, May 8, 2017 at 2:00 PM**. All prospective developers are encouraged to attend. Attendance is highly recommended, but is not mandatory. Pursuant to the requirements of Section 287, Florida Statutes, all proposers are subject to those provisions pertaining to Public Entity Crimes and the Convicted Vendor List.

Firms desiring to provide the services described above shall submit one (1) original and eight (8) copies of their proposals, in a sealed envelope, plainly marked on the outside with the RFDQ submittal number and title, and **one (1) electronic copy (PDF format preferred)** containing all of the required information **no later than 2:30 pm, May 17, 2017.** Submittals will be accepted by hand delivery, overnight delivery or by U.S. Mail to Procurement and Contracting Services Division, 121 SW Flagler Avenue, Stuart, Florida 34994. Submittals received after that date and time will not be accepted or considered and will be retained unopened. Submittals will be opened as soon as practicable thereafter.

Mail/Overnight/Hand Deliver Submittal Responses to:

Stuart City Hall

Procurement & Contracting Services Office

121 S.W. Flagler Avenue

Stuart, Florida 34994

Mark outside of envelope:
RFDQ #2017-171 "Lease & Development of the 2.65-Acre (+/1), City-Owned "North Point Property"

Publish Date: _____

Stuart City Commission,
City of Stuart, Florida

EXHIBIT "B" PROPERTY LOCATION VS. CRA BOUNDARY

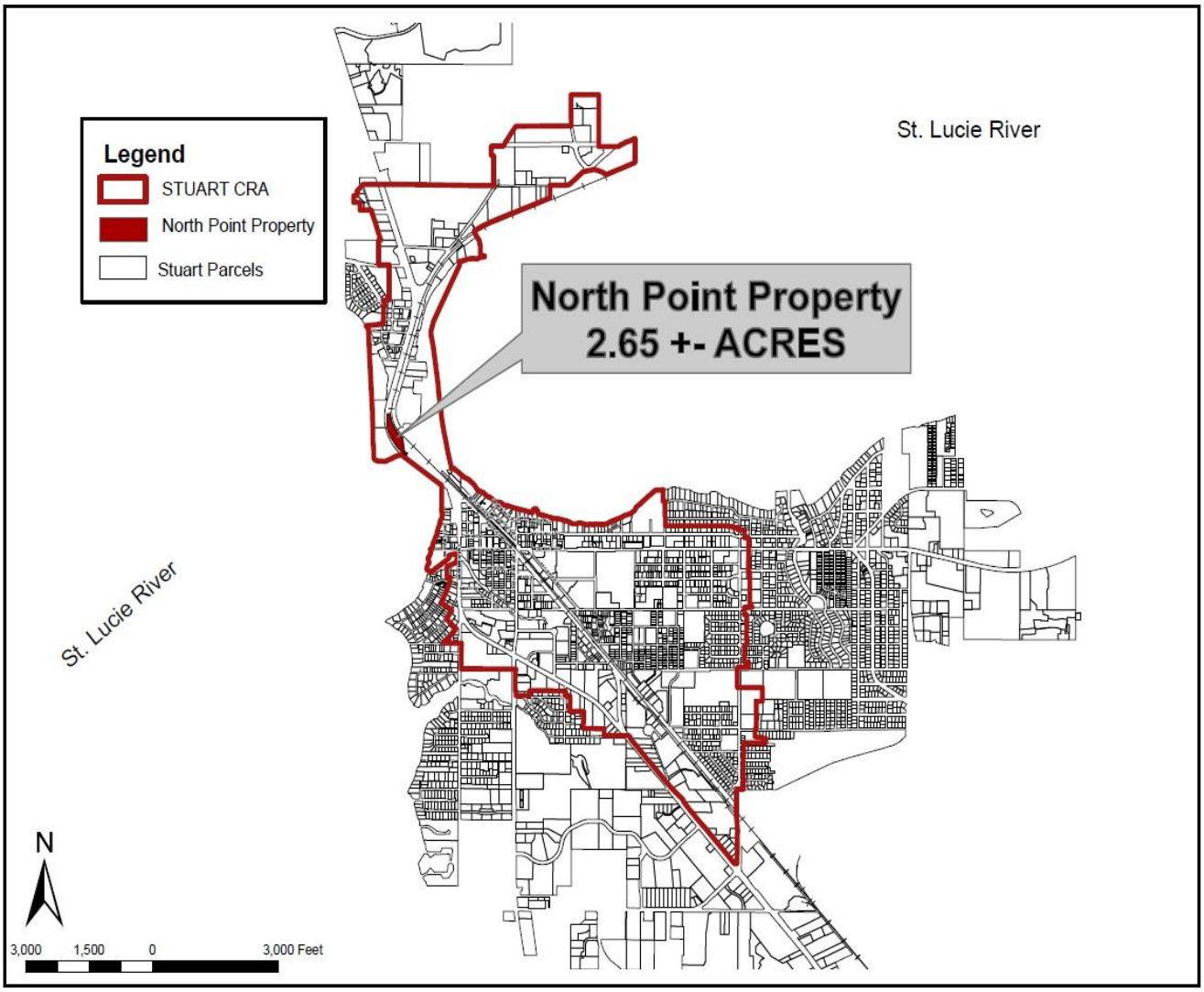


EXHIBIT "C" 2016 FLORIDA STATUTES

163.380 Disposal of property in community redevelopment area.—The disposal of property in a community redevelopment area which is acquired by eminent domain is subject to the limitations set forth in s. 73.013.

(1) Any county, municipality, or community redevelopment agency may sell, lease, dispose of, or otherwise transfer real property or any interest therein acquired by it for community redevelopment in a community redevelopment area to any private person, or may retain such property for public use, and may enter into contracts with respect thereto for residential, recreational, commercial, industrial, educational, or other uses, in accordance with the community redevelopment plan, subject to such covenants, conditions, and restrictions, including covenants running with the land, as it deems necessary or desirable to assist in preventing the development or spread of future slums or blighted areas or to otherwise carry out the purposes of this part. However, such sale, lease, other transfer, or retention, and any agreement relating thereto, may be made only after the approval of the community redevelopment plan by the governing body. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the community redevelopment plan and may be obligated to comply with such other requirements as the county, municipality, or community redevelopment agency may determine to be in the public interest, including the obligation to begin any improvements on such real property required by the community redevelopment plan within a reasonable time.

(2) Such real property or interest shall be sold, leased, otherwise transferred, or retained at a value determined to be in the public interest for uses in accordance with the community redevelopment plan and in accordance with such reasonable disposal procedures as any county, municipality, or community redevelopment agency may prescribe. In determining the value of real property as being in the public interest for uses in accordance with the community redevelopment plan, the county, municipality, or community redevelopment agency shall take into account and give consideration to the long-term benefits to be achieved by the county, municipality, or community redevelopment agency resulting from incurring short-term losses or costs in the disposal of such real property; the uses provided in such plan; the restrictions upon, and the covenants, conditions, and obligations assumed by, the purchaser or lessee or by the county, municipality, or community redevelopment agency retaining the property; and the objectives of such plan for the prevention of the recurrence of slum or blighted areas. In the event the value of such real property being disposed of is for less than the fair value, such disposition shall require the approval of the governing body, which approval may only be given following a duly noticed public hearing. The county, municipality, or community redevelopment agency may provide in any instrument of conveyance to a private purchaser or lessee that such purchaser or lessee is without power to sell, lease, or otherwise transfer the real property without the prior written consent of the county, municipality, or community redevelopment agency until the purchaser or lessee has completed the construction of any or all improvements which he or she has obligated himself or herself to construct thereon. Real property acquired by the county, municipality, or community redevelopment agency which, in accordance with the provisions of the community redevelopment plan, is to be transferred shall be transferred as rapidly as feasible in the public interest, consistent with the carrying out of the provisions of the community redevelopment plan. Any contract for such transfer and the community redevelopment plan, or such part or parts of such contract or plan as the county, municipality, or community redevelopment agency may determine, may be recorded in the land records of the clerk of the circuit court in such manner as to afford actual or constructive notice thereof.

(3)(a) 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 must 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. The county, municipality, or community redevelopment agency shall consider all such redevelopment or rehabilitation proposals and the financial and legal ability of the persons making such proposals to carry them out; and the county, municipality, or community redevelopment agency may negotiate with any persons for proposals for the purchase, lease, or other transfer of any real property acquired by it in the community redevelopment area. The county, municipality, or community redevelopment agency may accept such proposal as it deems to be in the public interest and in furtherance of the purposes of this part. Except in the case of a governing body acting as the agency, as provided in s. 163.357, a notification of intention to accept such proposal must be filed with the governing body not less than 30 days prior to any such acceptance. Thereafter, the county, municipality, or community redevelopment agency may execute such contract in accordance with the provisions of subsection (1) and deliver deeds, leases, and other instruments and take all steps necessary to effectuate such contract.

(b) Any county, municipality, or community redevelopment agency that, pursuant to the provisions of this section, has disposed of a real property project with a land area in excess of 20 acres may acquire an expanded area that is immediately adjacent to the original project and less than 35 percent of the land area of the original project, by purchase as provided in this chapter, and negotiate a disposition of such expanded area directly with the person who acquired the original project without complying with

the disposition procedures established in paragraph (a), provided the county, municipality, or community redevelopment agency adopts a resolution making the following findings:

1. It is in the public interest to expand such real property project to an immediately adjacent area.
2. The expanded area is less than 35 percent of the land area of the original project.
3. The expanded area is entirely within the boundary of the community redevelopment area.

(4) Any county, municipality, or community redevelopment agency may temporarily operate and maintain real property acquired by it in a community redevelopment area for or in connection with a community redevelopment plan pending the disposition of the property as authorized in this part, without regard to the provisions of subsection (1), for such uses and purposes as may be deemed desirable, even though not in conformity with the community redevelopment plan.

(5) If any conflict exists between the provisions of this section and s. 159.61, the provisions of this section govern and supersede those of s. 159.61.

(6) Notwithstanding any provision of this section, if a community redevelopment area is established by the governing body for the redevelopment of property located on a closed military base within the governing body's boundaries, the procedures for disposition of real property within that community redevelopment area shall be prescribed by the governing body, and compliance with the other provisions of this section shall not be required prior to the disposal of real property.

History.—s. 11, ch. 69-305; s. 9, ch. 77-391; s. 13, ch. 84-356; s. 1, ch. 92-162; s. 906, ch. 95-147; s. 1, ch. 96-254; s. 9, ch. 98-314; s. 12, ch. 2006-11.

EXHIBIT "D"

CITY CODE REGARDING SALE OR LEASE OF CITY-OWNED PROPERTY

DIVISION 3. - SALES BY CITY

Sec. 2-253. - Real property.

(a)

All applications for the purchase or lease of real property owned by the city shall be made in writing to the city commission. The prospective purchaser or lessee shall agree to pay for any appraisals required by the city commission as a condition precedent to the further consideration of the application by the city commission.

(b)

No application for such purchase or lease shall be granted by the city commission without a public hearing thereon at which interested members of the public shall be permitted to address the city commission regarding the propriety of the sale or lease. Such sale or lease shall be approved by resolution of the city commission adopted at the conclusion of the public hearing.

(c)

No real property owned by the city shall be sold or leased for a term of longer than one year unless a real estate appraisal report has been presented to the city commission which contains an estimate of the fair market value of the subject real property determined within the preceding three months. Additional appraisals may be required at the discretion of the city commission. Appraisals shall be performed by certified general appraisers so certified by the state department of professional regulation pursuant to F.S. ch. 475.

(Code 1981, § 2-6; Code 1995, § 2-261)

Sec. 2-254. - Statement of intent.

It is the intent of the city commission that no lease of city-owned real property shall be approved by the city commission that does not provide an annual return on investment of at least ten percent. It is the further intent of the city commission that no sale of city-owned real property shall be approved by the city commission for a purchase price of less than the fair market value of the property at the time of sale. This expression of intent may be waived by the city commission upon a determination that a particular lease or sale of city-owned real property for a lesser amount is nevertheless in the best interest of the public.

(Code 1995, § 2-262; Ord. No. 1538, § 1, 11-24-1997)

EXHIBIT "E"
RESOLUTION & CONFIDENTIALITY AGREEMENT

BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

RESOLUTION NO. 09 -2015

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA DESIGNATING THE CITY MANAGER, CITY DEVELOPMENT DIRECTOR, CITY ATTORNEY, PUBLIC WORKS DIRECTOR, FINANCIAL SERVICES DIRECTOR , CRA ADMINISTRATOR AND ONE ADDITIONAL MEMBER, DETERMINED AT THE DISCRETION OF THE CITY MANAGER, AS THE OFFICIAL REPRESENTATIVES OF THE CITY OF STUART AUTHORIZED TO RECEIVE AND DISTRIBUTE CONFIDENTIAL INFORMATION PURSUANT TO SECTION 288.075, FLORIDA STATUTES, RELATING TO PLANS, INTENTIONS, OR INTERESTS OF A PRIVATE CORPORATION, PARTNERSHIP, OR PERSON TO LOCATE, RELOCATE, OR EXPAND ANY OF ITS BUSINESS ACTIVITIES IN THE STATE OF FLORIDA; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, Section 288.075, Florida Statutes provides that upon written request from a private corporation, partnership, or person records of employees assigned the duty to promote the general business interests or individual interests of the city which contain or would provide information concerning plans, intentions, or interests of such private corporation, partnership, or person to locate, relocate or expand any of its business activities in this state are confidential and exempt from s. 119.07(1) and s. 24 (a), Art. I of the State Constitution; and

WHEREAS, the legislature has determined that the disclosure of information while a business is still considering its site selection options could jeopardize a viable economic development project as well as injure the business in the marketplace and that the harm that would result from the release of sensitive business information or from the impairment of the effective administration of the state and local economic development efforts far outweighs the public benefit derived from release of such information. Furthermore disclosure of financial records during negotiations between private and public entities would discourage economic development in general and have a negative impact on increasing the number of high paying jobs in the state; and

WHEREAS, the City Commission deems approval of this Resolution to be in the best

interests of the health, safety and general welfare of the residents and citizens of the City of Stuart.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

SECTION 1: The foregoing recitals are hereby affirmed and ratified.

SECTION 2: The City Commission designates the City Manager, City Development Director, City Attorney, Public Works Director, Financial Services Director, CRA Administrator and one additional member who may be appointed at the discretion of the City Manager, as the official representatives of the City of Stuart authorized to receive and distribute confidential information pursuant to Section 288.075, Florida Statutes, related to plans, intentions, or interests of a private corporation, partnership, or person to locate, relocate, or expand any of its business activities in the State of Florida, and specifically authorizes him/her to sign any requested confidentiality agreement consistent with the provision of Section 288.075, Florida Statutes. Each of the City's representatives shall sign a confidentiality agreement for each participating economic development project and shall be bound by the terms of this resolution and Florida law.

SECTION 3: Any information from a private corporation, partnership, or person requesting in writing a signed "Confidentiality Agreement for Development" attached hereto as Exhibit "A", is confidential and exempt from Section 119.07(1) and Section 24(a) Article I of the State Constitution for 12 months after the date of the signed agreement or until the information is otherwise disclosed at a public hearing, whichever occurs first.

SECTION 4: This resolution shall take effect immediately upon adoption.

Commissioner CAMPENNI offered the foregoing resolution and moved its adoption. The motion was seconded by Commissioner MCDONALD and upon being put to a roll call vote, the vote was as follows:

Resolution No. 09-2015

	YES	NO	ABSENT
KELLI GLASS LEIGHTON, MAYOR			X
TROY A. MCDONALD, VICE MAYOR	X		
JEFFREY A. KRAUSKOPF, COMMISSIONER	X		
EULA R. CLARKE, COMMISSIONER	X		
TOM CAMPENNI, COMMISSIONER	X		

ADOPTED this 9th day of March, 2015.

ATTEST:

CHERYL WHITE
CITY CLERK

KELLI GLASS LEIGHTON
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL T. MORTELL
CITY ATTORNEY

CONFIDENTIALITY AGREEMENT FOR DEVELOPMENT

THIS CONFIDENTIALITY AGREEMENT (this "**Agreement**") is made and entered this _____ _____, 20 , by and between_____, whose mailing address is

day of

_____(the "**Business**") and the **CITY OF STUART**, whose mailing address is 121 SW Flagler Avenue, Stuart, FL 34994 ("**City**").

W I T N E S S E T H:

WHEREAS, the Business is a private corporation, partnership or person intending to locate, relocate or expand its business activities in this state; and

WHEREAS, the City of Stuart by resolution has designated the officials of the City authorized to receive and distribute confidential information pursuant to Section 288.075, Florida Statutes; and

WHEREAS, the City has received a written request from the Business for confidentiality regarding its intentions, plans and interests to locate, relocate or expand any of its business activities in this state (the Business Information), pursuant to Section 288.075, Florida Statutes; and

WHEREAS, the Business and the City desire to enter into this Agreement to provide for the terms and conditions upon which the confidentiality of the Business Information may be exempted from the provisions of Section 119.07(1) and Section 24(a), Article I of the State Constitution, as permitted under Section 288.075, Florida Statutes.

NOW, THEREFORE, in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. **Recitations.** The recitations set forth above are true and correct are incorporated herein by this reference.

2. **Confidentiality.** The undersigned officer on behalf of the Business hereby requests, and the City hereby agrees, that all information, records, reports, data, and documents which contain or would provide Business Information, including by not limited to information concerning plans, intentions, or interests related to the location, relocation, or expansion of manufacturing or other business activities, be confidential and exempt from disclosure. Such Business Information, as to which the City is Custodian shall not be open to public inspection or copying, and confidentiality shall be maintained for a period of twelve (12) months from the date below written, or until a duly authorized agent on behalf of the Business discloses or authorizes the disclosure of said information, or as otherwise required by law or judicial order, pursuant to § 288.075, Florida Statutes, as amended.

3. **Extension of Period of Confidentiality.** The Business may request, and the City may grant, at its sole discretion, an extension of the period of confidentiality for up to an additional twelve (12) months upon written request from the Business, and upon a finding by the City that the Business is still actively considering the location, relocation, or expansion of its business activities in the state. A request for extension must be received in written form prior to the expiration date established by this Agreement. The City's approval of the extension shall be evidenced by written supplement attached to this agreement.

4. **Hold Harmless.** Business agrees to and shall hold the City, its officers, agents, employees, and representatives harmless from liability for damage or claims for damage which may arise from this Agreement. Business agrees to and shall defend the City and its officers, agents, employees, and representatives from actions for damages caused or alleged to have been caused as a result of entering into this Agreement.

5. **Severability**. Invalidation of any provision of this Agreement shall not affect any other provision of this Agreement, which shall remain in full force and effect.

6. **Effective Date.** This Agreement shall become effective upon execution by all parties.

7. Venue in Martin County. Jurisdiction a venue for any lawsuit to enforce the terms and obligations of this Contract shall lie exclusively in the County Court or the Circuit Court in and for Martin County, Florida.

8. Laws of Florida. The validity, interpretation, construction, and effect of this Contract shall be in accordance with and governed by the laws of the State of Florida.

9. Attorney's Fees and Costs. In the event the Contractor breaches or defaults in the performance of any of the terms, covenants and conditions of this Contract, the Contractor agrees to pay all damages and costs incurred by the CITY in the enforcement of this Contract, including reasonable attorney's fees, court costs and all expenses, even if not taxable as court costs, including, without limitation, all such fees, costs and expenses incident to appeals incurred in such action or proceeding.

10. Mediation as Condition Precedent to Litigation. Prior to the initiation of any litigation by the parties concerning this Contract, and as a condition precedent to initiating any litigation, the parties agree to first seek resolution of the dispute through non-binding mediation. Mediation shall be initiated by any party by serving a written request for same on the other party. The parties shall, by mutual agreement, select a mediator within 15 days of the date of the request for mediation. If the parties cannot agree on the selection of a mediator then the CITY shall select the mediator who, if selected solely by the CITY, shall be a mediator certified by the Supreme Court of Florida. The mediator's fee shall be paid in equal shares by each party to the mediation.

11. Contractual Authority. By signing this Contract the Contractor swears or affirms, under penalty of perjury, that this is a valid act of the Contractor, and that no later claim shall be made by the CONTRACTOR that the Contract is invalid or an *ultra vires* act, by reason of a failure to have the proper authority to execute the Contract. In the event that a court of competent jurisdiction later determines that the Contract is or would be null and void for failure of the signatory to have proper or complete authority, this Contract shall nonetheless be deemed valid under the theory of "apparent authority," or in the sole alternative of the City, shall be deemed to be the act of the signatory, as an individual, who shall be fully responsible for its complete performance.

12. Sovereign Immunity. Nothing contained herein shall be construed or interpreted as a waiver of the sovereign immunity liability limits established under chapter 768.20 Florida Statutes as amended.

13. Public Records. Public Records Relating to Compliance, Request for Records; Noncompliance, & Civil Action with F.S. 119.0701 the Contractor shall:

If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this contract, contact the office of the City Clerk as the custodian of Public Records for the City of Stuart, and all the respective departments at 772-288-5306 or cwhite@ci.stuart.fl.us , City of Stuart, City Clerk 121 SW Flagler Avenue, Stuart, Fl. 34994 per F.S. 119.12.

Keep and maintain public records required by the public agency to perform the service.

Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided

to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

A request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency. If the public agency does not possess the requested records, the public agency shall immediately notify the contractor of the request, and the contractor must provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.

If a contractor does not comply with the public agency's request for records, the public agency shall enforce the contract provisions in accordance with the contract.

A contractor who fails to provide the public records to the public agency within a reasonable time may be subject to penalties under F.S. 119.10.

If a civil action is filed against a contractor to compel production of public records relating to a public agency's contract for services, the court shall assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney fees, if:

- The court determines that the contractor unlawfully refused to comply with the public records request within a reasonable time; and
- At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the contractor has not complied with the request, to the public agency and to the contractor.

A notice complies with subparagraph 2 above, if it is sent to the public agency's custodian of public records and to the contractor at the contractor's address listed on its contract with the public agency or to the contractor's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.

A contractor who complies with a public records request within eight (8) business days after the notice is sent is not liable for the reasonable costs of enforcement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by the proper officers the day and year above written.

CITY OF STUART:

ATTEST:_____ _____
CITY CLERK CITY MANAGER

BUSINESS

Witness:_____ By:_____
Print Name: _____ Print Name: _____

Witness:_____ By:_____
Print Name: _____ Address: _____
_____
_____

STATE OF _____)
) SS:
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this_____day of_____, by _____, as_____of_____. He/she is personally known to me or produced_____as identification, and [did] [did not] take an oath.

[NOTARIAL SEAL]

Notary:
Print Name:
Notary Public, State of
My commission expires:

EXHIBIT "F"
ILLUSTRATIVE DEVELOPMENT PLAN

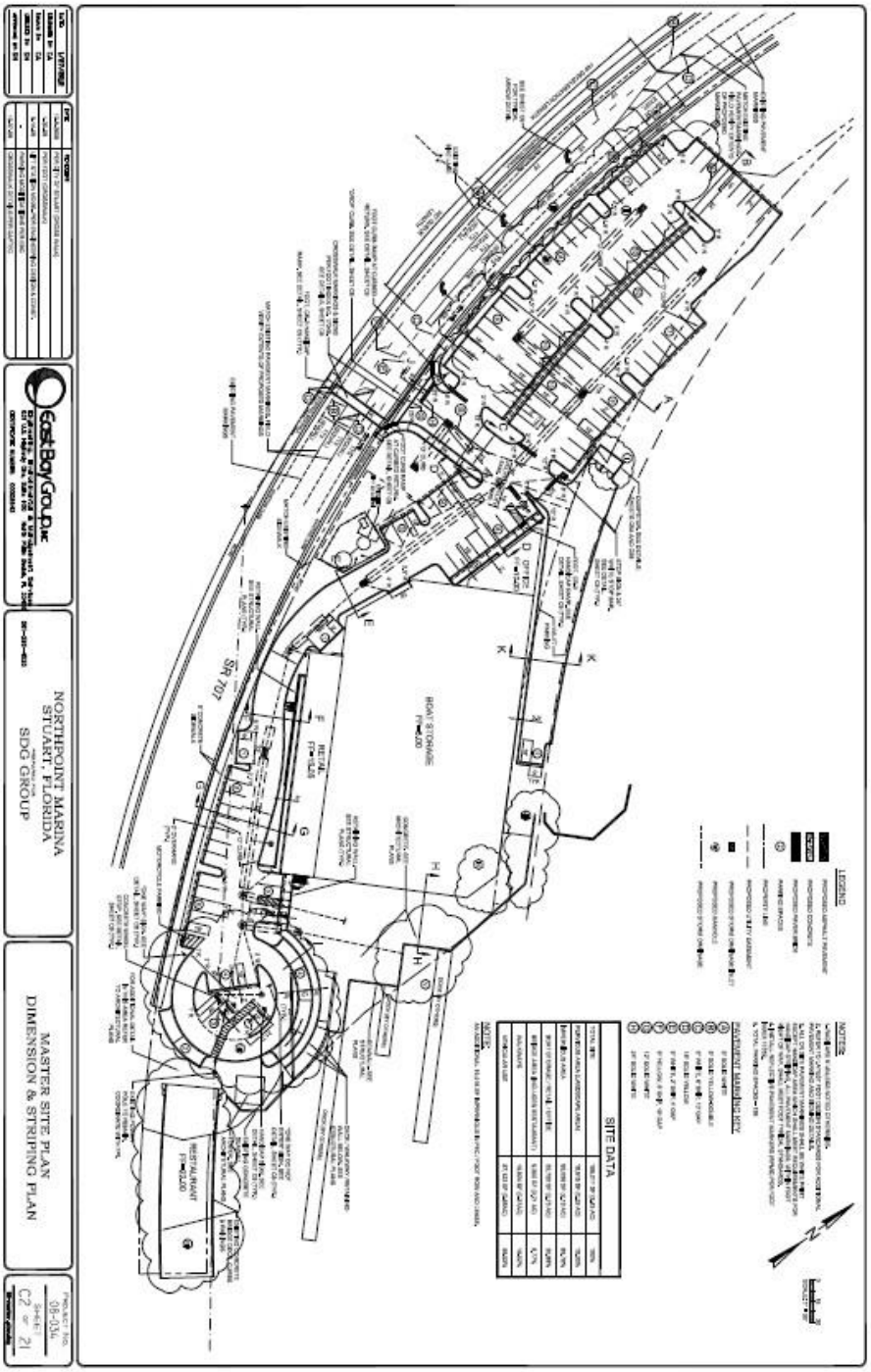


EXHIBIT "G"

SITE SURVEY

Survey is on following page

EXHIBIT "H"

Engineer's Statement on Bridge Platform

STILES ENGINEERING GROUP, INC.
PROFESSIONAL STRUCTURAL CONSULTANTS
404 SW Camden Ave., Stuart, FL 34994
Voice: (772)223-9883 Fax: (772)223-9502

FEB 14 2012

February 14, 2012

Mr. Joseph J. Hoffkins, CBO, CGP
Building Code Administrator
City of Stuart
121 SW Flagler Ave.
Stuart, FL 34994

Re: Old Roosevelt Bridge North Span Pier Remnant, Stuart Florida

Dear Mr. Hoffkins;

I have evaluated the existing superstructure of the above referenced site for the construction of the proposed new Salt Life Food Shack Restaurant on it.

All necessary repair modifications for this construction are detailed in the structural sheets from my office labeled "ST-1 through ST-6".

Completion of these repairs will eliminate all structural concerns I have for the capacity of this structure to safely support the anticipated loads from this new construction for the SAlt Life Food Shack Restaurant.

If you have any questions or concerns, or if I can be of any future service, please do not hesitate to contact me.

Respectfully submitted,

STILES PEET LICENSE 49701 STATE OF FLORIDA PROFESSIONAL ENGINEER

C. Stiles Peet, P. E. S.E.

1

EXHIBIT "I"
PHOTO ARRAY OF SITE

SAMPLE

AMENDED AND RESTATED

ABSOLUTE NET- NON-SUBORDINATED GROUND LEASE

(Northpoint Project)

LESSOR:

CITY OF STUART, FLORIDA, and the

STUART COMMUNITY REDEVELOPMENT AGENCY

and

LESSEE:

NORTHPOINT VENTURES LLC

Dated as of October 31, 2006; First Amended on September 28, 2007, Amended and Restated on September 27, 2010, Amended and Restated on August 1, 2013, and Amended and Restated on June , 2016

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EXHIBITS

"A"	Leased Property Description
"A-1"	Resolution 52-06, Approved March 27, 2006, including the Listing of Business Terms
"A-2"	Resolution 6-06, Approved October 23, 2006, approving Listing of Business Terms
"A-3"	Resolution 89-2014, approved September, 22, 2014, authorizing the conditionally amended and restated absolute net, non-subordinated ground lease dated August 1, 2013.
"B"	Resolution 74-06, Approved April 24, 2006, with the approved Site Plan, Elevations, and Staff Conditions
"B-1"	September 24, 2007 and October 22, 2007 City Commission Minutes
"C"	Certification Letter from Lessee
"D"	Permitted Exceptions
"E"	Amended Memorandum of Lease
"F"	Lease Schedule

NOTES: Exhibits "A" and "D" above are subject to change prior to the Lease Commencement Date upon Lessee's review of the title commitment and the current survey of the Leased Property. In such event, and upon the agreement of the parties, revised Exhibits "A" and "D" shall be attached as exhibits prior to the Lease Commencement Date.

AMENDED AND RESTATED

ABSOLUTE NET- NON-SUBORDINATED GROUND LEASE

[Northpoint Project]

THIS AMENDED AND RESTATED ABSOLUTE NET – NON-SUBORDINATED GROUND LEASE, executed on the dates hereinafter set forth and commencing on the date provided herein, between CITY OF STUART, a Florida municipal corporation, and the STUART COMMUNITY REDEVELOPMENT AGENCY, as a body politic and corporate duly created by the City of Stuart under Part III, Chapter 163, Florida Statutes (collectively, "Lessor"), and NORTHPOINT VENTURES LLC, a Florida for profit limited liability company ("Lessee") for the following uses and purposes:

RECITALS

WHEREAS, on July 29, 2005, the City Commission of the City of Stuart, Florida, accepted a Statement of Qualifications from Sustainable Development Group, LLC ("SDG") for the redevelopment of the Northpoint Dry Storage Facility ("Northpoint Project"), subject to negotiation of business terms; and

WHEREAS, ZHA, Inc. of Annapolis, Maryland, was retained as a consultant to the City and negotiated with Sustainable Development Group, LLC to reach agreement on the business terms for the Northpoint Project, and

WHEREAS, ZHA presented the negotiated business terms for the Northpoint Project to the City Commission during a workshop on March 27, 2006; and

WHEREAS, the City Commission desires to proceed with the preparation of the definitive leases between the City of Stuart and Sustainable Development Group, LLC for the Northpoint Project; and

WHEREAS, at a duly called public meeting on March 27, 2006, the City Commission approved the business terms as presented by ZHA and authorized the preparation of this Lease and authorized and directed its execution by the appropriate officials of the City; and

WHEREAS, at a duly called public meeting on April 24, 2006, the City Commission approved Resolution 74-06, granting an Major Urban Code Exception; approving a certain Site Plan, Elevations, and Staff Conditions, for the Northpoint Project; and

WHEREAS, at a duly called public meeting on October 23, 2006, the Community Redevelopment Agency board approved the business terms as presented by ZHA and authorized the preparation of this Lease, and authorized and directed its execution by the appropriate officials of the Agency; the motion to approve was subject to this lease being a “triple-net, non-subordinated, with no attornments, and property annexed to the

CPI," and including a recommendation that the water taxi service be for at least five (5) years; and

WHEREAS, the Lessee has approved this Lease and has authorized and directed certain individuals to execute this Lease on behalf of Lessee; and

WHEREAS, the Lease was amended by the parties on September 28, 2007, by the First Amendment to Ground Lease, which is incorporated herein; and

WHEREAS, the Lease was later amended by action of the City Commission on October 22, 2007, extending the Inspection Period until January 31, 2008; and

WHEREAS, the Lease was later amended and restated by the Stuart City Commission and Stuart Community Redevelopment Agency on September 27, 2010 to revise engineering for the boat storage building and allow early rental payments; and

WHEREAS, the Lease was later amended and restated by the Stuart City Commission and Stuart Community Redevelopment Agency on August 1, 2013 to provide for timetable extensions.

WHEREAS, on September 22, 2014, the City Commission approved the assignment of the ground lease dated August 1, 2014 by SDG Group, LLC to North Point Ventures, LLC.

WHEREAS, the Lessor and Lessee again wish to amend and restate this lease.

AGREEMENTS

NOW THEREFORE, in consideration of the mutual promises and covenants set forth below and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. RECITALS. The foregoing recitals are true, correct and incorporated into this Lease. A copy of Resolution 52-06, a Resolution of the Stuart City Commission, including the "Listing of Business Terms," approved by the parties and adopted by the City Commission on March 27, 2006 is attached hereto as Exhibit A-1. A copy of Resolution 6-06, a Resolution of the Stuart Community Redevelopment Agency (but not including a separate copy of the "Listing of Business Terms," approved by the parties and adopted by the City Commission on March 27, 2006) is attached hereto as Exhibit A-2. A copy of Resolution 89-04 authorizing the conditional assignment of the second amended and restated lease dated August 1, 2013 to North Point Ventures, LLC is attached hereto as Exhibit A-3. These Exhibits are incorporated by attachments and supplemental to this Lease and may be used by either party to clarify terms herein, or to further illuminate the intent of the parties. However, it is expressly understood and agreed that in the event of a conflict between this Lease and the Listing of Business Terms, this Lease shall prevail.

2. DEFINITIONS. Capitalized terms used in this Lease shall have the following definitions:

2.1 As to each of the following definitions, use of the masculine gender shall be considered and construed to include correlative words of the feminine and neutral genders. Unless the context shall indicate otherwise, the singular shall include the plural as well as the singular number.

2.1.1 "Act" means Chapter 166, Florida Statutes, the Charter of the City, and the ordinances and codes of the City.

2.1.2 "Authorized Representative" means the Person or Persons designated and appointed from time to time as such by either party.

2.12a "Bridge Parcel" means the bridge structure and submerged Land thereunder, as further described in Exhibit A.

2.1.3 "Building Official" means that Person or those Persons authorized under the Florida Building Code (2010 edition, as amended or replaced from time to time) to issue on behalf of the City a Certificate of Occupancy, a Temporary Certification of Occupancy, or a Certificate of Completion.

2.1.4 "Building Permit" means for all or each part of the Project to be constructed on the Leased Property, any permit, including foundation only permits, issued by the appropriate department, office or official of the City or other governmental authority having jurisdiction over the construction on the Development Site.

2.1.5 INTENTIONALLY DELETED.

2.1.6 "Certificate of Occupancy" means the final Certificate of Occupancy or Certificate of Completion, as appropriate, issued by a Building Official pursuant to the Florida Building Code (2010 Edition).

2.1.7 "City" means the City of Stuart, a municipal corporation created under the laws of the State of Florida.

2.1.8 "City Codes" or "Codes" means the ordinances and codes of the City that regulate the development and construction of the Project and each Building, including but not limited to, the building codes and zoning regulations and the Florida Building Code (2010 Edition), as the same may be amended or replaced from time to time.

2.1.9 "City Commission" means the elected governing body of the City, by whatever name known or however constituted from time to time.

2.1.10 "Construction Commencement Date" means the date on which the Lessee commences or causes a Contractor to commence construction of any part of the Leasehold Improvements.

2.1.11 "Construction Completion Date" means the date on which construction for all of the Leasehold Improvements is substantially complete in accordance with the terms of this Lease, as evidenced by a Certificate of Occupancy or a Certificate of Completion.

2.1.12 "Construction Financing" means the funds provided by the Construction Lender under the Construction Loan for the hard and soft construction and development costs related solely to developing any part of the Leasehold Improvements, including the design, professional consulting, construction and equipping costs, and the costs for the Leasehold Improvements to be made on the Leased Property, which may be secured by a Leasehold Mortgage, security interest, pledge, lien or other encumbrances and includes all modifications, renewals, extensions and replacements thereof and future advances thereunder against (i) the Lessee's Leasehold Interest in the Leased Property and/or the Leasehold Improvements, or (ii) a Land Tenant's sub-leasehold interest in the Leased Property and/or the Leasehold Improvements but not against the Lessor's fee simple interest in the Leased Property or in the Lessor's ownership interest in the Leasehold Improvements.

2.1.13 "Construction Financing Documents" means any commitment, agreement, note, leasehold mortgage or other instrument evidencing and securing the Construction Loan, as amended, modified, renewed, extended, replaced or restated from time to time.

2.1.14 "Construction Lender" or "Leasehold Mortgagee" means any Person providing a Construction Loan.

2.1.15 "Construction Loan" means funds in the principal amount evidenced in the commitment made by a Construction Lender or a Leasehold Mortgagee in favor of the Lessee or a Land Tenant for the construction of all or any part of the Leasehold Improvements secured by a Leasehold Mortgage.

2.1.16 "Construction Schedule" means the schedule for the construction of the Leasehold Improvements, to be agreed upon by the parties in accordance with Article 8.7.

2.1.17 "Contractor" means one or more Persons constituting a general contractor or major subcontractor properly licensed by the State of Florida, or other appropriate jurisdiction to the extent required by applicable law, authorized to perform construction contractor services in the State of Florida, registered with the City as required by applicable law, insured to the extent required by applicable law, and bonded.

2.1.18 "DEP" means the State Department of Environmental Protection and any successors thereto.

2.1.19 "Effective Date" means the date upon which this Lease has been executed by Lessor and Lessee.

2.1.20 "Existing Improvements" means the improvements located on the Leased Property constructed or installed by the City prior to the Lease Commencement Date.

2.1.21 "Expiration Date" means the date on which this Lease expires.

2.1.22 "Improvements" means collectively the Existing Improvements and the Leasehold Improvements.

2.1.23 Index" means the index of consumer prices developed and updated for urbanized areas within the defined Southern US region ("CPI-U-South Region") published by the Bureau of Labor Statistics of the U.S. Department of Labor. If the publication of the Consumer Price Index of the U.S. Bureau of Labor Statistics is discontinued, comparable statistics as to the purchasing power of the consumer dollar published by a responsible financial periodical selected by Lessor and approved by Lessee shall be used for making such computations.

2.1.24 "Inspection Period" means that certain period of time commencing on the Effective Date and terminating on the earlier of the Lease Commencement Date or January 31, 2008.

2.1.25 "Landside Area" means the real property located upland from the water and not leased by the City from the State pursuant to the Submerged Land Lease.

2.1.26 "Lease" means this Lease between the City, as Lessor, and the Lessee, for the Leased Property for the development and operation of the Project, including all attached exhibits, as amended, modified or restated from time to time.

2.1.27 "Lease Commencement Date" means February 1, 2008.

2.1.28 "Lease Year" means every twelve (12) month period of the Lease Term with the initial Lease Year beginning on the Lease Commencement Date.

2.1.29 "Lessee" means Northpoint Ventures LLC, a Florida for-profit limited liability company, and any successor or assignee thereof.

2.1.30 "Leasehold Interest" means the Lessee's interest in the Leased Property, the Improvements, and all easements and rights appurtenant thereto, as provided by this Lease and applicable law.

2.1.31 "Leasehold Improvements" means the improvements constructed by or on behalf of the Lessee on the Leased Property, including, all structures on and improvements to the Landside Area and the Submerged Land Area.

2.1.32 "Leasehold Mortgage" means a mortgage on all or some of the Leasehold Improvements to secure the payment of a Construction Loan or Long Term Financing.

2.1.33 "Leased Property" means the real property described in Exhibit "A".

2.1.34 "Lender" or "Leasehold Mortgagee" means any Person providing Long Term Financing to (i) the Lessee for the Leasehold Interest, and (ii) a Space Tenant or a Land Tenant for its subleasehold interest in the Leased Property.

2.1.35 "Long Term Financing" means financing provided by a Lender to the Lessee secured by the Leasehold Interest and may be used to replace the Construction Financing.

2.1.36 "Major Alteration" means any addition, alteration, change or improvement to the exterior of any of the Improvements that would constitute a substantial deviation to the Improvements as depicted on the Urban Code Conditional Use Approval(UCCUA), provided, however, such term shall not include (a) periodic maintenance activities such as replanting or replacing of landscaping, repainting exteriors and replacing damaged, worn or obsolete fixtures, or (b) installing or replacing signage.

2.1.37 "Northpoint Project" or “Northside Project” means the project on the north side of the Roosevelt Bridge to be developed by Northpoint Ventures LLC, pursuant to a lease with the City.

2.1.38 "Permit" means any zoning, variance, special exception, zoning approval, development order respecting land use and compliance with City Codes, and consents required to be granted, awarded, issued, or given by any governmental authority relative to the regulation of land use or zoning in order for construction of the Leasehold Improvements, or any part thereof, to commence, continue or be completed, but does not include a Building Permit.

2.1.39 "Person" means any natural person, firm, partnership (general or limited), corporation, company, joint venture, estate, trust, business trust, cooperative, limited liability corporation, limited liability partnership, limited liability company or body politic, including any heir, executor, administrator, trustee, receiver, successor or assignee, or other person acting in a similar representative capacity.

2.1.40 "Plans and Specifications" mean the plans and specifications separately identified and used by the Lessee and the Contractor to obtain Building Permits for the Leasehold Improvements, including as such plans and specifications may be amended, modified, or restated from time to time and are substantially consistent with the UCCUA.

2.1.41 "Proceeds" means unencumbered amounts, if any, received by Lessee from insurance policies in connection with any Casualty to the Improvements by reason of an insurable event.

2.1.42 "Project" means, collectively, the development of the Leasehold Improvements and the operation and maintenance of the Leasehold Improvements after issuance of the Certificate of Occupancy.

2.1.43 "Project Professionals" means any architects, engineers, consultants, planners, construction managers or any other persons, or combination thereof, retained or employed by Lessee in connection with the planning, design, construction, completion and opening of the Project.

2.1.44 "Rent" means Construction Rent or Base Rent, as the case may be, as provided in Article 6.

2.1.45 "RFP" means the Request for Proposals #2014-142, Assume Assignment of Lease to Redevelop City-Owned Waterfront Property (RFP #2014-142) published by the City on March 15, 2014 soliciting qualifications from persons interested in redeveloping the Leased Property.

2.1.46 "Right to Contest" means the procedure set forth in Article 18 for challenging any lien, payment, charge, or compliance with any law, rule, regulation or other legal requirement as described therein.

2.1.47 "UCCUA" means those certain UCCUA and drawings of the Leasehold Improvements, all as approved by the City Commission, to be prepared by Lessee's Project Professionals and used to prepare the Plans and Specifications, including as such documents may be amended, modified, or restated from time to time.

2.1.48 "Site Plan" means the depiction of the location of the Leasehold Improvements and the Existing Improvements on the Leased Property, the initial form of which is attached hereto as Exhibit "B."

2.1.49 "Space Lease" or "Land-Lease" means any sub-sublease or other arrangement between Lessee and any Space Tenant or Land Tenant, as sub- lessee, for the leasing of any portion of the Leasehold Improvements or any other space or land within the Leased Property.

2.1.50 "Space Tenant" or "Land Tenant" means any tenant, subtenant, licensee or other occupant of any portion of the Leasehold Improvements or the Leased Property or part of the land comprising the Leased Property pursuant to a Space Lease or Land Lease.

2.1.51 "State" means the State of Florida, and any applicable agency, department, office or official of the government of the State of Florida.

2.1.52 "Statement of Qualifications" means the submittal of qualifications for redevelopment of the Leased Property submitted by the Lessee to the City in response to the RFP.

2.1.53 "Submerged Land Area" means the real property that is subject to the Submerged Land Lease.

2.1.54 "Submerged Land Lease" means that certain lease between the City and the State pursuant to which the State has leased the Submerged Land Area to the City for public use, mooring uses, as such lease may be changed from time to time.

2.1.55 "Unavoidable Delay" means those events constituting excuse from timely performance by a party hereto from any of its obligations hereunder, as such events are defined in and subject to the conditions described in Article 39 hereof.

3. LEASE. The Lessor leases to the Lessee, and the Lessee accepts from the Lessor, the Leased Property upon and subject to the terms of this Lease.

4. USE.

4.1 Subject to the terms and conditions of this Lease, Lessee shall use the Leased Property to construct, develop, operate and maintain the Existing Improvements and the Leasehold Improvements on the Leased Property.

4.2 Lessee shall have the right to use the Bridge Parcel for restaurant,; and the Landside Area for a hotel and associated uses, commercial, retail or office purposes, and parking subject only to those certain restrictions and prohibitions stated in this Lease, the development order and applicable law. Any uses on the parcel shall be subject to uses expressly authorized in the Urban Code Conditional Use Approval (UCCUA), and such restrictions cannot be altered by any subsequent subletting to a Space Tenant by the Lessee.

4.3 Lessor acknowledges and agrees that the portion of the property which was leased from the Florida Department of Transportation shall remain available for public parking without limitation.

4.4 With respect to the Land Lease or Space Lease for the operation of a restaurant (the "Restaurant Lease") that Lessee may enter into with a restaurant operator ("Restaurant Tenant"), the following terms and conditions shall apply:

4.4.1 Lessee shall obtain the prior written approval of the City Commission prior to Lessee entering into the Restaurant Lease which approval shall not be unreasonably withheld.

5. TERM.

5.1 The initial term of this Lease shall commence on the Lease Commencement Date as defined in the original lease and shall continue for a period of forty-five (45) years, and ending on the forty-fifth year (45th) anniversary of the Lease Commencement Date (the "Initial Term").

5.2 Lessor hereby grants unto Lessee an automatic renewal of this Lease for one (1) term of forty-five (45) years (the "Renewal Term"), unless: (a) Lessee delivers to Lessor notice of its election to renew the Lease for the Renewal Term at any time from and after the date which is twenty-four (24) months prior to the expiration of the Initial Term unless the provisions of Article 5.3 are invoked by Lessee, and (b) Lessee at the time of the notice is then in material default of this Lease of any term, covenant, payment or condition of this Lease beyond any applicable written notice and cure periods. Unless otherwise not renewed by the Lessee, or then in default the Renewal Term shall automatically commence upon the expiration of the Initial Term of this Lease without further action by either party. The Renewal Term shall be upon the same terms and conditions set forth herein, with such renewal being a continuation of the same relationship on the same basis as the Initial Term, including any modifications thereto during the Initial Term (the Initial Term, together with the Renewal Term, if exercised, shall be referred to herein as the "Lease Term").

5.3 In addition to the right to renew described in Article 5.2, the Lessee may exercise the renewal option prior to any Long Term Financing or any pending negotiated disposition of the Leasehold Improvements to an acceptable third-party entity. Lessor reserves the discretion to approve any disposition of Lessee's rights under this Lease, although denial must be precisely stated and the grounds for denial must be in accordance with Article 23 of this Lease, provided that nothing in this Article

5.3 shall prevent the Lessee from assigning any or all of its interest in the Leasehold Interest, without Lessor's approval, as provided in Article 23.2 Any exercise of the Renewal Term under this Article 5.3 shall not extend the Lease Term beyond ninety

(90) years from the Lease Commencement Date.

6. RENT. In consideration of the warranties, representations and covenants made by Lessee in this Lease, Rent payable under this Lease shall be as follows:

6.1 Base Rent. Commencing on the date a Certificate of Occupancy is issued for all of the structures comprising the Leasehold Improvements, Lessee shall pay Rent in an amount equal to One Hundred Seventy-Five Thousand Dollars ($125,000.00) annually (the "Base Rent"), subject to adjustment as provided herein. Base Rent shall be adjusted for the first ten (10) years of the Lease according to the Lease Payment Summary shown in Section 6.5 below. Commencing on the first month of the second Lease Year and on the first month of each and every Lease Year thereafter, annual Base Rent will be adjusted by an amount equal to the increase in the Index from the previous Lease Year, divided by twelve (12) to determine the monthly payments of Rent for subsequent months in that Lease Year. In no event shall the Base Rent be less than in the preceding year.

6.2 Rent Payments. Payments of Rent shall be payable monthly in advance by the 15th day of each calendar month. The first monthly payment of Base Rent shall be paid on the date of issuance of a Certificate of Occupancy for the Leasehold Improvements and shall be pro-rated for the balance of the calendar month remaining until the first day of the next calendar month. In the event the Index used is adjusted or restated at year end, the parties agree that the rent payments made during said year shall be readjusted.

6.3 Absolute Net Lease. It is the intent of the parties that the Rent to be paid herein shall be a totally and absolutely "net" rent to the Lessor, and that all charges, fees, costs, taxes and sums due whatsoever associated with the Lessee's Leasehold Interest, shall be paid by the Lessee.

6.4 Rent Payments: Beginning on the first day of the first month following approval of the Urban Code Condition Use, Lessee shall begin monthly Construction Rent payments equal to one half of Regular Rent payments in an amount to be determined based upon lease credits and schedule shown in Section 6.5 below. Construction Rent Payments shall continue until Certificates of Occupancy are issued for all improvements to the property or the construction time tables expire as set forth in the UCCUA, whichever occurs first. Beginning on the expiration of the construction time table in the UCCUA or Certificate of Occupancy, whichever is sooner, Regular Rent Payments shall begin regardless of construction progress

6.5 Years 1-10 Lease Payment Summary.

Year		Base Rent Rate	Credit Applied	Net Rent to City	% of total Credit used
Year 1	(2016-2017)	$125,000	$101,385	$23,615	13.5%
Year 2	(2017-2018)	$125,000	$97,630	$27,370	13.0%
Year 3	(2018-2019)	$125,000	$93,875	$31,125	12.5%
Year 4	(2019-2020)	$125,000	$82,610	$42,390	11.0%
Year 5	(2020-2021)	$125,000	$75,100	$49,900	10.0%
Year 6	(2021-2022)	$125,000	$67,590	$57,410	9.0%
Year 7	(2022-2023)	$125,000	$63,835	$61,165	8.5%
Year 8	(2023-2024)	$125,000	$60,080	$64,920	8.0%
Year 9	(2024-2025)	$125,000	$56,325	$68,675	7.5%
Year 10	(2025-2026)	$125,000	$52,570	$72,430	7.0%
Years 1-10 Totals		$1,250,000	$751,000	$499,000	100.0%

7. LEASE COMMENCEMENT DATE. Lessee shall be entitled to possession of the Leased Property, upon the earlier of February 1, 2008, or the Lessee's certification in writing to the Lessor of satisfaction of all the following terms and conditions set forth below, which certification shall be substantially in the form attached hereto as Exhibit "C":

7.1.1 Lessee's review and approval of (i) a title commitment insuring Lessee's Leasehold Interest in and to the Leased Property, and (ii) all applicable title exceptions.

7.1.2 Lessee's review and approval of a current survey of the Leased Property.

7.1.3 Lessee's review of a current environmental site assessment of the Leased Property.

7.1.3(A) Lessee's creation of an escrow account with a restricted deposit of 1/3 of construction costs. Said deposit shall be used as a draw account for the final 1/3 of the construction project with draws requiring written authorization by the City of Stuart. In the event of default, the City shall be authorized to use the funds to complete the project or return the site to a condition which is satisfactory to the City.

7.1.3(B) No permits shall be issued for any work other than removal of the seawall from the FEC right of way prior the funding of the escrow account.

7.1.4 Lessee obtaining any and all re-zonings, variances, all other Permits and other approvals required from any and all governmental and quasi- governmental agencies as may be needed by Lessee for its intended use of the Leased Property. City agrees to cooperate with Lessee in Lessee's applications (and amendments to existing applications) for such permits and approvals.

7.1.5 Lessee's review and approval of the Submerged Land Lease and, if the Lessee is not the named "tenant" under the Submerged Land Lease, a non- disturbance agreement from the Trustees of the Internal Improvement Fund of the State (or other applicable agency of the State) in form and substance reasonably satisfactory to Lessee.

7.2 INTENTIONALLY OMITTED.

8. LEASEHOLD IMPROVEMENTS.

8.1 Lessee shall construct the Leasehold Improvements in accordance with the UCCU approved by the Lessor, as may be amended from time to time and approved by the City Commission as provided by law, and as otherwise in accordance with the procedures set forth in Article 8.9 below. The costs of construction of the Leasehold Improvements shall be paid by the Lessee.

8.1 a

8.2 Lessee shall have the right to enter into (a) agreements for the development, construction, use and maintenance of all of the Improvements, and (b) Space Leases and Land Leases.

8.3 Contractors for the Leasehold Improvements shall be selected and construction work shall be completed in accordance with the following:

8.3.1 Lessee shall select Contractors to construct the Leasehold Improvements substantially in accordance with the Plans and Specifications.

8.3.2 Each Contractor shall be required to continue to pursue and prosecute the construction of the Leasehold Improvements with due diligence.

8.3.3 All construction work on the Leasehold Improvements shall be done substantially in accordance with the Plans and Specifications, and shall be of a quality generally recognized for projects similar to the Leasehold Improvements.

8.3.4 All obligations of a Contractor with respect to commencement, continuation and completion of construction of the Leasehold Improvements shall be subject to delays and extensions from time to time for Unavoidable Delay.

8.3.5 The Lessee shall adhere to the time table of development calendar in the UCCU approval.

8.4 The location of the Leasehold Improvements shall be generally as set forth in the Site Plan as approved by the City.

8.5 Any modification, renovation, or relocation of utilities upon City- owned lands will be at the expense of the Lessee without recourse to the City. The Lessee shall pay for renovating or removing a structure currently upon the Leased Property. Such action shall not affect the quarterly payment of Rent due under this Lease. As provided in the Site Plan for the Project, Lessee shall construct/renovate hotel and restaurant uses upon the Leased Property and supporting infrastructure as Leasehold Improvements, subject to City codes and ordinances and other applicable governmental approvals.

8.6 Lessee shall, upon (a) City Commission approval of the UCCU, the Plans and Specifications, and the Construction Schedule, and (b) issuance of a Building Permit for the Leasehold Improvements, move to commence construction of the Leasehold Improvements in accordance with the terms of this Lease and the Construction Schedule. Conditions and timing of construction and completion shall be set forth in the Construction Schedule. Final construction documents shall be consistent in all material respects with the UCCUA.

8.7 Upon approval by the Lessor of the UCCU and upon approval of the proposed amendments to the UCCU, if any, the Lessee shall immediately thereafter submit its construction Plans and Specifications, and a completed Building Permit application to the Lessor, including the payment of all necessary fees.

8.8 If the Lessee does not mobilize and begin and continue to use its best efforts to complete significant and meaningful construction of the Leasehold Improvements on the Construction Commencement Date as stated in the approved time table in the UCCU, this Lease is subject to immediate termination unilaterally by the City, subject to the notice and cure provisions in Article 17.1.6. Late completion after construction mobilization subject to Unavoidable Delay shall be subject to the liquidated damages described in Article 8.9.

8.9 The following items and conditions shall govern the review and approval of the UCCU and the Plans and Specifications:

8.9.1 The Lessee shall submit to the City Development Department a complete application for all required Building Permits, including all Plans and Specifications, and the payment of all permit fees, impact fees, and advertising fees, if any, all in accordance with the Lessee's approved Construction Schedule, and in conformance with the Site Plan, Elevations and Staff Conditions approved by the UCCU within the time table set forth within the UCCU.

8.9.2 Lessor acknowledges that it may be necessary for Lessee to make variations in the Plans and Specifications during the performance of the work subject to the City's codes and ordinances and the Urban Code Conditional Use Approval.

8.9.3 Lessee may, at any time during the Term of this Lease, at Lessee's sole cost and expense, make or permit to be made any demolition, alteration, or change of, in, or to the Improvements or any part thereof or any building or improvement which may hereafter be erected thereon; subject to the Lessee being responsible for any and all financial obligations associated therewith; provided, however, that: (i) Lessor shall have the right to approve changes that constitute Major Alterations; (ii) such work shall be performed in a good and workmanlike manner and shall be completed free of any mechanic's and materialmen's liens; and (iii) that Lessee shall have obtained the approval of the Building Department of the City, if required.

8.10 In the event Lessee plans to make any demolition, alteration, or change of, in, or to the Improvements that constitutes a Major Alteration, the proposed plans and drawings for said proposed Major Alteration shall be submitted to the Lessor for its approval.

9. NORTHPOINT PROJECT FACILITIES USE. Lessee shall ensure that the following marina rules and regulations are enforced or caused to be enforced for the protection of the general public during the period of lease. The Lessee is permitted to

alter these suggested terms as to specific language or application provided the "essence" of preserving the value to the public is maintained

9.1 The Lessee shall take all steps to limit or protect the City against liability due to the daily operations or standards applied. Tenant must agree to release and discharge the City from any and all responsibility for injury (including death), loss, or damage to persons or property in connection with the marina area.

9.2 All vessels stored in the marina area must be seaworthy, fully sound, in insurable condition, in compliance with all local, state and federal safety regulations. No boat shall be operated so as to cause a wake within the area subject to the Submerged Land Lease. The navigation laws of the United States shall apply to all vessels in the area subject to the Submerged Land Lease.

9.4 No parking intensive vessel shall be permitted on the site. Specifically, it is the intention of the parties to prohibit "live aboard" as defined in the submerged land lease.

9.3 Fueling of a vessel at the pier is strictly prohibited by the terms of this Lease. No maintenance may be undertaken while the vessel is stored upon the leased premises. Any vessel which sinks in the leased area shall be removed in a timely manner by the owner, or caused to be removed by the Lessee.

9.4 Oil, gas, spirits, paints, inflammables and other substances which are deemed pollutant substances under the provisions of any state or federal law may not be discharged into the waters or on the docks or Common Area. No discharge of sanitation effluent is permitted at the pier. Lessee is held responsible to handle all spills of any petroleum, other pollutant or other prohibited discharge. No explosive or other hazardous materials of any nature may be stored on any vessel except: (a) for fuel within Coast Guard approved tanks in a vessel, and (b) lubricants and normal cleaning materials used in the ordinary course of operation.

9.5 Cleaning of fish, shell fish and game is prohibited in the leased premises, except where expressly designated. Swimming from vessels, piers, docks or bulkhead is prohibited, and open fires are expressly prohibited on any vessel docked at the pier (except in UL certified grills with the approval of the facility manager). All garbage shall be securely wrapped, tied in plastic trash bags and deposited in receptacles supplied for that purpose, and other debris placed in specified locations, by Lessee and by all boat owners and visitors.

9.6 The entire development shall comply with the Stuart Noise Ordinance 24 hours per day as set forth in the historic downtown Stuart area.

9.7 Campers and recreational vehicles may only be parked in the parking lot with the permission of the Lessee, but only in specifically designated areas, if provided.

9.8 Lessee may at any time require the removal of any vessel in violation (or whose owner, owner's guests, agents, employees or invitees are in violation) of rules and regulations and may have any such offending vessel (or vessel of any offending owner, or such owner's guests, agents, employees or invitees) removed in accordance with the then existing state and local laws.

9.9 There will be no sewage pumpout facilities available in the Leased Area. The Lessee shall establish an area of pierage where ferry or taxi vessels can conveniently dock for loading and unloading patrons. The water taxi service will be operated by the Lessee or its contractor, and will operate for at least five (5) years from the issuance of a Certificate of Occupancy pursuant to UCCUA.

10. OWNERSHIP OF IMPROVEMENTS.

10.1 During the term of this Lease, the vertical and horizontal improvements constructed as part of the Leasehold Improvements will be owned by the Lessee or a Land Tenant. The Existing Improvements shall continue to be owned by the Lessor, subject to the Leasehold Interest of the Lessee pursuant to this Lease and further subject to the sub-leasehold interest of any Land Tenants and Space Tenants.

10.2 Lessee or the Land Tenant(s), if any, shall be entitled to depreciation on the buildings, other structures and improvements and fixtures comprising the Leasehold Improvements which are now or shall subsequently be erected upon the Leased Property.

11. PERMITS AND APPROVALS; FEES. Lessor and Lessee agree to follow the following procedure with respect to Permits and fees for the development contemplated by this Agreement:

11.1 If rezoning or any variances or exceptions are required to implement the Lessee's proposed Plans and Specifications and/or proposed Site Plan, the Lessee shall be responsible for procuring such rezoning, variances, or exceptions through normal rezoning and permitting procedures and shall pay all legal or related expenses. Lessee's obligations under this Lease shall be contingent, at Lessee's option, upon obtaining all rezonings, variances, or exceptions necessary for the intended use of the Project.

12. RIGHT OF ACCESS TO THE LEASED PROPERTY AND REQUIRED DOCUMENTS.

12.1 Commencing on the Effective Date and continuing throughout the Inspection Period, Lessee shall have the right to physically inspect the Leased Property and conduct its due diligence related thereto. Lessee and Lessee's officers, employees, consultants, attorneys and other authorized representatives shall have the right to reasonable access, upon reasonable prior notice to the Lessor, to the Leased Property and to all records of Lessor related thereto (including without limitation title information, surveys, environmental assessment reports and other information

concerning the condition of the Leased Property), at reasonable times, for the purpose of inspecting the Leased Property, taking soil and ground water samples, conducting Hazardous Materials inspections, tests and assessments. Lessee agrees not to disrupt the normal business operations of the Leased Property.

12.2 Lessor shall give Lessee any authorizations which may be reasonably required by any third party in order to gain access to records or other information pertaining to the Leased Property or the use.

12.3 As of the Effective Date, Lessor has provided to the Lessee the following documents, if the same are held by the Lessor:

12.3.1 Copy of existing owner's title insurance policy and all applicable title exceptions;

12.3.2 Copy of survey and/or proposed legal description of the Leased Property (if different from the legal description in the owner's title insurance policy);

12.3.3 Copies of all existing Permits;

12.3.4 Copy of the Submerged Land Lease and any proposed amendments thereto;

12.3.5 Copies of all environmental site assessment reports in the City's possession for the Leased Property and any adjoining areas;

13. REPRESENTATIONS AND WARRANTIES.

13.1 Lessee represents and warrants to the Lessor that each of the following statements is currently true and accurate and agrees the Lessor may rely upon each of the following statements:

13.1.1 Lessee is a Florida for profit limited liability company duly organized and validly existing under the laws of the State of Florida, has all requisite power and authority to carry on its business as now conducted, to own or hold its properties and to enter into and perform its obligations hereunder and under each document or instrument contemplated by this Agreement to which it is or will be a party, is qualified to do business in the State of Florida, and has consented to service of process upon a designated agent for service of process in the State of Florida.

13.1.2 This Lease and, to the extent such documents presently exist in form accepted by the Lessor and Lessee, each document contemplated or required by this Lease to which Lessee is or will be a party have been duly authorized by all necessary action on the part of, and have been or will be duly executed and delivered by, Lessee, and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof: (a) requires the approval and consent of any other party, except such as have been duly obtained or as are specifically noted

herein; or, (b) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on Lessee.

13.1.3 This Lease and, to the extent such documents presently exist in form accepted by the Lessor and Lessee, each document contemplated or required by this Lease to which Lessee is or will be a party constitutes, or when entered into will constitute, a legal, valid and binding obligation of Lessee enforceable against Lessee in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

13.1.4 There are no pending or, to the knowledge of Lessee, threatened actions or proceedings before any court or administrative agency against Lessee which question the validity of this Lease or any document contemplated hereunder, or which are likely in any case, or in the aggregate, to materially adversely affect the consummation of the transactions contemplated hereunder or the financial condition of Lessee.

13.1.5 Lessee has filed or caused to be filed all federal, state, local and foreign tax returns, if any, which were required to be filed by Lessee, and has paid, or caused to be paid, all taxes shown to be due and payable on such returns or on any assessments levied against Lessee.

13.1.6 All financial information and other documentation, including that pertaining to the Project or Lessee, delivered by Lessee to the Lessor, was, on the date of delivery thereof, true and correct.

13.1.7 The principal place of business and principal executive offices of Lessee are in the corporate limits of the City of Stuart, Florida.

13.1.8 The execution, delivery, consummation, and performance under this Lease will not violate or cause the Lessee to be in default of any provisions of its governing documents or rules and regulations or any other agreement to which Lessee is a party or constitute a default there under or cause acceleration of any obligation of the Lessee there under.

13.2 Lessor represents, and agrees that Lessee may rely upon, the following statements:

13.2.1 Entering into this Lease is a valid, binding and permissible activity within the power and authority of the Lessor and does not violate any City Code, Charter provision, rule, resolution, ordinance, policy or agreement of the Lessor or constitute a default by the Lessor of any agreement or contract to which it is a party.

13.2.2 All steps, acts and conditions required to be done as a condition precedent to the execution of this Lease have been done, and the Lessor has full authority to enter into this Lease.

13.2.3 Lessor owns fee simple title to the Leased Property, except for that part of the Leased Property leased from the State pursuant to the Submerged Land Lease.

13.2.4 The individuals executing this Lease and related documents on behalf of Lessee are duly authorized to take such action, which action shall be, and is, binding on Lessee.

14. PROPERTY CONDITION.

14.1 The Leased Property is subject to certain described public rights- of-way or easements for public access, utilities, or similar situations, all as described in Exhibit "D" (the "Permitted Exceptions"). The Lessee acknowledges that it has made a thorough and complete inspection of the Leased Property and accepts this Lease and the Leased Property and the Existing Improvements and is fully advised of its extent and condition. The Lessee fully accepts the Leased Property in its present "as is, where as" physical state and condition subject, however, to the terms of Articles 14.2 and 14.3.

14.2 Lessor agrees to eliminate all of the following items, if any, that are known to Lessor, or, if not known to Lessor, as are identified in writing by Lessee prior to the Lease Commencement Date:

14.2.1 Reversionary interests discovered during the Inspection P
eriod;

14.2.2 Liens or other encumbrances; and

14.2.3 Any other matters that would prevent Lessee from using the
Leased Property for its intended purpose.

15. GENERAL OBLIGATIONS OF THE PARTIES. The following constitute obligations and covenants of the parties, their successors and assigns:

15.1 Lessee shall keep and maintain all Leasehold Improvements and Existing Improvements on the Leased Property in compliance with all governmental laws and requirements. Lessee shall have the right, at its or their own cost, to contest by appropriate legal proceedings, diligently conducted, the validity or applicability of complying with such laws or requirements. In the event of a breach of any of the provisions of this Lease, the party not in breach shall be entitled to recover from the breaching party all costs, expenses, reasonable attorneys' fees and damages which may be incurred or sustained by reason of such breach.

15.2 Each party covenants and agrees that it has no power to incur any indebtedness giving a right to a lien of any kind or character upon the right, title and interest of the other party in and to the Leased Property covered by this Lease, and that no person shall ever be entitled to any lien, directly or indirectly, derived through or under the other party, or its agents or servants, or on account of any act or omission of

the other party, except for any lien reserved upon (i) the Lessee's (or Lessee's successors and/or assigns) Leasehold Interest in the Leased Property by a Lender or a Leasehold Mortgagee, or (ii) the subleasehold interest of any Space Tenant or Land Tenant (or their successors and/or assigns) in the Leased Property by a Lender or a Leasehold Mortgagee. All persons contracting with the Lessee, or furnishing materials or labor to the Lessee, or to its agents or servants, as well as all persons whomsoever, shall be bound by this provision of this Lease. The Lessee shall not be deemed to be the agent of the Lessor as to confer upon a laborer bestowing labor upon the Leased Property, or upon a materialman who furnishes material incorporated in the construction of improvements upon the Leased Property, a lien upon the Lessor's estate under the provisions of Chapter 713, Florida Statutes, and subsequent revisions of that law. UNDER CHAPTER 713 OF THE FLORIDA STATUTES, THIRD PARTIES ARE HEREBY NOTIFIED THAT THEY MAY NOT IMPOSE A LIEN ON THE LESSOR'S INTEREST IN THE LEASED PROPERTY FOR LABOR, SERVICES OR MATERIALS FURNISHED TO, OR AT THE REQUEST OF LESSEE AND ANY SUCH

LIENS ARE HEREBY PROHIBITED. If, notwithstanding said notice, any third party files a mechanic's lien purportedly against the Lessor's estate for or on account of labor, services or materials provided to or at the request of Lessee, Lessee shall dispose of the claim and ensuing litigation as Lessee deems appropriate at Lessee's expense, provided that if such party commences a foreclosure action with respect to such lien, Lessee shall transfer the lien to security as provided by Florida law or otherwise bond or cause the same to be discharged of record within thirty (30) days thereafter to prevent the foreclosure of Lessor's estate.

15.3 The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Martin County and that all litigation between them in the federal courts shall take place in the Southern District in and for the State of Florida.

15.4 For all portions of the Leased Property that are not tax-exempt, Lessee agrees to pay when due all real property taxes and special assessments of whatsoever kind levied and assessed against the Leased Property, if any. The Lessee further agrees to pay when due all sales and use taxes, and any and all other taxes or assessments imposed upon and being the liability of the Lessee and arising out of this Lease, including any sales taxes due on rental payments.

15.4.1 The Lessee shall have the right to review or protest, or cause to be reviewed or protested, by legal proceedings, any such taxes, assessments, or other charges imposed upon or against the Leased Property or the improvements built and placed on the Leased Property, and in case any such real property taxes, assessments, or other charges shall, as a result of such proceedings or otherwise, be reduced, cancelled, set aside or to any extent discharged, the Lessee shall pay the amount that shall be finally assessed or imposed against the Leased Property or the improvements built and placed on them by the Lessee, which are finally determined to be due and payable on any such disputed or contested items. All expenses of such litigation, including court costs, shall be paid by Lessee free of all expenses to Lessor. The term "legal proceeding", as used above, shall be construed as including appropriate

appeals from any administrative actions, judgments, decrees or orders and certiorari proceedings and appeals from orders entered in them. If required by law, Lessor agrees to join in any such legal proceeding or empower Lessee to act in the name of Lessor.

15.4.2 Lessor will cooperate with Lessee in any filing or appeal to the Martin County Property Appraiser pertaining to the Lessee's use of the Leased Property is for a public use for purposes of determining ad valorem real property taxes. In connection therewith, the Lessor and Lessee understand and agree that the development contemplated by this Lease is being undertaken by Lessee in the public interest to carry out a public purpose for the benefit of the Lessor.

15.5 The Lessee agrees, at its expense, to keep and maintain the Leased Property, the improvements, furnishings, fixtures and personal property located thereon in a good state of repair and condition, normal wear and tear or damage by the elements excepted, excepting therefrom all or any part of the Leased Property or improvements placed thereon that are subsequently assigned or transferred to or owned by the Lessor.

15.6 After the Construction Completion Date, Lessee may not, without the prior written consent of Lessor, which consent will not be unreasonably delayed, withheld, or conditioned, make any Major Alteration to all or any part of the Leasehold Improvements located on the Leased Property owned and controlled by Lessee or Lessee's successors or assigns or the Existing Improvements.

15.7 The Lessee at its expense agrees to deliver the Leased Property to the Lessor upon the termination of this Lease in its then existing state of repair and condition at the time of surrender. Notwithstanding this provision, the Lessor may at its sole option require the Lessee at its sole expense to remove any and all improvements, including, underground fuel storage tanks installed by Lessee or a Land Tenant or a Space Tenant, and thereafter to restore, fill, and grade the land to the Lessor's reasonable satisfaction.

15.8 Lessor covenants, warrants and agrees that Lessee, and Lessee's successors and assigns, shall be entitled peacefully to enjoy, to occupy, and to possess the Leased Property throughout the Lease Term without interference, hindrance or molestation.

16. CONDEMNATION.

16.1 In the event of a taking of all of the Leased Property or so much of them so as to render the Leased Property unfit for purposes intended by this Lease, for any public or quasi-public purpose, under any statute or by right of eminent domain, the Lessee's liability to perform the terms and conditions of this Lease shall cease, but the Lessee shall be entitled to any claim against the condemnor that the Lessee may be entitled to. Lessor shall refund to Lessee any Rent or other sums paid by Lessee for the period after the termination date of this Lease. In the event that Lessee is not a

party to such condemnation, Lessee shall receive any portion of an award or compensation to the Lessor which is attributable to the fair market value of Lessee's Leasehold Interest, less the value of the reversionary interest in the Leasehold Improvements, as determined by any court or courts of competent jurisdiction.

16.2 In the event of a partial taking by condemnation or eminent domain so that the part not so taken shall be feasible for the continued operation of the Project for the purposes intended by the Lessee, then this Lease shall continue in full force and effect, and the Lessee shall be entitled to any claim against the condemnor that the Lessee may be entitled to. Lessee shall use the proceeds received by the Lessee pursuant to this Article 16 for purposes of restoring those portions of the improvements upon the remainder of the Leased Property and impacted by the condemnation to as near their former condition as circumstances will permit.

In determining whether repair or restoration is feasible, the Lessee shall consider, among other factors: (i) the cost of repairing or restoring the improvements affected by the condemnation; (ii) the amount of damage or destruction involved and the condemnation proceeds available to pay for the repair or restoration of the improvements affected by the loss; (iii) the effects of the loss on the Project's ability to operate in a commercially reasonable manner, and whether it is commercially reasonable to attempt to repair or restore; (iv) Lessee's ability to obtain all necessary Permits, Building Permits, and other governmental approvals required to repair or restore, and operate the Project in compliance with all applicable City codes and ordinances and all other applicable governmental laws and to a reasonably commercial standard or condition; and (v) the length of time remaining in the Lease Term at the time of the condemnation.

17. DEFAULT; REMEDIES.

17.1 Any violation of the UCCUA shall constitute a material breach of this lease.

17.2 Each of following events are events of default by Lessee under this Lease ("Event of Lessee's Default"):

17.2.1 Subject to Unavoidable Delay and the terms of Article 17.2.6 below, should Lessee fail to commence construction of the Leasehold Improvement within forty-five (45) days after issuance of the Building Permit for the Leasehold Improvements, this Lease and the Leasehold Interest shall terminate. Upon such termination, Lessee shall surrender the Leased Property to the Lessor in good condition and repair normal wear and tear excepted. Upon such surrender, neither party shall have any further right or obligation under this Lease. Unless and until a lease termination certificate is executed by Lessor and Lessee and recorded in the Public Records of Martin County, reflecting a termination of this Lease and surrender of the Leased Property pursuant to this Article 17.2, all parties are put on record notice and shall assume and rely upon the fact that this Lease is in good standing and in full force and effect.

17.2.2 In the event there shall be a material default by Lessee under this Lease prior to the Construction Commencement Date, and such material default shall continue after the expiration of the applicable grace period set forth in Article 17.2.6, Lessor shall have the following rights and remedies:

(a) The Lessor, by notice in writing transmitted to the Lessee, as provided in the paragraph entitled "NOTICES", may at its option declare the Lessee's interest under this Lease ended and without further force and effect. The Lessor is then authorized to re-enter and repossess the Leased Property and the improvements and personal property on them and the Lessee does in such event waive any demand for possession of the Leased Property, and agrees to surrender and deliver up the Leased Property peaceably to Lessor. In the event of such action, the Lessee shall have no claim whatsoever against the Lessor by reason of the improvements made upon the Leased Property, rents paid, or from any other cause whatsoever. Upon the Lessee's abandonment or surrender of the Leased Property, the Lessor shall retake possession of the Leased Property and, in such event, Lessor shall be limited to the rights and remedies set forth in Article 17.2.5.

17.2.3 In the event there shall be a material default by Lessee under this Lease after the Construction Commencement Date, and such material default shall continue after the expiration of the applicable grace period set forth in Article 17.2.6, Lessor shall have the right to all legal and equitable remedies under applicable law, excepting, however, Lessor shall expressly not have the right to terminate this Lease or obtain the right of re-entry or repossession of the Leased Property, unless such material default is a failure to pay Rent when due.

17.2.4 In the event there shall be a material default by Lessee under this Lease after the issuance of the Certificate of Occupancy for the Leasehold Improvements, and such Material Default shall continue after the expiration of the applicable grace period set forth in Article 17.2.6, Lessor shall have the right to all legal and equitable remedies under applicable law including the remedies set forth herein regarding the Lessee's failure to repair and maintain the Leased Property, excepting, however, Lessor shall expressly not have the right to terminate this Lease or obtain the right of re-entry or repossession of the Leased Property, unless such material default is a failure to pay Rent when due.

17.2.5 If, at any time, the Leasehold Improvements in the Upland Area are effectively "abandoned" for thirty (30) days, subject to written notice to the Lessee and an opportunity to cure said default in accordance with Article 17.2.6, Lessor may declare an Event of Lessee's Default, terminate the Lease, collect any past due Rent through the end of the then current quarter of the Lease Year, and take control of the Leased Property. Lessor's right to terminate the Lease, collect any past due Rents, and take control of the Leased Property shall be the sole and exclusive remedy of Lessor in the event Lessee abandons the Leased Property. For purposes of this Lease, the term "abandoned" shall not mean any period of time during which any portion of the Improvements are unoccupied (a) during initial "lease-up" of the Project following

issuance of the Certificates of Occupancy; or (b) as a result of a Tenant ceasing operations for any reason whatsoever.

17.2.6 If any of the Events of Lessee's Defaults set forth in this Article 17.2 occur, or if Lessee shall fail in the performance of any material term of this Lease, then the Lessor, or its agent, may send to the Lessee a written notice of default, specifying the nature of the default, and Lessee shall, within sixty (60) days after the date of the notice, cure and remedy the default, and this Lease shall then continue as before; provided, however, in the event such breach cannot with due diligence be cured within a period of sixty (60) days, and if written notice of the default shall have been given to Lessee, and if Lessee, prior to the expiration of sixty (60) days from and after the giving of such notice commences to eliminate the cause of such default and proceeds diligently and with reasonable dispatch to take all steps and do all work required to cure such default and does so cure such default within a reasonable period of time, then Lessee shall not be in default under this Lease. Failure of the Lessor to insist upon the strict performance of any of the covenants, conditions and agreements of this Lease in any one or more instances, shall not be construed as a waiver or relinquishment in the future of any such covenants, conditions and agreements.

17.3 Each of the following events are events of default by Lessor under this Lease ("Event of Lessor's Default"):

17.3.1 If Lessor shall fail in the performance of any material term of this Lease, then the Lessee, or its agent, may send to the Lessor a written notice of default, specifying the nature of the default, and Lessor shall, within sixty (60) days after the date of the notice, cure and remedy the default, and this Lease shall then continue as before; provided, however, in the event such breach cannot with due diligence be cured within a period of sixty (60) days, and if written notice of the default shall have been given to Lessor, and if Lessor, prior to the expiration of sixty (60) days from and after the giving of such notice commences to eliminate the cause of such default and proceeds diligently and with reasonable dispatch to take all steps and do all work required to cure such default and does so cure such default within a reasonable period of time, then Lessor shall not be in default under this Lease. Failure of the Lessee to insist upon the strict performance of any of the covenants, conditions and agreements of this Lease in any one or more instances, shall not be construed as a waiver or relinquishment in the future of any such covenants, conditions and agreements.

17.3.2 In the event there shall be an Event of Lessor's Default and such Event of Lessor's Default shall continue after any applicable grace period, Lessee shall have the right to all legal and equitable remedies under applicable law.

17.4 Lessor and Lessee each agree promptly to perform, comply with and abide by this Lease, and each agree that time of payment and of performance of material obligations are of the very nature and essence of this Lease.

18. RIGHT TO CONTEST. Subject to the conditions set forth in Article 18.01 below, the Lessor or Lessee each may, at its sole discretion and expense, after prior

written notice to the other party hereto, contest by appropriate action or proceeding conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any lien, any payment of any taxes, assessments, impact fees or other public charges of a similar nature that may from time to time be levied upon or assessed by any appropriate governmental authority against Lessee, the Project (or any part thereof), the Leased Property, furniture, fixtures, equipment or other personal property thereon, and the revenues generated from the use or operation of any or all of the above, any other payment specifically identified in this Lease, or compliance with any law, rule, regulation, or other such legal requirement.

18.1 The right to contest any charge, payment or requirement pursuant to this Article 18 is subject to the following:

18.1.1 such proceeding shall suspend the execution or enforcement of such charge, payment or requirement;

18.1.2 such proceeding will not create any risk of impairment of the acquisition or preparation of the Leased Property, the construction, completion, operation or use of the Project, the Leased Property, or any part thereof, in any material respect, and neither the Project or Leased Property, nor any part of the Project or the Leased Property, would be subject to any risk of being involuntarily sold, forfeited or lost or the acquisition of the Leased Property or the construction, equipping, or completion of the Leasehold Improvements or any part thereof be delayed or prohibited;

18.1.3 such proceeding will not subject any other party to criminal liability or risk of material civil liability for failure to comply therewith, or involve risk of any material claim against such party; and

18.1.4 the party seeking the benefit of this Article 18.1 shall have furnished to the other parties such security, if any, as may be required in such proceeding or as may be reasonably requested by the others, to protect the Project and the Leased Property, and any part thereof, and any interest of such parties hereunder.

19. OWNERSHIP AT TERMINATION OR EXPIRATION.

19.1 Subject to the provisions of Article 20.2 below, any improvements and fixtures located on the Leased Property at termination of the Lease shall become the property of the Lessor.

19.2 Any trade fixtures or personal property installed, attached to or located on the Leased Property by Lessee or any Space Tenant or Land Tenant, whether or not attached to the freehold, shall become the lessor's property

20. INSURANCE. Insurance shall be issued by an insurer whose business reputation, financial stability and claims payment reputation is satisfactory to Lessor. Unless otherwise agreed, the amounts, form and type of insurance shall conform to the following minimum requirements:

20.1 Lessee shall purchase and maintain Worker's Compensation Insurance Coverage for all Workers' Compensation obligations required by law. Additionally, the policy, or separately obtained policy, must include Employers Liability Coverage of at least $100,000 each person - accident, $100,000 each person - disease, $500,000 aggregate - disease.

20.2 Lessee shall purchase coverage on forms no more restrictive than the latest editions of the Commercial General Liability Form filed by the Insurance Services Office. Lessor shall not be considered liable for premium payment, entitled to any premium return or dividend and shall not be considered a member of any mutual or reciprocal company. Minimum limits of $1,000,000 per occurrence, and per accident, combined single limit for liability must be provided, with umbrella insurance coverage making up any difference between the policy limits of underlying policies coverage and the total amount of coverage required.

20.2.1 Commercial General Liability coverage must be provided, including bodily injury and property damage liability for premises, operations, products and completed operations, and independent contractors. Fire Legal Liability insurance must be endorsed on this policy with limits no less than $100,000 per occurrence. The coverages shall be written on occurrence-type basis and the Lessor shall be listed as an additional insured.

20.2.2 Umbrella Liability Insurance coverage shall not be more restrictive than the underlying insurance policy coverages. The coverage shall be written on an occurrence-type basis.

20.2.3 Lessee understands and agrees that the minimum limits of Commercial General Liability Insurance and Umbrella Liability Insurance required may become inadequate during the term of this Lease and the minimum limits may be increased by the Lessor not more frequently than every five (5) Lease Years to reasonable and customary amounts for similar type projects.

20.3 Lessee shall require Contractors during construction of the Leasehold Improvements to provide or cause to be provided, pay for and keep in full force and effect the types and amounts of insurance customarily carried by contractors and subcontractors on jobs comparable to this Project.

20.4 Required insurance shall be documented by certificates of insurance that provide that Lessor shall be notified at least thirty (30) days in advance of cancellation, nonrenewal or adverse change or restriction in coverage. The name of this Lease must be listed on the certificate. Certificates shall be on the "Certificate of Insurance" form equal to, as determined by Lessor, an ACORD 25. Lessee shall replace any cancelled, adversely changed, restricted or non-renewed policies with new policies acceptable to Lessor and shall file with Lessor Certificates of Insurance under the new policies prior to the effective date of such cancellation, adverse change or restriction. If any policy is not timely replaced, in a manner acceptable to the Lessor the Lessee shall, upon instructions of Lessor, cease all operations under the Lease

until directed by Lessor, in writing, to resume operations. The "Certificate Holder" address should read: City of Stuart, 121 SW Flagler Avenue, Stuart, FL 34994.

20.5 Lessee's required coverage shall be considered primary and all other insurance shall be considered as excess, over and above the Lessee's coverage.

20.6 Lessee shall retain control over its employees, agents, servants and subcontractors, as well as control over its invitees, and its activities on and about the Leased Property and the manner in which such activities shall be undertaken and to that end, Lessee shall not be deemed to be an agent of Lessor. Precaution shall be exercised at all times by Lessee for the protection of all persons, including employees, and property. Lessee shall make special effort to detect hazards and shall take prompt action where loss control/safety measures should reasonably be expected.

20.7 Lessee shall indemnify, defend and save harmless the Lessor from and against any and all claims, suits, actions, damages and causes of action arising during the term of this Lease, for any personal injury, bodily injury, loss of life or damage to property sustained on the Leased Property, or to or about the Leasehold Improvements placed on the Leased Property, or their appurtenances, or upon adjacent sidewalks or streets excepting therefrom public streets maintained by Lessor, and from and against all costs, counsel fees, expenses, liabilities, judgments and decrees incurred in or arising out of any such claim, the investigation of them, or the defense of any action or proceeding brought on them, and from and against any orders, judgments and decrees which may be entered in them. Lessee shall also specifically defend any action or proceeding brought against Lessor as the result of any such claim for bodily injury, loss of life or damage to property, at no cost or expense to Lessor. If Lessee has supplied Lessor with evidence of insurance covering any of the aforementioned risks, no claim shall be made against Lessee unless and until the insurer shall fail or refuse to defend and/or pay all or any part thereof.

20.8 Notwithstanding that each party to this Lease shall carry liability insurance, and shall even name each other as additional insureds, the Lessor hereunder shall only be liable for claims, torts, actions, damages, suits, and causes of action derived from its own actions or inactions and for those of its officials, employees and agents. It is the intent of this Lease that the City of Stuart, as Lessor, shall be responsible only for its own tort liability, and not that of the Lessee, and the Lessee specifically acknowledges the limitations of liability afforded to the Lessor by the provisions of Section 768.28, Florida Statutes, which are fully claimed by the Lessor. The Lessee shall not be deemed to be in default under the provision of this Article 20 if all or a portion of insurance required under this paragraph is not commercially available.

20.9 Lessor and Lessee hereby waive, or agree to cause their respective insurers to waive subrogation or consent to a waiver of right of recovery, or to agree that the insurance is not invalidated if the insured has waived, or has waived before the casualty, the right to recover against the other.

20.10 From and after the Lease Commencement Date, Lessor shall indemnify, defend and save harmless the Lessee, at no cost or expense to Lessee, from and against any and all claims, suits, actions, damages and causes of action for any personal injury, bodily injury, loss of life or damage to property sustained on the Leased Property, or to or about the Existing Improvements arising prior to the Lease Commencement Date, and for any other claims, suits, actions, damages and causes of action arising prior to the Lease Commencement Date, and from and against all costs, counsel fees, expenses, liabilities, judgments and decrees incurred in or arising out of any such claim, the investigation of them, or the defense of any action or proceeding brought on them, and from and against any orders, judgments and decrees which may be entered in them.

21. CASUALTY. Lessee may determine the economic feasibility of obtaining or maintaining the windstorm and/or flood coverage of the builders' risk, business disruption, and property insurance which is otherwise required herein. If Lessee determines it is not possible, or not economically feasible to obtain or maintain said windstorm and/or flood insurance coverages, it may be uninsured for windstorm and/or flood events. Lessee shall obtain all other coverages required herein. The inability or unwillingness to obtain insurance coverages pursuant to this Article 21 shall not be used by the Lessee as a basis for determining the "reasonable opinion that repair and restoration is not feasible" as used in Article 21.4.

21.1 Coverages required herein shall be, if commercially available on commercially reasonable economic terms, builders risk, business disruption, and property insurance. Lessee will seek to insure on a replacement cost basis for customary risks from fire and other casualty, it being understood that as of the Effective Date, windstorm and flood insurance are not generally available on commercially reasonable terms for properties similar to the Project.

21.2 If a casualty loss affecting all or that part of the improvements located on the Leased Property should occur for all or that part of the improvements, the Lessee shall promptly notify the Lessor about the loss ("Notice of Loss"). The Notice of Loss shall include the date on which the loss occurred and the determination of the Lessee, in its reasonable opinion, as to whether the repair or restoration of the improvements affected by the loss is feasible. If repair or restoration is feasible, the proposed construction schedule and budget for implementing such repair or restoration shall be sent to Lessor within ninety (90) days after delivery of the Notice of Loss, subject to Unavoidable Delay.

21.3 If the Lessee determines in its reasonable opinion that repair or restoration is feasible, the Proceeds shall be used, collected and disbursed to pay for the repair or restoration in accordance with the proposed construction schedule and budget for implementing such repair or restoration. If any Proceeds remain after paying for the repair or restoration, they shall be disbursed to the Lessee.

21.4 If the Lessee determines in its reasonable opinion that repair and restoration is not feasible, Lessee will not be obligated to make such repair or

restoration. In that event, the Proceeds shall be used to clear that portion of damaged or destroyed improvements affected by the loss, and the cleared lands shall be surrendered to the Lessor. Upon such surrender, this Lease shall terminate as to that surrendered portion. If Proceeds remain after paying for the cost of clearing that portion of the damaged or destroyed improvements affected by the loss, the Proceeds shall be then used to pay any additional costs incurred by the Project as a result of such loss and severance. Thereafter, any remaining Proceeds shall be disbursed to the Lessee. The time between the date of the casualty and the date on which Notice of Loss is given shall be considered an Unavoidable Delay under this Lease. Lessee will not be obligated to make any repair or restoration that is feasible, unless and until Lessee's time for performance has been extended by a period of time sufficient to repair or restore such loss and complete the balance of the Project. Nothing in this Article 21.4 shall affect the Lessee's obligation to pay rent when due.

21.5 Subject to Lessee's determination that repair or restoration of the Leasehold Improvements is feasible in accordance with 21.1 above, Lessee is required to rebuild if the Leasehold Improvements are destroyed in whole or in part by fire, flood, or windstorm damage, or other casualty, or any combination thereof, whether insured or noninsured, or whether totally destroyed or partially damaged. In the event that Lessor is unable to obtain or maintain business disruption insurance after diligent efforts to do so, the quarterly rent payments to the City during such occurrence shall be reduced during a period of business disruption not to extend beyond twelve (12) months after the date of such casualty and this Lease shall not be terminated during such period provided Lessee is using good faith efforts to cause the Leasehold Improvements to be reconstructed in an expeditious manner provided, however, Lessee shall not be penalized for its inability to obtain Permits and/or materials and/or skilled labor due to the consequences of the event that caused the casualty (i.e. hurricane). In the event that Lessor is able to obtain business disruption insurance coverage, Rent shall be paid as provided in Article 6 herein but said Rent shall not exceed the amount of business disruption proceeds actually received by Lessee. Restitution of the Leasehold Improvements is the prime objective of the City, subject, however, to the terms of Article 21.4 above.

22. ASSIGNMENT.

22.1 Lessee may not assign any portion or all of this Lease or sublease the whole or any part of the Premises, including portions of any improvements erected thereon by Lessor or other portions of the Premises for any purpose without the written consent of Lessor, which consent shall not be unreasonably withheld or delayed. However, any assignment or sublease may be conditioned by the Lessor on the commercial suitability, the good reputation in the community, and the financial strength and solvency of the proposed assignee or sub-tenant, all or any of which may require suitable documentation and proof thereof. Notwithstanding any assignment or sublease, the Lessee shall remain liable for the full performance of its covenants and obligations under this Lease for the entire term hereof. No sub-lease shall extend beyond the existing term of this Lease. No sub-lease shall alter or have the right to alter or change the terms of this Lease.

Contemporaneous with the execution of this Amended Lease, but in no event more than 30 days from signing this lease, Lessee shall be required to execute a full and unconditional Assignment of this Lease to any Lessee chosen by the City. Said Assignment will be held in escrow by the City. In the event Lessee is declared in default by the City, subject to the written notice and cure provisions in Article 17.2.6, the Stuart City Commission may use the Assignment to unconditionally assign the Lease and all rights and obligations hereunder to a Lessee chosen by the City.

22.2 City criteria to approve an assignment of this Lease shall be the following:

22.2.1 The City Commission, at its discretion, must be satisfied that the assignee intends to use the Leased Property in a manner that is consistent with uses allowed by this Lease.

22.2.2 The City Commission must be satisfied that the assignee possesses the financial capacity, a good reputation, and managerial ability to operate successfully on the Leased Property.

23. SUCCESSORS IN INTEREST. The covenants and agreements contained in this Lease shall be binding on and inure to the benefit of the respective permitted successors and assigns of the parties whether by merger or otherwise. Wherever used, the singular number shall include the plural, and the use of any gender shall be applicable to all genders.

24. NOTICES. All notices required by law and by this Lease to be given by one party to the other shall be in writing, and the same may be served as follows:

24.1 All notices, demands, requests for approvals or other communications given by either party to another shall be in writing signed by the party or its counsel identified below, and shall be sent by (a) registered or certified mail, postage prepaid, return receipt requested, (b) courier service, (c) facsimile transmission, or (d) hand delivery to the office for each party indicated below and addressed as follows:

To Lessee: Northpoint Ventures LLC
Attention: Mr.Julian Mandody, Manager 1521 NE Maureen Court
Jensen Beach, Florida 34957 Facsimile: 772-202-5793

To the Lessor: City Manager
City of Stuart
121 SW Flagler Avenue Stuart, FL 34994
Facsimile: (772) 288-5316

Copy to: City Attorney City of Stuart
121 SW Flagler Avenue Stuart, FL 34994
Facsimile: (772) 600-1219

24.2 Any such notice shall be considered delivered: (a) on the date of hand delivery, (b) on the first business day after the date of deposit with an overnight courier, (c) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as non-deliverable, as the case may be, if mailed by certified mail, or (d) upon receipt if delivered by facsimile telecommunication. Refusal by any person to accept delivery of any notice delivered to the office at the address indicated above (or as it may be changed) shall be deemed to have been an effective delivery as provided in this Article 24. The addresses to which notices are to be sent may be changed from time to time by written notice delivered to the other parties and such notices shall be effective upon receipt. Until notice of change of address is received as to any particular party hereto, all other parties may rely upon the last address given.

25. ESTOPPEL CERTIFICATES.

25.1 Lessor agrees that, at any time and from time to time during the term of this Lease, within twenty (20) days after request by the Lessee, the Lessor will execute, acknowledge and deliver to any prospective Space Tenant, Land Tenant, purchaser, assignee, mortgagee or other person designated by Lessee, a certificate stating: (a) that this Lease is unmodified and in force and effect (or if there have been modifications, that this Lease is in force and effect as modified, and identifying the modification agreements); (b) confirming that the Rent has been paid in full and the date of the last payment; (c) whether or not there is any existing default by either party hereto, and, if there is any such default, specifying the nature and extent thereof; (d) whether or not there are any setoffs, defenses, or counterclaims against enforcement of the obligations to be performed hereunder; and (e) any other information relating to this Lease reasonably requested by the Lessee.

25.2 Lessor will provide estoppel certificates to the lenders of any Space Tenant or Land Tenant which certificates shall confirm: (a) the term of the Lease, (b) no defaults under the Lease, and (c) other matters reasonably requested by the Space Tenant or Land Tenant's lender, if applicable.

25.3 In the event Lessee, any Space Tenant or any Land Tenant obtains Construction Financing and/or Long Term Financing for the Leasehold Improvements, Lessor agrees to cooperate with said lender(s) in connection with requests by said lenders for commercially reasonable "lender protection" terms provided said terms impose no additional obligation to or risk upon the Lessor.

26. SEVERABILITY. If any paragraph, subparagraph, sentence, clause, provision, or part of this Lease shall be held invalid for any reason, the remainder of this Lease shall not be affected.

27. LEASEHOLD NON-SUBORDINATED MORTGAGES.

27.1 No mortgage may be placed on the underlying fee interest of the City or on the Improvements, provided, however, Lessee shall have the right to grant a mortgage on the Leasehold Interest pursuant to the terms of this Article 27.

27.2 Lessee may not mortgage, pledge or encumber all or any part of the Leasehold Interest, without the prior written consent of the Lessor, except to a Leasehold Mortgagee. The provisions of this Article 28 and any other provisions contained in this Lease which benefit a Leasehold Mortgagee shall only apply to Leasehold Mortgagees under mortgages complying with the terms of this Article 27.

27.3 No Leasehold Mortgagee shall have the rights or benefits described in this Article 27, nor shall the provisions of this Article 27 be binding upon Lessor with respect to any such mortgage or any assignment thereof, unless or until such Leasehold Mortgagee shall deliver to Lessor an executed counterpart of such mortgage, together with a statement signed and acknowledged by such Leasehold Mortgagee that such mortgage will be subject and subordinate to the rights of Lessor hereunder. Nothing contained in such a mortgage or contained herein, whether express or implied, shall have the effect of subordinating any interest or estate of Lessor in and to the Leased Property, to the lien of such a mortgage.

27.4 If Lessee shall mortgage all or any part of the Leasehold Interest to a Leasehold Mortgagee(s), in compliance with Articles 27.2 and 27.3 of this Lease, the following provisions shall apply until the subject mortgage has been satisfied:

(a) There shall be no cancellation or surrender of this Lease by joint action of Lessor and Lessee without the prior consent in writing of the Leasehold Mortgagee(s), not to be unreasonably withheld.

(b) There shall be no modification of this Lease which would materially increase the Rent hereunder or shorten the Lease Term, by joint action of Lessor and Lessee, without the prior consent in writing of the Leasehold Mortgagee(s), not to be unreasonably withheld.

(c) Provided Lessee has provided Lessor written notice of the name and notice address of its Leasehold Mortgagee, Lessor, upon serving Lessee any notice of default or any other notice or demand required under this Lease, shall also serve a copy of such notice upon such Leasehold Mortgagee, and no notice or demand by Lessor to Lessee shall be deemed to have been duly given unless and until a copy thereof has been so served.

(d) Any Leasehold Mortgagee shall have the right to perform any term or condition of this Lease to be cured or performed by Lessee, and

Lessor shall accept such performance by such Leasehold Mortgagee with the same force and effect as if furnished by Lessee, provided that such Leasehold Mortgagee remedies any monetary default no later than fifteen (15) days after same may be remedied by Lessee hereunder, and remedies any non-monetary default or performs such term or condition no later than the date that is thirty (30) days after the last date by which such default may be remedied by Lessee hereunder.

(e) In the event that the Leasehold Mortgagee is unable to cure such default without first obtaining control or title to the Leasehold Interest, Lessor shall provide the Leasehold Mortgagee an extended period of time in which to obtain control or title to the Leasehold Interest and to effectuate such cure, provided that the Leasehold Mortgagee commences proceedings to obtain control or title to the Leasehold Interest within sixty (60) days of receipt of a notice called for pursuant to subsection (c) of this Article 27.4 and diligently prosecutes such action or actions and commences to and diligently proceeds to cure such default upon obtaining possession or title to the Leasehold Interest. In the event that such proceedings are not necessary to enable the Leasehold Mortgagee to cure such default, the periods for curing the same shall not be extended as described in the preceding sentence.

27.5 A Leasehold Mortgagee(s) may become the legal owner of the Leasehold Interest by foreclosure of its mortgage(s) or as a result of the assignment of the Leasehold Interest in lieu of foreclosure provided that all obligations of Lessee hereunder are fulfilled in accordance with the terms of this Lease, including Article 27.4 regarding the right of an Leasehold Mortgagee to cure defaults hereunder.

27.6 If this Lease shall terminate for any reason or be rejected or disaffirmed pursuant to bankruptcy law or other law affecting creditor's rights, any Leasehold Mortgagee or a person designated by such Leasehold Mortgagee, shall have the right, exercisable by notice to the Lessor within 30 days after the effective date of such termination, to enter into a new lease of the Leased Property with the Lessor. The term of said new lease shall begin on the date of the termination of this Lease and shall continue for the remainder of the term of this Lease including any extensions or renewals provided for hereunder. Such new Lease shall otherwise contain the same terms and conditions as those set forth herein, except for requirements which are no longer applicable or have already been performed, provided that such Leasehold Mortgagee shall have remedied all defaults on the part of the Lessee hereunder which are susceptible of being remedied by the payment of money, and provided further that such new lease shall require the Lessee thereunder promptly to commence, and expeditiously to continue, to remedy all other defaults on the part of the Lessee hereunder to the extent susceptible of being remedied. It is the intention of the parties hereto that such new lease shall have the same priority relative to other rights or interests to or in the Leased Property as this Lease. The provisions of this Article 27.6 shall survive the termination of this Lease and shall continue in full force and effect thereafter to the same extent as if this Article 27.6 were a separate and independent contract among the Lessor, the Lessee and each Leasehold Mortgagee.

From the date on which any Leasehold Mortgagee shall serve upon the Lessor the aforesaid notice of the exercise of its rights to a new lease, such Leasehold Mortgagee may use and enjoy the Leased Property without hindrance by the Lessor. If more than one Leasehold Mortgagee makes written demand upon Lessor in accordance with the provisions hereof for a new lease, the new lease shall be delivered pursuant to the leasehold mortgage, whose Leasehold Mortgagee is prior in lien among those who made the request and any other request shall be null and void and no force and effect.

27.7 No Leasehold Mortgagee shall become personally liable for the performance or observance of any covenants or conditions to be performed or observed by the Lessee unless and until such Leasehold Mortgagee becomes the owner of the Leasehold Interest upon the exercise of any remedy provided for in any leasehold mortgage or enters into a new lease with the Lessor pursuant to Article 27.6 above. Thereafter such Leasehold Mortgagee shall be personally liable for the performance and observance of such covenants and conditions only so long as such Leasehold Mortgagee owns such interest or is lessee under such new lease or to the extent of any proceeds from the transfer or conveyance of such interest.

27.8 A Land Tenant shall be entitled to mortgage its sub-leasehold estate in the Leased Property provided its Leasehold Mortgage complies with all applicable terms and conditions applicable to Leasehold Mortgages in the Land Lease. Any Leasehold Mortgage obtained by a Land Tenant shall be specifically subject and subordinate to the Lessee's rights under the Land Lease and the Lease, and to Lessor's fee ownership of the Leased Property. The sentence immediately preceding shall not be deemed or construed (by implication or otherwise) to impose or establish upon the Land Tenant's interest in the Land Lease or upon the lien of any Leasehold Mortgage the superiority of any lien or encumbrance, including, without limitation, the lien of any fee mortgage, judgment or tax created directly or indirectly by, through or against the Lessor's fee interest in the Leased Property covered by the Land Lease or the Lessee's interest in the Land Lease or the Lease. Despite any provision which is or may appear to be to the contrary in the Land Lease, under no circumstances whatsoever shall Lessor's fee simple title interest, or Lessee's Leasehold Interest in the Leased Property, or any portion of them, be subordinated to the Land Lease.

28. COMPLETE AGREEMENT. The parties mutually represent and warrant to each other that this Lease constitutes the final and complete agreement of the parties on its subject matter and may not be changed, modified, discharged or extended except by written instrument duly executed by the parties. The parties agree that no previous representations or warranties shall be binding upon either party nor has the execution of this Lease been induced on the part of any party except as expressed in writing in this Lease.

29. NON-DISCRIMINATION. Lessee shall not discriminate against contractors, sublessees or users of the Existing Improvements or Leasehold Improvements with regard to race, creed, color, handicap, familial status, disability, marital status, religion, national origin or content of speech. Lessee accepts sole responsibility for ensuring such non-discriminatory access to the Leased Property.

30. SUBROGATION. The Lessor shall have the option, after sixty (60) calendar days' prior written notice to Lessee and without waiving or impairing any of Lessor's rights, to pay any sum or perform any act required of the Lessee under this Lease, and the amount of any such payment and the value of any such performance, together with interest on them, shall be secured by this Lease, and shall be promptly due and payable to the Lessor as additional rent.

31. CONFORMITY TO LAW. Lessee acknowledges that the Leased Property and the Leasehold Improvements to be constructed thereon are subject to all applicable laws, and to provisions and restrictions governing land use and zoning, site and structure design, compliance with building, environmental and occupational codes as determined by the applicable governing entity or instrumentality having jurisdiction.

32. LICENSES AND PERMITS. Except as otherwise provided in Article 11.1, Lessee shall, at its own expense, obtain all necessary permits, and pay all licenses, fees, and taxes required to comply with all applicable laws relative to development and operation to be conducted on the Leased Property in accordance with this Lease. Upon Lessor's written request, at reasonable intervals, Lessee agrees to provide Lessor with a copy of such permits and payments.

33. RADON GAS. Section 404.056, Florida Statutes requires that the following notification be given for real estate transactions of this type: "RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit."

34. RESTRAINTS UPON USE. Lessee understands and agrees that its use of the Leased Property is expressly subject to all applicable zoning and building restrictions in the City Codes and this Lease applicable to the Leased Property. The Lessee shall comply in all particulars with all pertinent rules, regulations, laws and ordinances duly and legally promulgated by any governmental authority.

35. NO MERGER. There shall be no merger of this Lease or of the leasehold estate hereby created with the fee estate in the Leased Property or any part thereof by reason of the fact that the same person may acquire or hold, directly or indirectly, this Lease or the leasehold estate hereby created or any interest in this Lease or in such leasehold estate as well as the fee estate in the Leased Property or any interest in such fee estate.

36. SUBORDINATION OF PERSONAL PROPERTY. Lessor hereby subordinates in favor of any Leasehold Mortgagee any right to a Lessor's lien against the furnishings, fixtures, machinery, equipment, furniture, inventory and/or any other items of personal property which is owned by Lessee or any Space Tenants or Land Tenants, and now located or may hereafter be delivered or installed in or upon any of the improvements situated upon the Leased Property. This subordination is self-

executing and no further evidence of the subordination must be produced. However, if requested by any Leasehold Mortgagee, Lessor shall execute and deliver a subordination agreement in the form reasonably required by such Leasehold Mortgagee within fifteen (15) business days of written request and the governing body of Lessor hereby authorizes and instructs its Authorized Representative to sign and deliver such subordination agreement when found not to be inconsistent with the purpose and intent of this Article 36.

37. DELAYS. In the event either party hereto is delayed in the performance of any act required hereunder by reason of an Unavoidable Delay, performance of such act shall be excused for the period of the Unavoidable Delay and the period for the performance of such act shall be extended for a period equivalent to the period of the Unavoidable Delay and all dates, time periods, deadlines as contained in this Lease shall be extended by the time period caused by the Unavoidable Delay. "Unavoidable Delay" means any of the following events or conditions or any combination thereof: acts of God, acts of the public enemy, riot, insurrection, war, terrorism, pestilence, archaeological excavations required by law, unavailability of materials after timely ordering of same, epidemics, quarantine restrictions, freight embargoes, fire, lightning, hurricanes, earthquakes, tornadoes, floods, extremely abnormal and excessively inclement weather (as indicated by the records of the local weather bureau for a five- year period preceding the Lease Commencement Date), strikes or labor disturbances, delays due to proceedings under Chapters 73 and 74, Florida Statutes, restoration in connection with any of the foregoing or any other cause beyond the reasonable control of the party performing the obligation in question, including, without limitation, such causes as may arise from the act of the other party to this Agreement, or acts of any governmental authority.

38. GOOD FAITH AND FAIR DEALING. Lessor and Lessee hereby agree to interpret the terms, conditions and provisions of this Lease in good faith exercising reasonable business judgment, and to attempt to resolve any and all issues, disputes or conflicts that may arise hereunder in a reasonable and fair manner.

39. TENTH YEAR REVIEW.

39.1 Tenth Year Lease Review shall be initiated by the City with respect to the following:

39.1.1 Improvements in technology or other aspects of the facilities subject to the Lease since the commencement of the Lease or the most recent Tenth Year Review;

39.1.2 Changes in management and operations of facilities such as those subject to the Lease that cause improved operations and increased efficiencies;

39.1.3 Review of history during the preceding ten year period and consideration of corrections and improvements in facilities and/or operations

39.1.4 Such other issues either party desires to raise for review and consider
ation.

39.2 The Tenth Year Lease Review shall not allow either party to unilaterally amend the Rent or other compensation features of the Lease, but the parties may mutually agree to amendments to the Lease as a result of such review.

40.3 The first Tenth Year Review shall begin no earlier than December 1, 2018.

40. RELATIONSHIP OF THE PARTIES / NO JOINT VENTURE. The parties hereby agree that it is their intention to create only the relationship of Lessor and Lessee, and neither this Lease, nor any term, provision, payment or right hereunder shall in any way or for any purpose, constitute or cause Lessor to become or be deemed a partner of Lessee in the conduct of its business, or otherwise, or to cause Lessor to become or be deemed a joint adventurer or a member of a joint enterprise with Lessee, nor shall this Lease, or any term or payment required herein, confer or be deemed to confer any interest upon Lessor in the conduct of Lessee's business.

41. EXCULPATION. Notwithstanding anything to the contrary provided in this Lease, neither Lessor, nor any officer, director, trustee, employee, agent, advisor or affiliate of Lessor, nor any holder of a superior interest in the Land, whether direct or indirect, shall have any personal liability with respect to any of the provisions of this Lease and, if Lessor is in breach or default with respect to its obligations or otherwise.

42. LEASE FOR BENEFIT OF PARTIES HERETO. Nothing in this Lease, whether express or implied, is intended or shall be construed to confer upon, or to give to, any person other than the Lessor, Lessee or their officers, directors or incorporators, any right, remedy or claim under or by reason of this Lease or any covenant, condition or stipulation thereof; and the covenants, stipulations or agreements contained in this Lease are and shall be for the sole and exclusive benefit of the aforementioned parties, and their permitted successors and assigns.

43. QUIET ENJOYMENT. Lessor agrees that Lessee, upon paying the Rent and all impositions and other charges herein provided for and performing all the covenants and conditions of this Lease, shall (subject to Lessor's rights specified in this Lease) lawfully and quietly occupy the Premises during the term of this Lease as against Lessor or any persons claiming under or through Lessor.

44. UNDERSTANDINGS AND AGREEMENTS. All understandings and agreements between the parties are merged into this Lease, which fully and completely expresses the parties' agreement, and the same is entered into after full investigation; neither party is relying on any statement or representation made by the other not embodied in this Lease.

45. SEVERABILITY. If any of the provisions of this Lease, or any article, section, clause, phrase, word, or the application thereof, in any circumstances is held

invalid, the validity of the remainder of this Lease, and of the application of any such provision, action, sentence, clause, phrase, or word, in other circumstances, shall not be affected thereby.

46. COVENANTS RUN WITH THE LAND. All provisions of this Lease and all exhibits attached hereto, and any amendments thereof, shall be construed as covenants running with the Land, and of every part thereof and interest therein shall continue and be fully enforceable during the duration of this Lease, and any and all extensions thereof.

47. CAPTIONS. The captions used in this Lease and exhibits annexed hereto are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text of this Lease or exhibits hereto.

48. GOVERNING LAW AND VENUE. This Lease shall be governed by, and construed and enforced in accordance with, the internal laws of the State of Florida, without regard to principles of conflicts of law. Venue of all proceedings in connection herewith shall be in Martin County, Florida, and each party hereto hereby waives whatever their respective rights may have been in the selection of venue.

49. AUTHORITY OF LESSEE AND LESSOR. If Lessee is a corporation, each individual executing this Lease on behalf of the corporation represents and warrants that (s)he is duly authorized to execute and deliver this Lease on behalf of the corporation in accordance with a duly adopted resolution of the Board of Directors of the corporation, and that this Lease shall as of the Effective Date be binding upon the corporation in accordance with its terms. Lessee shall, within thirty (30) days after the execution of this Lease, deliver to Lessor a certified copy of a resolution of the Board of Directors of the corporation authorizing or ratifying the execution of this Lease. If Lessee is a partnership, joint venture, limited liability company or other unincorporated association, each individual executing this Lease on behalf of such entity represents and warrants that (s)he is duly authorized to execute and deliver this Lease on behalf of the entity, and that this Lease shall as of the Effective Date be binding upon the entity in accordance with its terms. Lessee shall, within thirty (30) days after the execution of this Lease, deliver to Lessor a document to that effect. Lessor represents that each individual executing this Lease on behalf of the Lessor is duly authorized to execute and deliver this Lease on behalf of the Lessor and that this Lease shall as of the Effective Date be binding upon the Lessor in accordance with its terms.

50. REPRESENTATIONS REGARDING BROKERS. Lessor and Lessee hereby represent to the other that they dealt with no broker or brokers in connection with the negotiation, execution and delivery of this Lease. Lessor and Lessee shall, and do hereby, agree to indemnify and hold the other harmless from and against any losses, damages, penalties, claims or demands of whatsoever nature arising from a breach of its foregoing representation including, without limitation, reasonable attorneys' fees and expenses. The representations and indemnifications set forth in this Article shall survive the cancellation or termination of this Lease.

51. SUCCESSORS AND ASSIGNS. Except as otherwise provided in this Lease, the conditions, covenants and agreements contained in this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

52. INDEPENDENT COUNSEL. Lessor and Lessee each acknowledge and warrant that each has been represented by independent counsel and has executed this Lease after being fully advised by its counsel as to its effect and significance. This Lease is the result of negotiations between the parties and their respective attorneys, and shall be construed in an even and fair manner, regardless of the party who drafted this Lease or any provision thereof.

53. TIME OF THE ESSENCE. Time shall be of the essence with respect to each provision herein which requires performance by either party upon a specified date or within a specified time period. However, notwithstanding this provision, and not including the Initial Term or the Renewal Term of this Lease, the parties may waive or extend the time for any of the requirements herein by mutual written agreement, without the same being considered or constituting an amendment to this Lease.

[SIGNATURES ON FOLLOWING PAGES.]

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

Executed and delivered
in the presence of:

CITY OF STUART, FLORIDA

_____ By:_____
JEFFREY A. KRAUSKOPF, Mayor

_____
(Print Name)

_____

_____
(Print Name)

ATTEST:

By:_____
CHERYL WHITE, City Clerk

APPROVED AS TO FORM
AND CORRECTNESS:

By:_____
MICHAEL MORTELL, City Attorney

STATE OF FLORIDA

COUNTY OF MARTIN

The foregoing instrument was acknowledged before me this day of June, 2016, by JEFFREY A. KRAUSKOPF and CHERYL WHITE, the Mayor and City Clerk, respectively, of the City of Stuart, Florida. They are personally known to me or have produced valid Florida drivers' licenses as identification.

_____(SEAL)
Printed/Typed Name:
Notary Public-State of Florida
Commission Number:

Executed and delivered
in the presence of:

STUART COMMUNITY REDEVELOPMENT AGENCY

_____ By:_____
JEFFREY A. KRAUSKOPF, Chairperson

_____
(Print Name)

_____

_____
(Print Name)

ATTEST:

By:_____
CHERYL WHITE, Secretary

APPROVED AS TO FORM
AND CORRECTNESS:

By:_____
MICHAEL MORTELL, City Attorney

STATE OF FLORIDA

COUNTY OF MARTIN

The foregoing instrument was acknowledged before me this day of June, 2016, by JEFFREY A. KRAUSKOPF and CHERYL WHITE, the Chairperson and Board Secretary, respectively, of the Stuart Community Redevelopment Agency. They are personally known to me or have produced valid Florida drivers' licenses as identification.

_____(SEAL)
Printed/Typed Name:
Notary Public-State of Florida
Commission Number:

NORTHPOINT VENTURES, LLC, a Florida limited liability company

Signed and Sealed in presence of:

_____ By:_____
JULIAN MANDODY, MANAGER

_____
(Print Name)

_____

_____
(Print Name)

STATE OF FLORIDA

COUNTY OF MARTIN

The foregoing instrument was acknowledged before me this_____day of June, 2016, by JULIAN MANDODY, MANAGER OF NORTHPOINT VENTURES LLC, a Florida for profit limited liability company. He is personally known to me or has produced a valid driver's license as identification.

_____(SEAL)
Printed/Typed Name:
Notary Public-State of Florida
Commission Number

Exhibit "A"

Leased Property Legal Description

Exhibit "A-1"

Resolution 52-06 & Listing of Business Terms

Exhibit "A-2"

Resolution 89-2014

Exhibit "A-3"

Resolution 6-06

Exhibit "B"

Resolution 74-06

Exhibit "B-1"

September 24, 2007 and October 22, 2007 City Commission Minutes

Exhibit "C"

Certification Letter From Lessee

Northpoint Ventures LLC
1521 NE Maureen Ct.
Jensen Beach, FL 34957

June , 2016

City Manager
City of Stuart
121 SW Flagler Avenue
Stuart, FL 34994

Re: Absolute Net- Non-Subordinated Ground Lease (Northpoint Project) between City of Stuart, Florida, as Lessor, and Northpoint Ventures LLC, as Lessee, dated as of_____, 2016(the "Lease")

Dear_____:

In connection with the above referenced Lease, please be advised that all of the terms and conditions set forth in Articles 7.1.1 through 7.4, inclusive, of the Lease, have been satisfied. Accordingly, this letter shall constitute a "certification of completion", as described in Article 7.5 of the Lease.

In addition, pursuant to the terms of Article 7.5 of the Lease, the Lease Commencement Date shall be the date that you receive this letter. Please confirm in writing to the undersigned the date you receive this letter.

Sincerely,

NORTHPOINT VENTURES LLC Florida Limited Liability Company

_____
By: Julian Mandody_____
Its: Manager_____

cc: City of Stuart Attorney

Exhibit "D"

Permitted Exceptions

(None Required)

Exhibit "E"

This instrument prepared by:
Michael Mortell, City Attorney
121 SW Flagler Avenue
Stuart, FL 34997

AMENDED MEMORANDUM OF LEASE

THIS MEMORANDUM OF AMENDED AND RESTATED LEASE ("Memorandum") is made as of the day of June 2016, by and between **CITY OF STUART, FLORIDA**, a Florida municipal corporation ("Lessor"), and, a Florida Limited Liability Company ("Lessee").

W I T N E S S E T H

WHEREAS, the Lessor is the owner in fee simple of the real property located in Martin County, Florida, which is more particularly described in **Exhibit "A"**, attached hereto and incorporated herein by reference (the "Leased Property"); and

WHEREAS, Lessee and Lessor have entered into that certain Amended and Restated Absolute Net - Non-Subordinated Ground Lease (Northpoint Project), dated the date hereof, with respect to the Leased Property (the "Lease"), which provides that Lessor shall lease the Leased Property to Lessee and Lessee shall make certain improvements thereon, all in accordance with the terms, covenants and conditions set forth in the Lease; and

WHEREAS, Lessor and Lessee desire to enter into this Memorandum to give notice of said Lease and all of its terms, covenants and conditions to the same extent as if the same were fully set forth herein.

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements set forth herein, Lessee and Lessor hereby agree as follows:

1. The above recitals are true and correct and are hereby incorporated into this Memorandum by this reference. All terms used but not defined herein shall have the meaning ascribed to them in the Lease.

2. This Amended Memorandum of Lease amends the original Absolute Newt – Non-Subordinated Ground Lease dated .

3. The initial term of the Lease shall commence on the Lease Commencement Date (February 1, 2008) and shall terminate on the forty-fifth (45th) anniversary of such date, provided, however, Lessee may renew the Lease for one (1) term of forty-five (45) years in accordance with the terms of Article 5.2 of the Lease.

4. Each party covenants and agrees that it has no power to incur any indebtedness giving a right to a lien of any kind or character upon the right, title and interest of the other party in and to the Leased Property covered by this Lease, and that no person shall ever be entitled to

any lien, directly or indirectly, derived through or under the other party, or its agents or servants, or on account of any act or omission of the other party, except for any lien reserved upon (i) the Lessee's (or Lessee's successors and/or assigns) Leasehold Interest in the Leased Property by a Lender or a Leasehold Mortgagee, or (ii) the sub-leasehold interest of any Space Tenant or Land Tenant (or their successors and/or assigns) in the Leased Property by a Lender or a Leasehold Mortgagee. All persons contracting with the Lessee, or furnishing materials or labor to the Lessee, or to its agents or servants, as well as all persons whomsoever, shall be bound by this provision of this Lease. The Lessee shall not be deemed to be the agent of the Lessor as to confer upon a laborer bestowing labor upon the Leased Property, or upon a materialmen who furnishes material incorporated in the construction of improvements upon the Leased Property, a lien upon the Lessor's estate under the provisions of Chapter 713, Florida Statutes, and subsequent revisions of that law. UNDER CHAPTER 713 OF THE FLORIDA STATUTES, THIRD PARTIES ARE HEREBY NOTIFIED THAT THEY MAY NOT IMPOSE A LIEN ON THE LESSOR'S INTEREST IN THE LEASED PROPERTY FOR LABOR, SERVICES OR MATERIALS FURNISHED TO, OR AT THE REQUEST OF LESSEE AND ANY SUCH LIENS ARE HEREBY PROHIBITED. If, notwithstanding said notice, any third party files a mechanic's lien purportedly against the Lessor's estate for or on account of labor, services or materials provided to or at the request of Lessee, Lessee shall dispose of the claim and ensuing litigation as Lessee deems appropriate at Lessee's expense, provided that if such party commences a foreclosure action with respect to such lien, Lessee shall transfer the lien to security as provided by Florida law or otherwise bond or cause the same to be discharged of record within thirty (30) days thereafter to prevent the foreclosure of Lessor's estate.

5. The sole purpose of this Memorandum is to give notice of said Lease and all its terms, covenants and conditions to the same extent as if the same were fully set forth herein. The Lease contains certain other rights and obligations in favor of Lessor and Lessee which are more fully set forth therein.

6. The terms, covenants and conditions contained in the Lease shall (i) be binding upon and inure to the benefit of the parties hereto, their respective successors and permitted assigns, for the entire term of the Lease and any extensions thereof, and (ii) run with the Leased Property described in Exhibit "A" attached hereto.

[NO FURTHER TEXT ON THIS PAGE.]

IN WITNESS WHEREOF, Lessee and Lessor have caused this Memorandum to be executed as of the day and year first above written.

Executed and delivered
in the presence of:

Attest:

_____

_____
(Print Name)

_____

_____
(Print Name)

Lessor:

CITY OF STUART, FLORIDA and
STUART COMMUNITY
REDEVELOPMENT AGENCY

By:_____
JEFFREY A. KRAUSKOPF, Mayor and Chair

Executed and delivered
in the presence of:

_____

_____
(Print Name)

_____

_____
(Print Name)

Lessee:

NORTHPOINT VENTURES LLC
a Florida Limited Liability Company

By:_____
Name:Julian Mandody_____
Title: Manager

STATE OF FLORIDA

COUNTY OF MARTIN

The foregoing instrument was acknowledged before me this day of June, 2016, by JEFFREY A. KRAUSKOPF and CHERYL WHITE, Mayor and City Clerk, respectively, of the City of Stuart, Florida, and the Chair and Board Secretary, respectively, of the Stuart Community Redevelopment Agency. They are personally known to me or have produced valid Florida drivers' licenses as identification.

(SEAL)

_____
Printed/Typed Name:
Notary Public-State of Florida
Commission Number:

STATE OF FLORIDA

COUNTY OF MARTIN

The foregoing instrument was acknowledged before me this day of June, 2016, by JULIAN MANDODY, Manager of Northpoint Ventures LLC, a Florida Limited Liability Company. He is personally known to me or has produced a valid driver's license as identification.

(SEAL)

_____
Printed/Typed Name:
Notary Public-State of Florida
Commission Number

CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION

Meeting Date: 4/10/2017 **Prepared by:** PinalGandhi-Savdas

Title of Item:

ORDINANCE No. 2348-2017; AN ORDINANCE OF THE CITY OF STUART, FLORIDA, ANNEXING A PARCEL OF LAND NORTH OF THE INTERSECTION OF NE SAVANNAH ROAD AND NE BAKER ROAD, CONSISTING OF 14.85 ACRES, SAID PARCEL BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES. (RC)

Summary Explanation/Background Information on Agenda Request:

Staff has received an application to annex a property located north of the intersection of NE Savannah Road and NE Baker Road. The parcel is owned by Werner Bols and is 14.85-acres in size and is undeveloped. The parcel is contiguous to the City, compact in from and will not create an enclave if annexed. The City Attorney finds the attached application to be in order and in compliance with Florida Statute Section 171.044. The property owner is not proposing a development plan or timetable for development at this time. The owner understands that City land use and PUD zoning designation will be applied for at a later date. In the meantime, Martin County's land use and zoning regulations remain in effect. As called for by Florida Statute, the Martin County BOCC has been notified of the proposed annexation by certified mail. A complete copy of tonight's agenda item was provided to the County's Growth Management Department on March 10, 2017.

In addition to the Development Department's review, the City Manager, City Attorney, Public Works and Financial Services Departments have reviewed the application without objection.

With regard to cost, annexing the subject properties will have a de minimum impact on City Services. When land use, zoning and specific development plans are proposed at a later date, a comprehensive fiscal impact analysis will occur. In the meantime, based on the as-is assessed value of the parcel ($614,310) the City's ad valorem revenues, at the current millage rate of 4.552, will be approximately $2,800.

ATTACHMENTS:

- Ordinance No. 2348-2017
- City Attorney Memorandum
- Staff Report and maps
- Annexation Application
- Martin County Notification
- Martin County Response Letter
- Affidavit for sign posting on site/photos

Local Planning Agency Recommendation

The Local Planning Agency unanimously recommended approval of this item on 3/16/17.

City Commission Recommendation (1st Reading)

On March 27, 2017, the City Commission approved the Ordinance No. 2348-2017 on first reading 4-0 (1 member absent).

Funding Source:
N/A

Recommended Action:
Approve Ordinance No. 2348-2017 on second reading.

ATTACHMENTS:

	Description	Upload Date	Type
🗋	Oridnance 2348-2017	4/5/2017	Ordinance add to Y drive
🗋	City Attorney Memorandum	3/6/2017	Backup Material
🗋	Staff Report and Maps	3/3/2017	Staff Report
🗋	Annexation Application	2/28/2017	Backup Material
🗋	Martin County Notification	2/28/2017	Backup Material
🗋	Martin County Response Letter	3/28/2017	Backup Material
🗋	Affidavit	3/1/2017	Backup Material

Return to:

City Attorney's Office
City of Stuart
121 SW Flagler Street
Stuart, FL 34994

ORDINANCE No. 2348-2017

AN ORDINANCE OF THE CITY OF STUART, FLORIDA, ANNEXING A PARCEL OF LAND NORTH OF THE INTERSECTION OF NE SAVANNAH ROAD AND NE BAKER ROAD, CONSISTING OF 14.85 ACRES, SAID PARCEL BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

******

WHEREAS, Petitioner, Werner Bols, constituting the fee simple title holder to the land north of the intersection of NW Savannah Road and NE Baker Road, consisting of 14.85 acres, more particularly described in **Exhibit "A"**, attached hereto and made a part thereof, has voluntarily requested the City of Stuart annex said land into the corporate limits of the City; and

WHEREAS, the City Commission, has considered the Petitioner's voluntary request for annexation, and has also considered the recommendation of the Stuart Local Planning Agency and City staff.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF STUART:

Section 1. Findings. The City Commission finds the above statements are true and correct, and serve as a basis for consideration of this ordinance; that said lands are contiguous with the

corporate limits of the City of Stuart, creates no enclaves, is reasonably compact, and that the City can effectively provide police, fire, and sanitary services to said land, all in compliance with the terms and requirements of Sec. 171.44, Florida Statutes, and the City of Stuart Code.

Section 2. Annexation. The City Commission has determined that development of said lands upon annexation shall be in accordance with the regulatory requirements of Martin County until such time as amendments to the City's Comprehensive Land Use Plan and Official Zoning Map become effective; and that the parcel of land more particularly described in **Exhibit "A"**, is hereby annexed into and shall be within the corporate limits of the City of Stuart, Florida, and that same shall henceforth be a part of said City as if said lands were originally a part of the City of Stuart.

Section 3. Directions to the City Clerk. The City Clerk shall cause the boundaries as set forth in the City's Charter to be amended and codified. The City Clerk shall submit such documentation as required by law to give effect to this ordinance to the Clerk of the Circuit Court, Board of County Commissioners Florida Statute 171.044(6) within 10 days prior to second reading adoption, the Chief Administrative Officer of Martin County, and the Florida Department of State within seven (7) days following adoption, in accordance with Section 171.044, Florida Statutes. Upon complete execution of this Ordinance, the City Clerk is directed to record a Certified Copy of the same in the Public Records of Martin County, Florida.

Section 4. Repeal of Conflicting Ordinances. All Ordinances, Resolutions or parts of Ordinances and Resolutions in conflict herewith are hereby repealed.

Section 5. Severability. If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by

a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance. The corporate boundary of the City shall be re-codified to include lands annexed.

Section 6. Effective Date: This ordinance shall be effective upon its adoption.

Passed on first reading the _____ day of _____, 2017.

Commissioner _____ offered the foregoing ordinance and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

	YES	NO	ABSENT
THOMAS CAMPENNI, MAYOR			
TROY MCDONALD, VICE MAYOR			
JEFFERY KRAUSKOPF, COMMISSIONER			
KELLI GLASS-LEIGHTON, COMMISSIONER			
EULA CLARKE, COMMISSIONER			

ADOPTED on second and final reading this _____ day of _____, 2017.

ATTEST:

_____
CHERYL WHITE
CITY CLERK

_____
THOMAS CAMPENNI
MAYOR

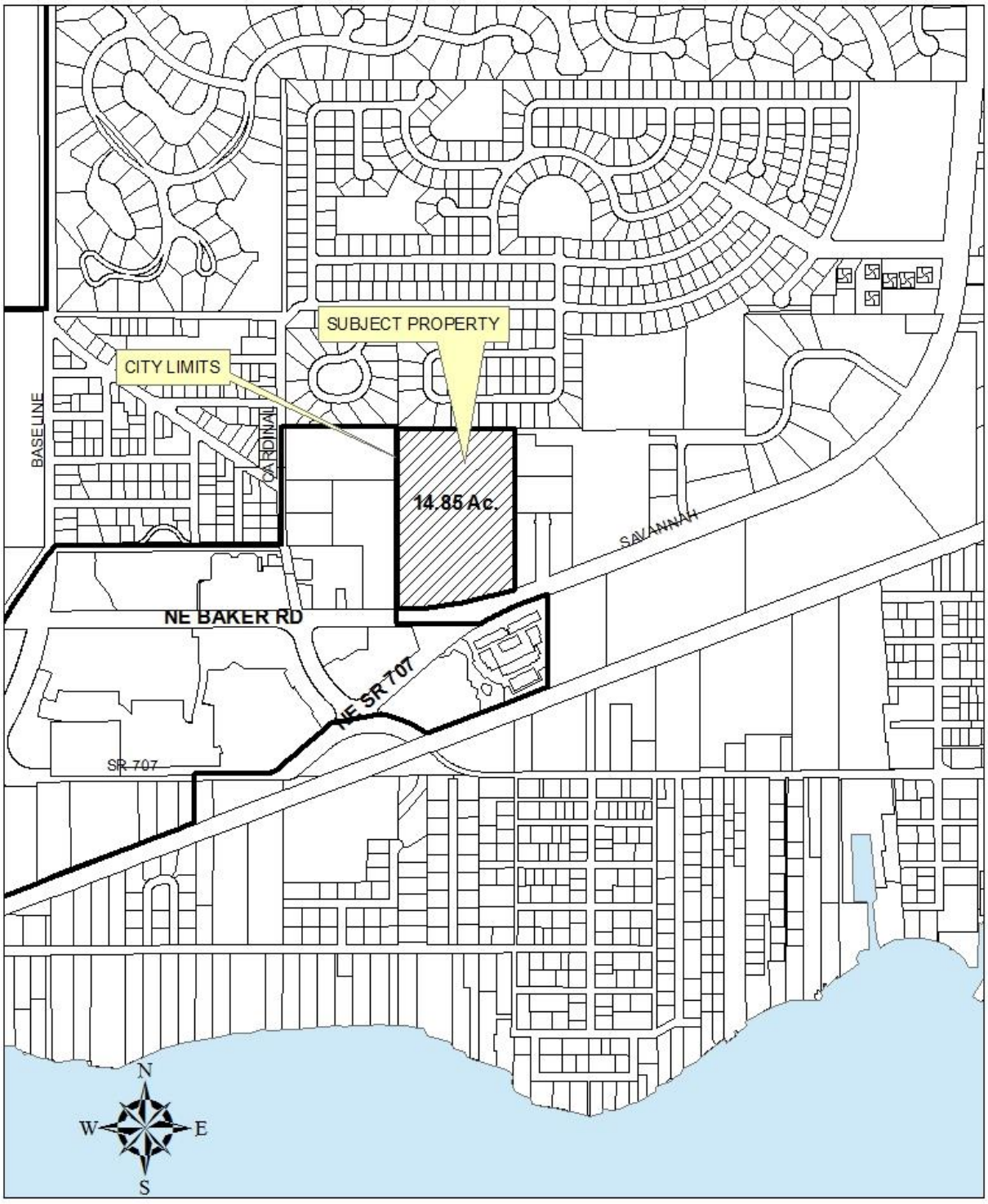
APPROVED AS TO FORM
AND CORRECTNESS:

_____
MIKE MORTELL, CITY ATTORNEY

Exhibit "A"
Legal Description

Section 28, Township 37 South, Range 41 East; That portion of NE 1/4 of SE 1/4 of SW 1/4 lying Northerly of North right-of-way of NE Savannah Road and Northerly right-of-way Extension of Baker Road and SE 1/4 of NE 1/4 of SW 1/4 of Sec.

PARCEL MAP


SUBJECT PROPERTY
CITY LIMITS
BASELINE
CARDINAL
14.85 Ac.
SAVANNAH
NE BAKER RD
NE SR 707
SR 707
N
W
E
S

CITY OF STUART
OFFICE OF THE CITY ATTORNEY

MEMORANDUM

TO: TERRY O'NEIL, DEVELOPMENT DIRECTOR

SUBJECT: VOLUNTARY ANNEXATION OF A 14.85 ACRE PARCEL OF LAND ON N.E. SAVANNAH ROAD

CC: PAUL NICOLETTI, CITY MANAGER

DATE: March 6, 2017

ISSUE

I have reviewed an annexation request for a 14.85 acre parcel located on NE Savannah Road as depicted in Exhibit "A".

Voluntary annexations are governed by the standards of Section 171.044 Florida Statutes. The basic requirement is stated as follows:

> "(1) The owner or owners of real property in an unincorporated area of a county which is contiguous to a municipality and reasonably compact may petition the governing body of said municipality that said property be annexed to the municipality."

The statute contains four (4) general requirements. First, a petition for voluntary annexation must be unanimously signed by all property owners in the area to be annexed. Second, the property proposed to be annexed must be contiguous and reasonably compact. Third, the proposed annexation cannot produce an enclave. Finally, county charters which provide for an exclusive method of municipal annexation override the Florida Statute. Martin County is not a Charter county and therefore, the fourth criteria does not apply to an annexation in the City of Stuart, Florida.

1. **Signed by all property owners in the geographic area being annexed**. In the present

matter, the request for annexation has been executed Werner Bohls as Trustee for the property owner and therefore all owners have executed the application.

2. **Contiguous to the Municipality:** Pursuant to Section 171.044(1), F.S., "the owner or owners of real property in an unincorporated area of a county which is contiguous to a municipality and reasonably compact may petition the governing body of said municipality that said property be annexed to the municipality." Property is deemed to be "Contiguous" under Section 171.031 (11), F.S., where a substantial part of a boundary of the territory sought to be annexed by a municipality is coterminous (sharing a common boundary) with a part of the boundary of the municipality. "Contiguous" has also been defined as "touching or adjoining in a reasonably substantial … sense." See City of Sanford v. Seminole County, 538 So. 2d 113 (Fla. 5th DCA 1989); May v. Lee County, 483 So. 2d 481 (Fla. 2d DCA 1986). The Sanford Court found that Section 171.031(11) F.S. only requires "that a substantial part of a boundary" touch municipal property as opposed to the entire perimeter of the property.

   Section 171.031(11) provides that:

> Separation of the territory sought to be annexed from the annexing municipality by a publicly owned right-of-way for a highway, road, railroad, canal or utility or a body of water, watercourse of other minor geographical division of a similar nature, running parallel with and between the territory sought to be annexed and the annexing municipality, shall not prevent annexation under this act, provided the presence of such division does not, as a practical matter, present the territory sought to be annexed and the annexing municipality from becoming a unified whole with respect to municipal services or prevent inhabitants from fully associating and trading with each other socially and economically.

In the current application, a substantial part of the boundary is coterminous with the City of Stuart. Approximately 50 percent of the property seeking annexation is bordered by the City of Stuart. Therefore, the property meets condition one and deemed is contiguous to the City of Stuart.

3. Reasonably Compact

"Compactness is defined under subsection (12) of 171.031, F.S., to mean a concentration of a piece of property in a single area. The requirement for compactness precludes any action which would create enclaves, pockets, or ginger areas in serpentine patterns. The purpose of the compact and contiguous requirement is to assure creation of

geographically unified and compact municipalities, City of Sunrise v. Broward County, 473 So. 2d 1387 (Fla. 4th DCA 1985).

A review of the map and the application determines that this property is reasonably compact and meet Florida Statute 171.031(12). Given the configuration of the City as well as the property requesting annexation, the annexation will not create pockets of unincorporated areas or serpentine finger areas.

(1) No Enclaves

Subsection 5 of 171.044, F.S. Provides that "[l] and shall not be annexed through voluntary annexation when such annexation results in the creation of enclaves". The term "enclave" is defined under Section 171.031(13), F.S., as "any unincorporated improved or developed area that is bounded on all sides by a single municipality or any unincorporated improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality." A review of the map, Exhibit "A", clearly shows that annexation of the parcel would not create an area bounded on all sides by a single municipality, and there is no natural or manmade obstacle to vehicular traffic in close proximity to either parcel. Therefore, no enclaves are created.

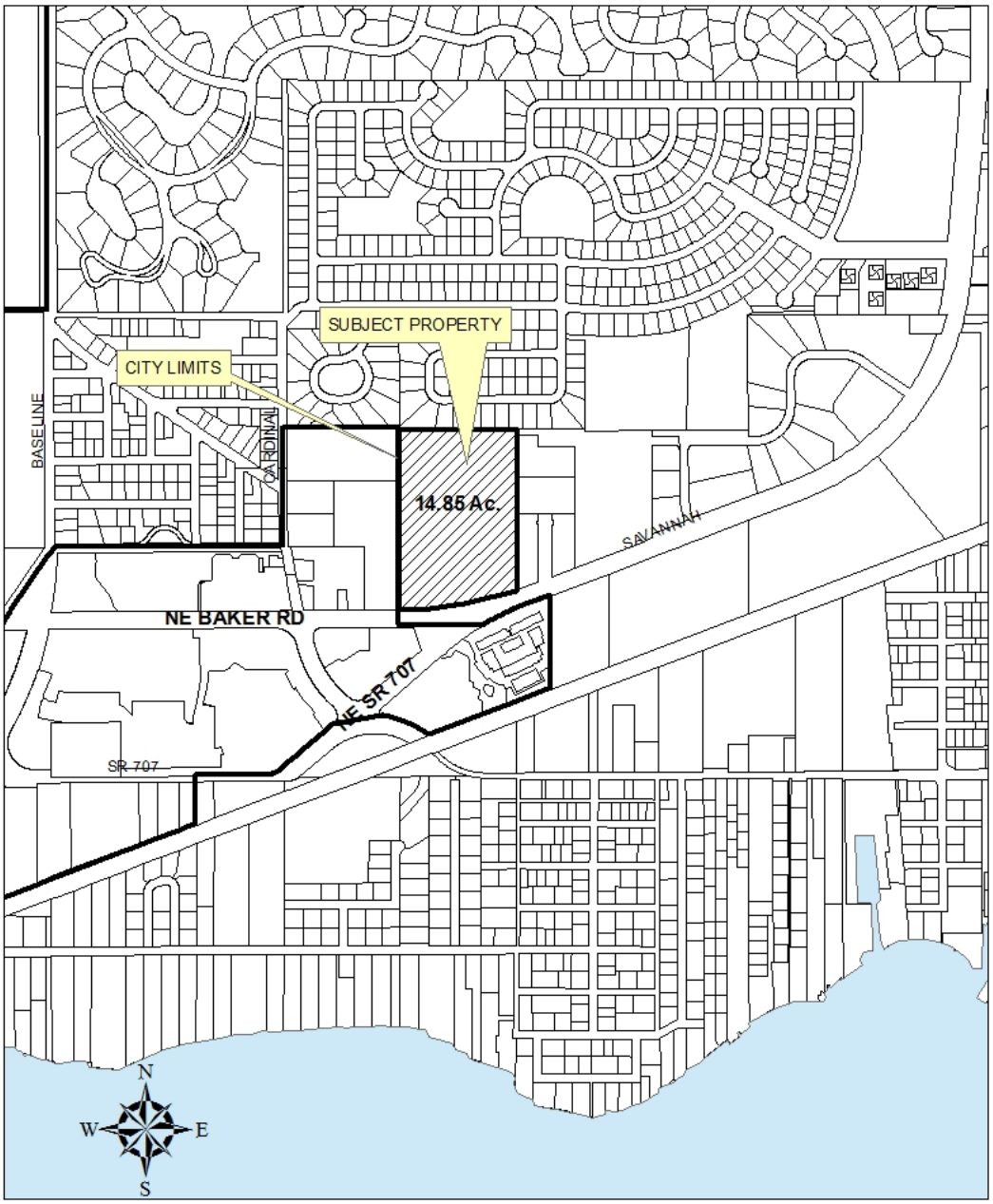
A review of the map clearly shows that an annexation of this parcel would not create an area bound on all sides by a single municipality, and there is no natural or manmade obstacle to vehicular traffic in close proximity to either parcel. Therefore, no enclaves are created.

Conclusion

Based upon the foregoing facts and analysis it is my opinion that the voluntary annexation of this parcel into the municipal boundaries of the City of Stuart comply with Florida Statute §171.044. This opinion is prepared solely at the request of and for the use of, the City of Stuart, and no other person or entity may rely on it for any purpose without the express written permission of the City of Stuart.

Exhibit 'A'

LOCATION MAP

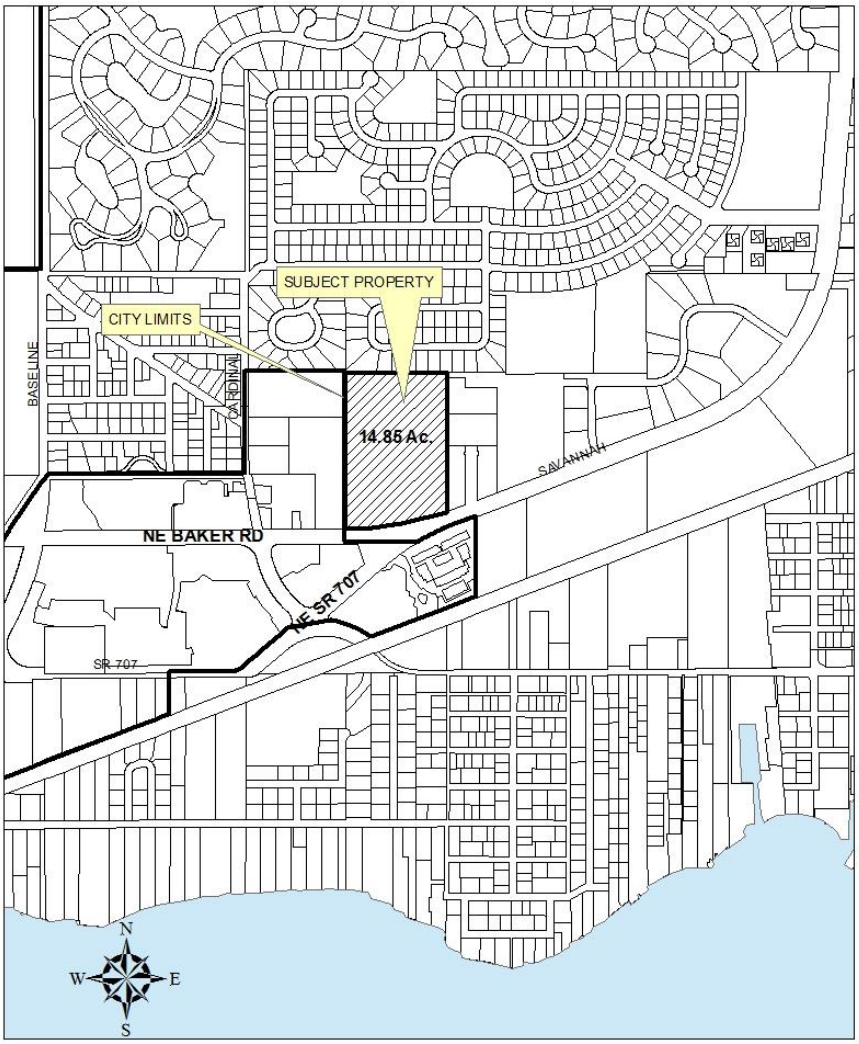


STAFF REPORT & MAPS

Background:

Staff has received an application to annex a single parcel on the north side of the intersection of NE Savannah Road and NE Baker Road. The 14.85 acre subject parcel owned by Werner Bols, Trustee, and is undeveloped.

The property is considered contiguous to the City, compact in form and will not create an enclave if annexed. The City Attorney finds the attached application to be in order and in compliance with Florida Statute Section 171.044. The property owner is proposing a development plan or schedule of development at this time and understands that City land use and PUD zoning designations will have to be applied for at a later date. In the meantime, Martin County's land use and zoning regulations remain in effect. As called for by Florida Statute, the Martin County BOCC has been notified of the proposed annexation by certified mail. A complete copy of tonight's agenda item was provided to the County's Growth Management Department on Friday, March 10, 2017.

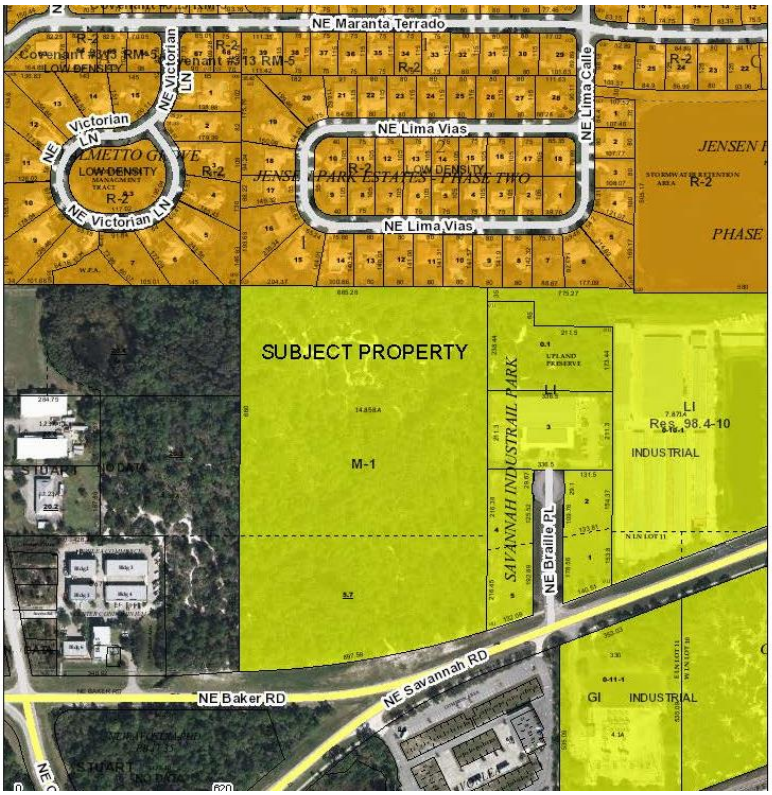


Parcel Information

	Size (Ac)	Status	County Land Use	County Zoning	City Land Use	City Zoning	Utilities
14.85 Acres NE Savannah Road	14.85	Vacant, undeveloped	Industrial	M-1 (Industrial)	TBD (Likely multi-family, limited commercial)	TBD (Likely R-PUD)	County to provide water & sewer service and City of Stuart to provide sanitation service

County Land Use

The parcel's land use is **Industrial** under the County's Comprehensive Plan, a designation which is "*land resources for existing and anticipated future industrial development needs. The allocation process gives high priority to industry's need for lands accessible to rail facilities, major arterials or interchanges, labor markets and the services of the Primary Urban Service District. Industrial development includes both Limited Impact and Extensive Impact Industries. Limited Impact Industries include research and development, light assembly and manufacturing. Extensive impact industries include heavy assembly plants, manufacturing/processing plants, fabricators of metal products, steam/electricity co-generation plants and uses customarily associated with airports."*



County Zoning

The property is zoned ***M-1 Industrial District*** on the County's official zoning map. *In this district, a building or structure or land shall be used for only the following purposes, subject to any additional limitations pursuant to section 3.402:*

M-1Industrial District

1. Any use permitted in the B-2 Business-Wholesale Business District that meets the standards prescribed in subsections (2)(a) through (j) of this subsection.
2. Light manufacturing plants that meet the following standards:
    a. All operations shall be conducted and all materials and products shall be stored within the buildings of the plant. All waste materials shall be stored while on the premises in a screened enclosure, which shall be counted as a part of the area allowed for occupation by buildings and structures.
    b. All machine tools and other machinery shall be electric powered. No forging, drop pressing, riveting or other processes involving impacts from other than nonpowered hand tools, or processes producing high frequency vibrations shall be permitted.
    c. No processes which result in the creation of smoke from the burning of fuels shall be permitted.
    d. No processes which emit an odor nuisance beyond the plant site shall be permitted. Where odors are produced an provisions for eradication within a building are provided, the burden of successful elimination of the odors shall rest on the manufacturer.
    e. Dust and dirt shall be confined within the buildings of the plant. Ventilating and filtering devices shall be provided, such being determined necessary by the building inspector.
    f. No processes which result in the escape of noxious gases or fumes in concentrations dangerous to plant or animal life or damaging to property shall be permitted.
    g. Operations creating glare shall be so shielded that the glare cannot be seen from outside the plant site.
    h. Where processes involve disposal of industrial sewage wastes, approval of proposed method of disposal by the County health officer shall be secured and presented to the director of zoning and building before a building permit shall be issued.
    i. Off-street parking for the motor vehicles of employees and visitors shall be provided on the basis of one space for each two employees. Off-street loading docks for the handling of all materials and products shall be provided in area treated to prevent dust, and shall be screened from view from outside the plant site. Such screening maybe 50 percent opaque shrubbery or fencing.
    j. Buildings and fences shall be painted, unless the materials are naturally or artificially colored. No signs, other than a single sign bearing the name of the manufacturer and product, limited in size to 40 square feet or one per cent of the area of the front elevation of the main building, whichever is greater, multiplied by one-fortieth of the setback in feet, shall appear on or be painted on any building or fence.

Manufacture of the following:

Brooms and brushes
Candy
Cigars, cigarettes or snuff
Cosmetics and toiletries, except soap
Clothing and hats
Ceramic products, electrically fired

Candles
Dairy products
Electronic devices
Ice cream
Jewelry
Leather goods and luggage
Optical equipment
Orthopedic and medical appliances
Pottery, electrically fired
Perfume
Pharmaceutical products
Precision instruments
Plastic products, except pyroxylin
Paper products and cardboard products
Silverware
Spices and spice packing
Stationery
Shoes
Televisions, radios and phonographs

Required lot area, width, and building height limits.

1. Lots or building sites in an M-1 Industrial District shall have an area of not less than 15,000 square feet, with a minimum width of 100 feet measured along the front property line. Not more than 40 percent of the lot area shall be occupied by structures or buildings. Buildings shall be limited to not more than 30 feet in height.
2. Where the lot abuts a residential or estates district, the minimum lot area shall be increased by the number of square feet necessary to provide a 50-foot-wide buffer area between the line of abutment and the nearest building.

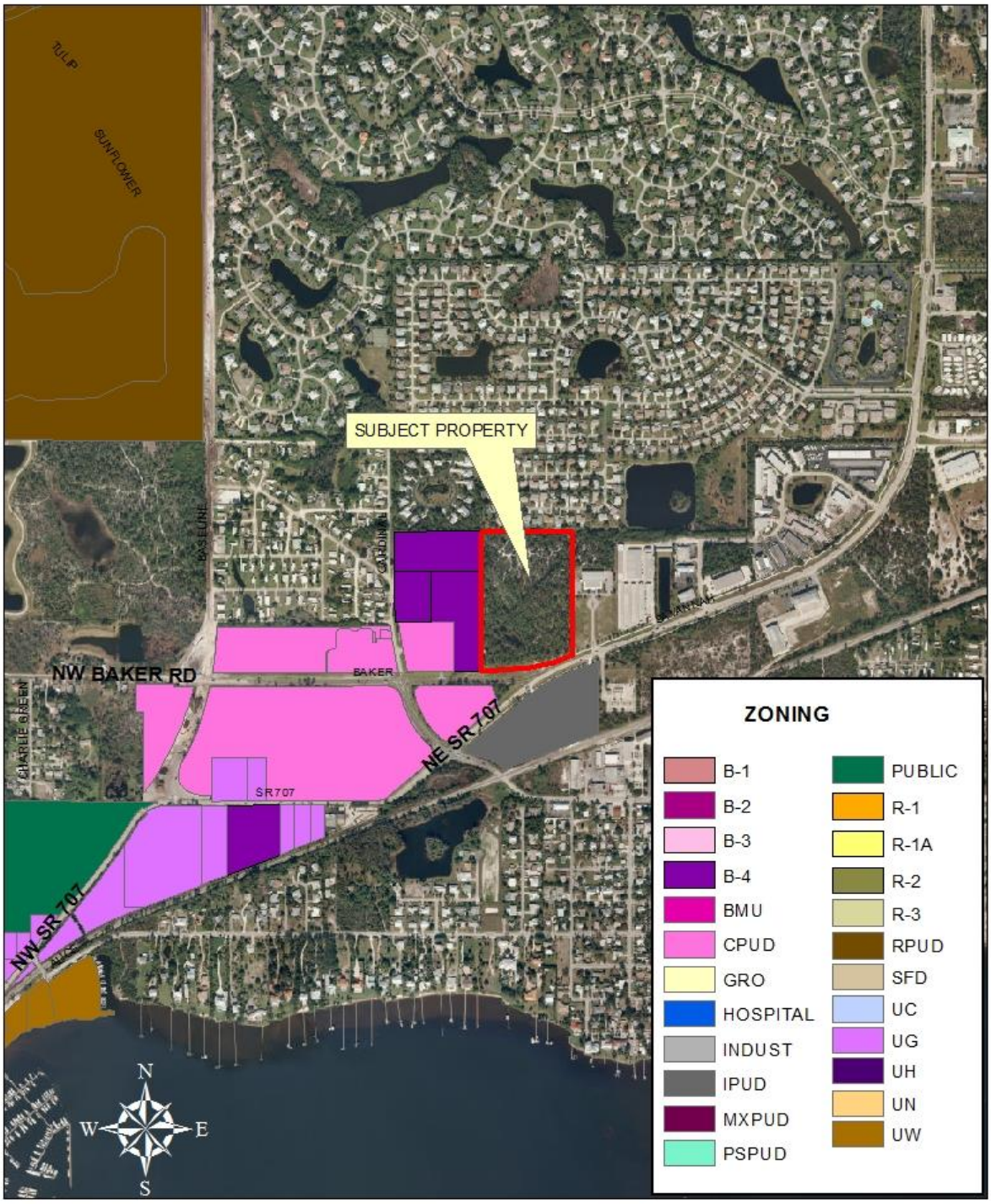
Minimum yards required.

1. *Front:* 50 feet, except an office building may be located within 20 feet of the front property line.
2. *Rear and side:*

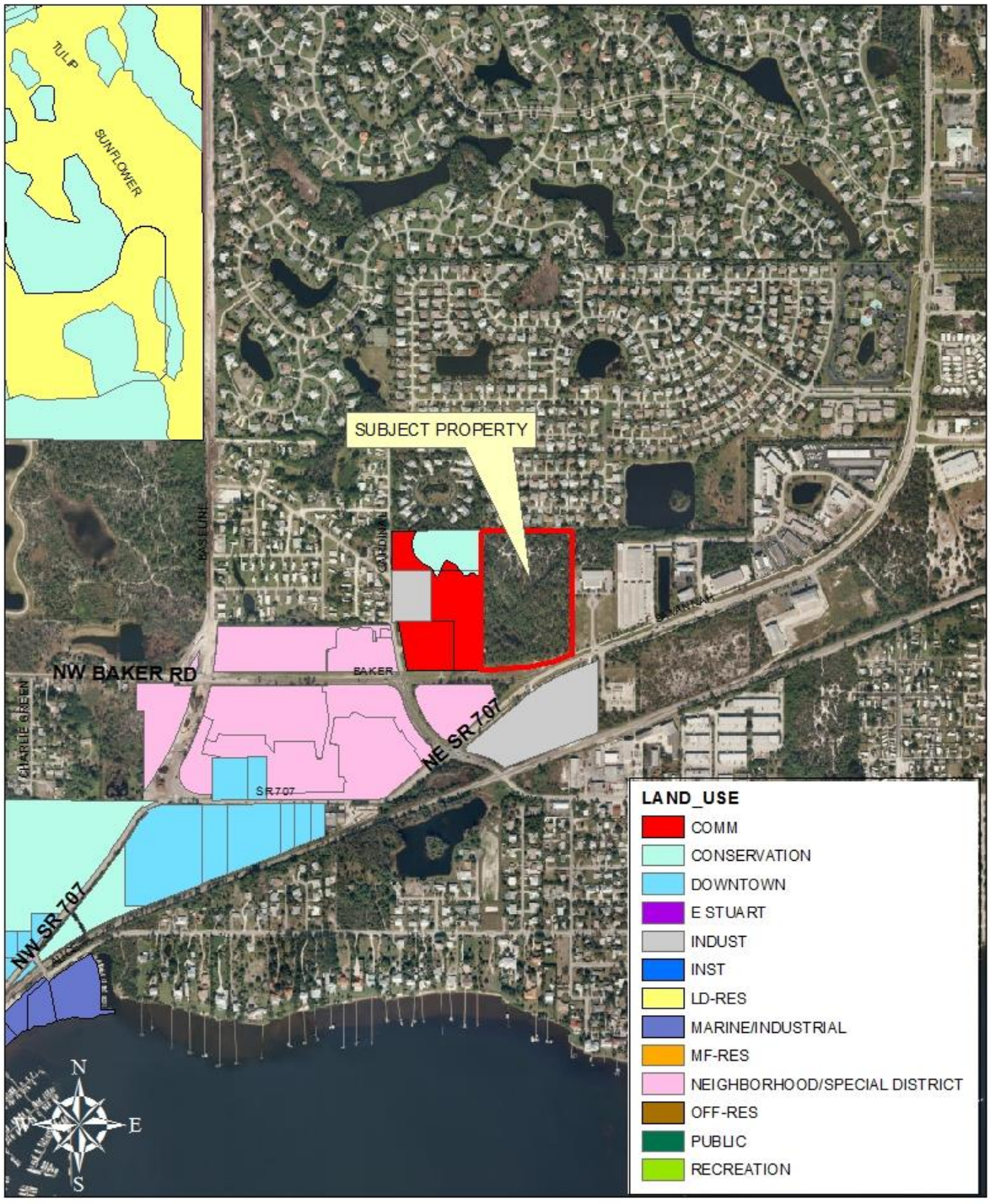
   1 story: 15 feet.
   2 stories: 15 feet.

3. No structure shall be built within 20 feet of the property line adjoining any public platted right-of-way not a designated through-traffic highway.
4. No structure shall be built within 40 feet of the property line adjoining a designated through-traffic highway.
5. No setback or yard shall be required adjacent to railroad spurs or sidings.
6. Where the lot abuts a residential or estates district, the yard requirements for the abutting sides or rear shall be increased to 50 feet, and planting shall provide for an evergreen hedge, uniformly colored masonry wall or board fence 6 feet high. Such screen shall be located on the sides and rear of the property.
7. Where the lot is separated from a residential or estates district only by a road, a landscaped planting shall provide for an evergreen hedge, uniformly colored masonry wall or board fence 6 feet high. Such screen shall be located on the sides and rear of the property.

CITY OF STUART
ZONING MAP



CITY OF STUART
FUTURE LAND USE MAP



City of Stuart
121 SW Flagler Ave.
Stuart, FL 34994
development@ci.stuart.fl.us
(772) 288-5326

Received by: _____
Reviewed by: _____
Approved by: _____

Annexation Application

Project ID# Z1702003
(Staff Entry)

Pre-App Conference Date:	Application Date:
Project Name: 14.9 acres Savannah Road	
Parcel ID# 28-37-41-000-000-00057-9	Project Address: NE Savannah Rd, Stuart, FL
Zoning/CRA Sub-district:	
Subdivision:	Lot(s):
Fee: $1,792.00 *(this does not include fees that may be charged as a result of application review by the City's consultants or any required recording fees)*	

Submittal Requirements:

A. Completed application form;
B. Payment of fees;
C. A concept plan;
D. An estimate of the direct public costs to provide capital facilities for City utilities and other municipal services required by the development;
E. An estimate of the ad valorem tax revenues to be generated by the subject property at the current millage rate both prior to and after development;
F. An estimate of the residential population increase of the City after development; and
G. Any other information as may be required by the City Development Director in order to do a thorough review of the request.
H. One (1) copy of all documents on a PDF formatted disc electronically signed and sealed.

(The data requirements for a concept plan are available at the Development Department)

Approving Authority: The Development Director is required to prepare a staff report and recommendation concerning this application. For a Major PUD amendment, the Local Planning Agency (LPA) is required to hold an advertised public hearing and formulate a recommendation to the City Commission. For both types of applications, the City Commission is required to hold an advertised public hearing after which it may approve, approve with conditions, or deny the application.

Justification: Please explain how the proposed annexation would further the relevant goals, objectives, and policies of the City's comprehensive plan *(include additional pages if needed).*

(over)

General Information

(Please Print or Type)

1. Property Owner, Lessee, Contract Purchaser, or Applicant (circle one):

Name: BOLS WERNER (TR)	City/State/Zip Code: PALM CITY FL 34991
Title: Trustee	Telephone Number: 772-283-8200
Company:	Facsimile Number:
Company Address: PO BOX 194	Email Address (optional): brianbols@hotmail.com

2. Agent of Record (if any): The following individual is designated as the Agent of Record for the property owner, lessee, or contract purchaser and should receive all correspondence related to the application review.

Name: Boyd Bradfield	City/State/Zip Code: Stuart, FL 34994
Title: President	Telephone Number: 772-286-6292
Company: Southcoast, Inc	Facsimile Number:
Company Address: 2055 Kanner Hwy	Email Address (optional): boyd@naisouthcoast.com

3. The Undersigned, as the Property Owner, Lessee, Contract Purchaser, or Applicant (circle one), acknowledges responsibility for all City expenses associated with the referenced application (s) including time spent by the City's consultants and further acknowledges that payment of consultant fees will be made prior to the receipt of the consultant comments.

Name: Werner Bols	City/State/Zip Code: PALM CITY FL 34991
Title: Trustee	Telephone Number: 772-283-8200
Company:	Facsimile Number:
Company Address: PO BOX 194	Email Address (optional): brianbols@hotmail.com

I hereby certify that all information contained herein is true and correct.

4. Signed this 16th day of February, 2017.

Werner Bols

Signature of Property Owner, Lessee, Contract Purchaser or Applicant (circle one)

State of Florida, Martin County The foregoing instrument was acknowledged before me on this 16th day of February 2017 by Werner Bols who is personally known to me, or who has produced Personally Known as identification and who did/~~did not~~ take an oath.

Karyn Leopold

Notary Signature

Commission Expires

Notary Public State of Florida
Karyn Leopold
My Commission FF 015052
Expires 07/05/2017

MARSHA STILLER
CLERK OF CIRCUIT COURT
MARTIN CO., FL

RECORDED & VERIFIED
BY D.C.

01258404

97 OCT -8 PM 12:27

This Document Prepared By and Return to:
C. NORRIS TILTON, ESQ.
C. NORRIS TILTON, P.A.
1935 NE RICOU TERRACE
JENSEN BEACH, FL 34957

DOC-DEED $ 1411.20 MARSHA STILLER
DOC-MTG $ _____ MARTIN COUNTY
DOC-ASM $ _____ CLERK OF CIRCUIT COURT
INT. TAX $ _____ BY _____ D.C.

Parcel ID Number:
Grantee #1 TIN:
Grantee #2 TIN:

Warranty Deed

This Indenture, Made this 18th day of August, 1997 A.D., **Between** REN TILTON, and C. NORRIS TILTON, Individually and as Trustees

of the County of , State of Florida, **grantors,** and WERNER BOLS, individually and as trustee under Trust Agreement dated November 1, 1995

whose address is: PO BOX 194, Palm City,FL 34991

of the County of , State of , **grantee.**

Witnesseth that the GRANTORS, for and in consideration of the sum of ----------TEN DOLLARS ($10)---------- DOLLARS, and other good and valuable consideration to GRANTORS in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, have granted, bargained and sold to the said GRANTEE and GRANTEE'S heirs, successors and assigns forever, the following described land, situate, lying and being in the County of MARTIN State of Florida to wit:

Section 28, Township 37 South, Range 41 East; That portion of NE 1/4 of SE 1/4 of SW 1/4 lying Northerly of North right-of-way of NE Savannah Road and Northerly right-of-way Extension of Baker Road and SE 1/4 of NE 1/4 of SW 1/4 of Sec.

This property is not Homestead being vacant land.

Full power and authority is granted by this deed to Trustee or his successors to deal in or with said property or any interest therein or any part thereof, to protect, conserve, sell, lease, encumber, convey, or otherwise to manage and dispose of the real estate or any part of it.

and the grantors do hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantors have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in our presence:

Holly M Stokes
Printed Name: HOLLY M STOKES
Witness

Martha I. Kratz
Printed Name: MARTHA I. KRATZ
Witness

Ren Tilton (Seal)
REN TILTON
P.O. Address: % 1935 NE Ricou Terrace
Jensen Beach,FL 34957

C. Norris Tilton (Seal)
C. NORRIS TILTON
P.O. Address: % 1935 NE Ricou Terrace
Jensen Beach,FL 34957

STATE OF Florida
COUNTY OF Martin

The foregoing instrument was acknowledged before me this 18th day of August, 1997 by REN TILTON, individually and as trustee and C. NORRIS TILTON, individually and as trustee

who are personally known to me or who have produced their Florida driver's license as identification.

MARTHA I KRATZ
My Comm Exp. 3/24/2001
Bonded By Service Ins
No. CC632351
[ ] Personally Known [ ] Other I.D

Martha I. Kratz
MARTHA I. KRATZ
Notary Public
My Commission Expires: 03/24/01

LAST PAGE

REN ORBK1265PG1061

© Display Systems, Inc., 1997 (941) 763-5555 Form FLWD-1

Development Department

City of Stuart

121 S.W. Flagler Avenue • Stuart • Florida • 34994

Phone: (772) 288-5326
Fax: (772) 288-5388

February 28, 2017

Via: Return Receipt
Mail

Chairperson Doug Smith & Commissioners
MC Board of County Commissioners
2401 SE Monterey Road
Stuart, Florida 34996

Re: Application for voluntary annexation

Dear Chairperson Smith & Commissioners,

Pursuant to Florida Statute Section 171.044 (6).attached please find a notice of proposed annexation which will be published in the Stuart News, once each week for two consecutive weeks, prior to the Stuart City Commission's final consideration of the item on April 10, 2017. A complete copy of the annexation ordinance and Local Planning Agency (LPA) agenda packet will be provided to County Growth Management Director, Nicki VanVonno, by March 10, 2017. If you have any questions regarding this letter, please do not hesitate to contact this office at (772) 288-5368.

Sincerely,

Terry O' Neil
City Development Director

cc: Taryn Kryzda, County Administrator
Nicki VanVonno, County Growth Management Director
Stuart City Commission
Paul Nicoletti, City Manager

Attached: Stuart News Advertisement

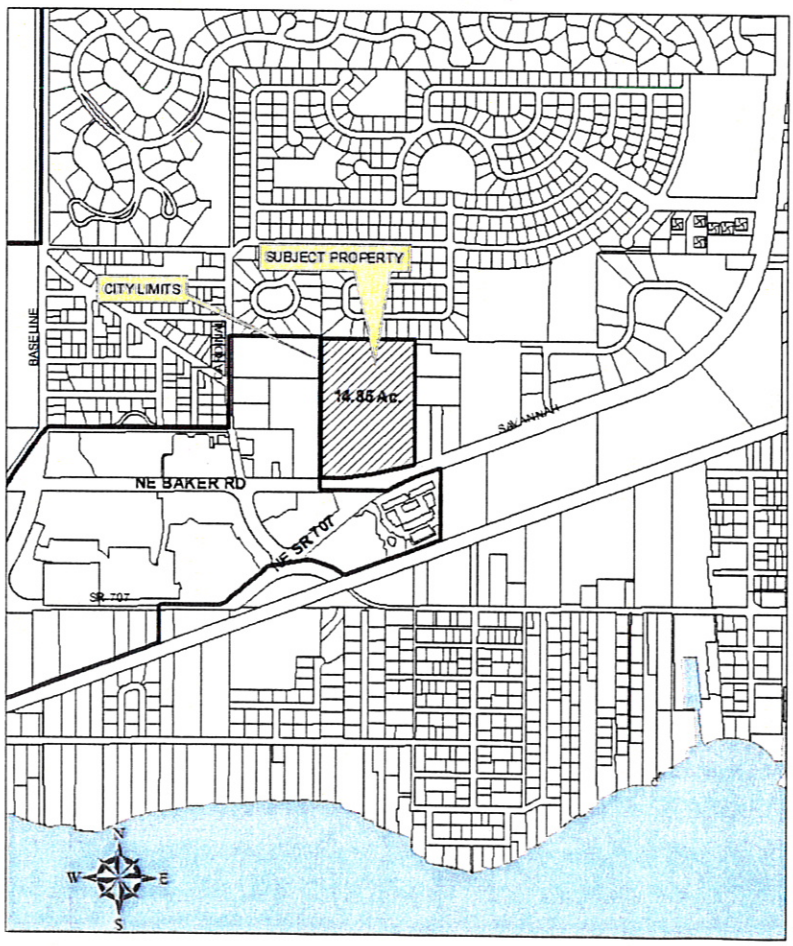
CITY OF STUART
NOTICE OF PUBLIC HEARING
ON THE ANNEXATION OF LAND

An ordinance (title shown below) to annex a single parcel (map shown below) will be considered by the Stuart Local Planning Agency (LPA) on Thursday, March 16, 2017 at 5:30 PM and by the Stuart City Commission on Monday, March 27, 2017 and Monday, April 10, 2017 at 5:30 PM. All hearings will take place at the Stuart City Hall Commission Chambers, 121 SW Flagler Avenue in Stuart. A complete legal description by metes and bounds and a complete copy of the ordinance may be obtained from the Office of the City Clerk or by calling (772) 288-5368.

ORDINANCE No. 2348-2017

AN ORDINANCE OF THE CITY OF STUART, FLORIDA, ANNEXING A PARCEL OF LAND NORTH OF THE INTERSECTION OF NE SAVANNAH ROAD AND NE BAKER ROAD, CONSISTING OF 14.85 ACRES, SAID PARCEL BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

LOCATION MAP



Publish March 11, 2017 & March 27, 2017 & April 3, 2017

MARTIN COUNTY
BOARD OF COUNTY COMMISSIONERS
2401 S.E. MONTEREY ROAD • STUART, FL 34996

DOUG SMITH
Commissioner, District 1

ED FIELDING
Commissioner, District 2

HAROLD E. JENKINS II
Commissioner, District 3

SARAH HEARD
Commissioner, District 4

EDWARD V. CIAMPI
Commissioner, District 5

TARYN KRYZDA, CPM
County Administrator

SARAH W. WOODS
County Attorney

TELEPHONE
772-288-5400

WEB ADDRESS
http://www.martin.fl.us

March 15, 2017

Telephone: 772-288-5495
Fax: 772-288-5764
Email: nikkiv@martin.fl.us

Terry O'Neil
City Development Director
City of Stuart
121 SW Flagler Avenue
Stuart, FL 34994

RE: City of Stuart Proposed Annexation

Dear Mr. O'Neil:

This letter is in response to the letter dated February 28, 2017, (letter attached) notifying the County of a proposed annexation of property into the City of Stuart. Please be advised that there is an historic drainage flow through the property that the City should maintain. Please also be aware that any connection to the County's roadways will require a Right-of-Way use permit.

The County may have additional comments once we have reviewed the complete agenda package. Please direct further notice to Nicki van Vonno, Growth Management Department Director, at the above address, telephone (772) 288-5495, FAX (772) 288-5764, or email: nikkiv@martin.fl.us.

Sincerely,

Nicki van Vonno

Nicki van Vonno, AICP
Growth Management Department Director

NvV:rwl

cc: Don Donaldson, Engineering Director
Lisa Wichser, Traffic Engineering Administrator

RECEIVED
MAR 21 2017
DEVELOPMENT

City of Stuart
Development Department
121 SW Flagler Avenue
Stuart, FL 34994
Ph. 772-288-5300
Fax 772-288-5388

AFFIDAVIT ATTESTING TO NOTIFICATION

Werner Bols, being first duly sworn, depose(s) and say(s):

That I am the owner(s) or petitioner(s) of the following described property which constitutes the location for which notification is required:

NE SAVANNAH RD, JENSEN BEACH
Legal Description: SEC 28-T37S-R41E; THAT PORTION OF NE 1/4 OF SE 1/4 OF SW 1/4 LYING NLY OF N R/W OF NE SAVANNAH RD & NLY R/W EXT OF BAKER RD & SE 1/4 OF NE 1/4 OF SW 1/4 OF SEC

That a photograph showing the placement of the notification sign is made a part of this Affidavit.

SIGNED (PROPERTY OWNER / AUTHORIZED AGENT)

SIGNED (PROPERTY OWNER / AUTHORIZED AGENT)

SWORN TO AND SUBSCRIBED before me this 27th day of FEBRUARY, 2017.

NOTARY PUBLIC, STATE OF FLORIDA:

My Commission Expires:

LAURIE KURNICK
MY COMMISSION # FF 953424
EXPIRES: January 29, 2020
Bonded Thru Notary Public Underwriters

NOTICE OF PUBLIC HEARING
PROPOSED ANNEXATION OF 14.85 ACRE (+/-) PARCEL INTO THE CITY OF STUART
Stuart Local Planning Agency, March 16, 2017
and the Stuart City Commission, March 27, 2017 and
April 10, 2017 at 5:30 P.M. at
STUART CITY HALL 121 SW FLAGLER AVE 772-288-5326 8:30 AM - 4:00 P.M.
VISIT WWW.CITYOFSTUART.US FOR MORE INFORMATION
772 286 6292
15 ACRES

NOTICE OF PUBLIC HEARING

PROPOSED ANNEXATION OF 14.85 ACRE (+/-) PARCEL INTO THE CITY OF STUART

Stuart Local Planning Agency, March 16, 2017 and the Stuart City Commission, March 27, 2017 and April 10, 2017 at 5:30 P.M. at

STUART CITY HALL 121 SW FLAGLER AVE 772-288-5328 8:30 AM - 4:00 P.M.
VISIT WWW.CITYOFSTUART.US FOR MORE INFORMATION

CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION

Meeting Date: 4/10/2017 **Prepared by:** P NIcoletti

Title of Item:
ORDINANCE No. 2351-2017; AN ORDINANCE OF THE CITY OF STUART, FLORIDA, AMENDING SECTIONS 4-1 THROUGH 4-4, INCLUSIVE OF THE CITY OF STUART, FLORIDA CODE OF ORDINANCES TO CLARIFY AND FURTHER REGULATE ALCOHOLIC BEVERAGES WITHIN THE CITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. (RC)

Summary Explanation/Background Information on Agenda Request:
Since September, 2016, with the request of 23 Master Mind LLC for a restaurant at the Post Office Arcade (23 Osceola St.) the city staff has struggled with the idea of considering the request, while being restricted by our current alcoholic beverage code which limits the sale or distribution of alcoholic beverages to 30% of the ground floor area in a defined downtown area.

As it turns out, when the original calculations were made, they did not include the square footage of the Lyric Theater, since it had a exemption. However, in hind sight, we should have included it, and then granted the exemption.

Taking that into consideration, we have recalculated the overall ground floor square footage and have added in the Lyric Theater. A copy of the spreadsheet is attached for your review.

At the same time, we have recognized the need to amend the existing ordinance, to clarify the procedures, and to simplify the way we deal with vacant space.

At the Regular City Commission Meeting of February 27th, the Commission asked that this ordinance be brought back for consideration at the next meeting.

If adopted by the City Commission (probably on March 27, 2017), the staff will likely wait to see if two (2) of the three outstanding grants of zoning approval from 2016, expire after 12 months without use. Those would be for Earthtones, and the upstairs of Fellowship Hall building. Those expire sometime in May, 2017. Once we know the outcome of that (or earlier, if the square footage is forfeited by the owners), the staff will advertise all available square footage and conduct a drawing for the space. As you will see in the new ordinance, the requirements are more specific, and require a dimensioned proposed floor plan, and building inspections along the way to re-opening.

Funding Source:
N/A

Recommended Action:
Adopt Ordinance No. 2351-2017 on Second Reading

ATTACHMENTS:

	Description	Upload Date	Type
🗋	Ord. 2351-2017 Alcoholic Beverages	4/6/2017	Ordinance add to Y drive

BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

ORDINANCE NO. 2351-2017

AN ORDINANCE OF THE CITY OF STUART, FLORIDA, AMENDING SECTIONS 4-1 THROUGH 4-4, INCLUSIVE OF THE CITY OF STUART, FLORIDA CODE OF ORDINANCES TO CLARIFY AND FURTHER REGULATE ALCOHOLIC BEVERAGES WITHIN THE CITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE

****

WHEREAS, the City Code of Ordinances, Section 4-1, et seq, is the regulation regarding the reasonable time, place and manner that alcoholic beverages may be sold, and distributed throughout the city; and

WHEREAS, the City Commission desires to amend the City Code to clarify certain provisions, and to further regulate establishments which sell or distribute alcoholic beverages.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

SECTION 1: AMENDMENTS TO SECTIONS 4-1 THROUGH 4-4 INCLUSIVE, OF THE STUART CODE OF ORDINANCES. Sections 4-1 through 4-4 of the Stuart Code of Ordinances are hereby amended to read in their entirety as follows:

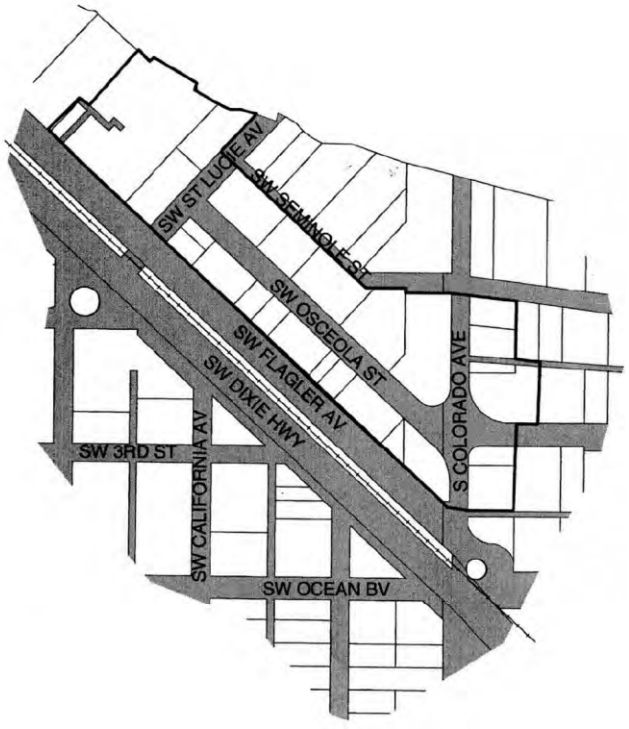
Sec. 4-1. – Statutory definitions adopted.

For the purposes of this chapter, the definitions contained in F.S. ch. 561 shall control except insofar as they are in conflict with the provisions of this chapter, and preempt the city by Florida law; otherwise, the most stringent provision shall prevail.

Sec. 4-2. – Definitions.

As used in this section, the following definitions shall apply:

Designated area means the "old downtown section," less any city-owned or city-controlled property, and as depicted in Map 4-2.



Map 4-2

Old downtown section means those real properties within the boundary of the centerlines of S.W. Seminole Street on the north, S.W. Flagler Avenue on the south, S. Colorado Street on the east, and S.W. St. Lucie Avenue on the west; plus the City Hall and City Hall Annex property west of and contiguous to S.W. St. Lucie Avenue, being Lot 36 according to the plat of The Feroe Subdivision recorded in the public records of Martin County, Florida, at Plat Book 2, Page 25, and Lots 3, 4, 5, 6, 7, 7A, 8, 9, and 9A according to the plat of Revised Danforth's Addition recorded in the public records of Martin County, Florida, at Plat Book 5, Page 69; and those properties located east of and contiguous to South Colorado Street, being Lots 8, 9, 12, and 24-28, Block 3, and Lots 19-23, Block 4, amended plat of Porter's Addition recorded in the public records of Martin County, Florida at Plat Book 2, page 75.

Entertainment means music, speech, or other sound, produced by a disc jockey, speaker, or musician(s), using electronic amplification, which is intended for an audience.

Establishment means any business location whose owner or operator holds a valid alcoholic beverage license for consumption on premises issued by the State of Florida, and also known as "licensed premises" as defined by Florida statutes.

Gross floor area means the sum of the enclosed ground floor areas of a building, including, but not limited to, rooms, halls, lobbies, arcades, stairways, elevator shafts, bathrooms, kitchens, storage rooms, equipment rooms, covered areas, enclosed porches, plus all outdoor areas used for beverage service, access, and storage, and including leased public rights of way, and as shown on Chart 4-2.

Chart 4-2

Chart 4-2
Designated Gross Floor Space Calculations

Parcel #	PCN	Gross Sq. Ft	COP Sq. Ft
1	53841004000022000000	2250	0
2	53841004000022000000	1755	1755
		0	1755
3	53841004000022000000	8706	0
4	53841004000024000000	3650	0
5	53841004000025000000	1521	1521
		1400	0
6	53841004000026000000	5836	0
		2952	2952
7	53841004000028000000	1998	0
8	53841004000029000000	3651	0
9	53841004000030000000	1944	1944
		6561	0
10	53841004000033000000	3817	0
11	43841015005001000000	2472	2472
		6568	0
12	43841015004002000000	4302	0
13	43841015004001900000	4445	4445
14	43841015003001200000	4959	0
15	43841015003000800000	4210	4210
		714	0
16	43841015003008000000	1650	0
17	43841015002001000000	5614	5614
		2655	0
18	53841023000000100000	3955	0
19	53841023000000200000	1631	0
20	53841023000000300000	2331	0
21	53841023000000400000	5743	0
22	53841004000001400000	15530	0
			1199
23	53841030000010100000	1158	0
24	05384103000001020000	1040	0
25	05384103000001030000	731	0
26	05384103000003020000	1092	0
27	05384100400000190900	9238	6421
	TOTAL =	126079	34288
	Percent of COP =		27.20%

Night club means an establishment that is a stand-alone bar, bottle club, or a restaurant which:

(1) Serves or allows the consumption of alcoholic beverages on the premises; and

(2) Provides or permits entertainment later than 11:00 P.M. at least one evening per week.

Saturation level means an establishment floor area of not greater than 30 percent of the gross ground floor area in the designated area.

State means the State of Florida, or its political subdivisions.

Walk-up window means any window, doorway or other opening from a building or structure to the outside of any establishment from which there is the sale or distribution of alcoholic beverages.

Sec. 4-3. – Citywide; regulations. The following regulations shall apply everywhere in the city, unless and except for the provisions of the designated area, which when applicable, shall supersede these provisions:

(1) *No walk-up windows.*

The sale of alcoholic beverages shall not be permitted from a walk-up window.

(2) *Interval distance between establishments, houses of worship, and schools.*

a. No establishment where alcoholic beverages are sold for consumption on the premises shall be established within 300 feet of any other such establishment, except as elsewhere provided in this chapter. The interval distance requirement specified herein shall be measured in a straight line on the official city map located within the building department between the main entrances of the establishments.

b. No alcoholic beverages shall be sold within 200 feet of any house of worship, or within 500 feet of the real property that comprises a public or private school offering kindergarten, elementary, middle, or secondary school grades, unless the city commission makes a finding that such use promotes the public health, safety, and welfare of the community, and approves the same by resolution.

(3) *Exemptions for certain establishments:* The interval distances in (2) above shall not apply to the operation of the following types of establishments:

a. A chartered or incorporated club with an 11C license issued by the state; or

b. A special live performance theater with an 11PA license issued by the state; or

c. An establishment for the sale of beer only, or beer and wine only with a 1APS, 2 APS, 1COP, or 2COP license issued by the state; or

d. A hotel or motel with a COP SH license issued by the state; which does not include any package sales; or

e. A restaurant with a 4COP SRX license issued by the state; or

f. Any establishment within the *designated area*, as further regulated in this chapter.

(4) *Hours of operation regulated.*

The sale, service, and delivery of alcoholic beverages shall be limited to the hours of 7:00 a.m. until 2:00 a.m. the following day, seven days a week. No person, including a wholesale or retail distributor or vendor covered by any license, shall sell, give, serve or deliver any alcoholic beverage to any person for consumption on or off the premises between the hours of 2:00 a.m. and 7:00 a.m. on any day of the week.

(5) *Zoning approval requirements; revocation.*

a. Every establishment owner or operator seeking an alcoholic beverage license from the state shall be required to obtain administrative zoning approval on the form required for completion by the Florida Alcoholic Beverage and Tobacco Division for the allowable use, based upon code compliance, including without limitation, location, proper zoning, proof of occupancy (by producing a properly executed or recorded lease, memorandum of lease, deed, contract for sale and purchase, or other acceptable instrument), interval distance, sufficient parking, ingress, and egress, and compliance with the saturation level, where applicable.

b. Where zoning approval is being sought by a tenant, both the tenant and the property owner (landlord) shall be a party to the application, and must jointly agree to be bound by the approval.

c. An application fee for administrative zoning approval may be established by resolution of the city commission from time to time.

d. Zoning approval may be revoked by the city manager for good cause, including violations of this chapter, excessive calls for police service, underage drinking violations, or noise violations. A decision by the city manager to revoke zoning approval shall be appealable to the city commission, which shall conduct a hearing on the appeal as provided elsewhere in the code. Any zoning revocation shall be reported to the Florida division of alcoholic beverages and tobacco.

(6) *Additional regulations for special restaurant (SRX) licensees.*

a. A restaurant with a special restaurant alcoholic beverage (SRX) license issued by the state shall only be located within a zoning district where such use is permitted. Such restaurant shall not sell alcoholic beverages in containers for consumption off the premises.

b. The sale or service of alcoholic beverages, by an establishment with a special restaurant alcoholic beverage license, shall be prohibited when the restaurant is not open for the sale or service of food.

4-4. Designated area regulations. In addition to any applicable provision(s) of Sec. 4-3, above, the following regulations shall apply within the designated area:

(1) *Application of the saturation level.*

The gross floor area of establishments which hold valid 1COP, 2COP, 4COP, or 4COP SRX state alcoholic beverage licenses, within the designated area shall not exceed the saturation level adopted by the city commission. The saturation level provision supersedes and replaces the interval distance requirement within the designated area. All establishments on real property within the designated area, open for business on May 1, 2017, and holding a valid alcoholic beverage license issued by the state of Florida are deemed to be "grandfathered" to the extent that they are not required to reapply for the use of the space, even though they fall within the ambit of the saturation level provided for in this section.

(2) *Regulations for certain types of establishments:* The following establishments within the designated area shall be exempt from the saturation level regulations:

a. Certain 1COP and 2COP license establishments. Notwithstanding the saturation level requirements, an establishment may be granted zoning approval by the city development director to obtain a 1COP or 2COP license from the state, provided the establishment meets the following additional conditions:

The establishment shall:

i. Have not fewer than 25 seats and not more than 75 seats, including bar and outside seating; and

ii. Generate at least 51 percent of the business' gross receipts from the sale of food; and

iii. Cease the sale of alcoholic beverages by 11:00 p.m.

b. The saturation level shall not apply to chartered or incorporated club 11C licensees; and special live performance theater 11PA licensees.

(3) *No package sales.*

No retail sale of package goods shall be permitted, except as an accessory use. This regulation shall not apply to the sale of package beer and wine only.

(4) *No nightclubs.*

No establishment in the designated area shall be operated as a nightclub.

(7) *Once saturation level is achieved; drawing lots.*

a. Once the saturation level has been reached by establishments in the designated area, no further establishments, or expansion of existing establishments, shall be permitted, except:

i. Upon the sale, transfer or relocation of an establishment, and proper application for zoning approval, the city development director, shall review the proposed location for compliance with the city codes, and make a determination regarding the issuance of zoning approval, prior to approving the payment of the local business tax.

ii. In the event that an establishment been sold, transferred, or when the alcoholic beverage license has been revoked or has expired, the owner of the affected real property shall do the following:

(a) Lease, or convey the establishment to a new tenant or owner with a valid alcoholic beverage license, and reopen the establishment for business within 90 days, unless such time is extended by the city manager for good cause shown.

iii. In the event that an establishment is relocated within the designated area, the owner of the establishment shall do the following:

(a) Provide the city with a recorded memorandum of lease, or deed, and a copy of a valid and complete alcoholic beverage license application. Upon proper application and payment of fees by the owner of the establishment, the city development director shall review the proposed location for compliance with the city codes, and make a determination regarding the issuance of zoning approval, prior to approving the payment of the local business tax. Thereafter, the establishment owner shall be opened for business within 90 days following the approval, unless such time is extended by the city manager for good cause shown.

iv. If an existing building is being renovated, or a new building built, or a building addition constructed, the owner or operator shall have a complete building permit application filed with the city development department, including the payment of all fees, for the renovation, or construction of the establishment.

Thereafter, such applicant must actively pursue completion of the work, by obtaining and passing progressive building inspections at least every 90 days, and obtain a certificate of occupancy, and be open for business within 12 months of the date the building permit is available for issuance by the city, unless such time is earlier terminated or extended by the city manager for good cause shown.

v. In the event the owner of a building in which there was a valid establishment fails to comply with the provisions of subsection (7)a.ii, iii, or iv, or in the event that the area allotted is forfeited, the process to permit a new establishment shall be as follows:

(a) The city development director shall notify the property owner in writing of the forfeiture of the establishment's use for the sale of alcoholic beverages; and

(b) The city development director shall publically advertise the amount of gross floor area which is available for use as an establishment within the designated area, including a response time of not less than 10 days for interested parties to make application to the city development director for use of the available space; and

(c) In the event there is more than one response to the advertisement, the city development director shall have the applicants draw lots to determine which applicant(s) shall be permitted to open an establishment.

(d) No applicant shall be awarded more space than is needed to fit within a designated location. The applicant shall furnish a detailed and dimensioned floor plan drawing of the space; along with a contingent or actual lease or memorandum of lease, or contract for sale and purchase, or a deed in the applicant’s name or business name, demonstrating the ability to control and use the space.

(e) Thereafter, if the applicant satisfies, or demonstrates the ability to satisfy, all other applicable code requirements and conditions as provided in subsection 7.a above, along with the payment of the fee, the city development director shall conduct the administrative zoning review, and upon approval the applicant shall comply with the provisions of subsection 7.a above, regarding the opening of the business as an establishment.

(f) An owner of real property upon which an establishment has been granted an allotment of area, or is grandfathered by prior use (“Subject Property”) may forfeit the area allotted or grandfathered by submitting a writing to that effect, which bears the signature of all the owners of the Subject Property, and which is witnessed by 2 attesting witnesses, and acknowledged by a notary public.

(8) Express intent regarding development rights.

It is the express intent of the city commission that zoning approval and permitting rights for establishments in the designated area, shall be administered only by the city. There shall be no private sale or transfer of development rights or other distribution of square footage resulting therefrom, except by and through the city. In the event an applicant loses the ability to control the area allotted because of a loss of a lease, or its use other than as an establishment, or any other action or inaction which causes loss of the area allotted by such applicant, the area previously allotted shall be forfeited as a matter of fact and law. Upon such determination, the city development director, shall advise the applicant in writing of the forfeiture of the area lost.

SECTION 2: CONFLICTS REPEALED. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3: SEVERABILITY. If any section, sentence, clause, phrase or word of this ordinance is for any reason declared to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions of this ordinance and the remaining portions shall be deemed and held to be valid.

SECTION 4: CODIFICATION. The provisions of Section 1 of this ordinance shall be codified.

SECTION 5: EFFECTIVE DATE. This ordinance shall take effect immediately upon adoption.

PASSED on First Reading this 13th day of March, 2017.

Commissioner _____ offered the foregoing ordinance and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

	YES	NO	ABSENT	ABSTAIN
THOMAS CAMPENNI, MAYOR				
TROY MCDONALD, VICE MAYOR				
KELLI GLASS LEIGHTON, COMMISSIONER				
JEFFREY KRAUSKOPF, COMMISSIONER				
EULA R. CLARKE, COMMISSIONER				

ADOPTED on Second Reading this 10th day of April, 2017.

ATTEST:

_____	_____
CHERYL WHITE	TOM CAMPENNI
CITY CLERK	MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

_____
MICHAEL J. MORTELL
CITY ATTORNEY

CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION

Meeting Date:4/10/2017 **Prepared by:**Michael Mortell

Title of Item:
FEC Seawall Discussion
Summary Explanation/Background Information on Agenda Request:

CITY MANAGER'S NOTE: As we understand it, Fortress Holdings (which includes the FEC) is being sold, and we received a call from FEC demanding that we remove the seawall that encroaches on their right of way from the Northpoint property. The cost will be about $75,000. In addition, we have not been paying the assigned rent on the use of the right of way, pending resolution of this issue. You may recall that we asked them to take ownership of the seawall sometime back, but they have now declined, and want it removed. The back rent is also in the $75,000 range.

Funding Source:
Tentatively: CM Contingency

Recommended Action:
Discuss and deliberate on how to proceed

CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION

Meeting Date: 4/10/2017 **Prepared by:** Michael Mortell

Title of Item:
7-Eleven Discussion

Summary Explanation/Background Information on Agenda Request:
Following the last City Commission Meeting, Staff made contact with Dean Bodner of Excess Space Retail Services regarding the Commission inquiries. First: 7-11 has announced the closure of the store and is not interested in any extensions of the lease. Second: We discussed the idea of a 6 month extension to remove the tanks and Mr. Bodner explained that normally the issue of indemnity prohibits this from occurring but his is confirming this position.

Paragraph 3 of the original lease and paragraph 7 of the amended lease control the issue of removal and restoration of the property.

Funding Source:
N/A

Recommended Action:
Discuss and deliberate

ATTACHMENTS:

	Description	Upload Date	Type
🗋	Lease Agreeement	4/5/2017	Backup Material

City of Stuart

Sailfish Capital of the World

6

BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

RESOLUTION NUMBER 73-07

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A LEASE EXTENSION AGREEMENT BETWEEN THE CITY OF STUART AND THE 7-ELEVEN COMPANY FOR A CITY-OWNED PROPERTY AT THE NORTHEAST CORNER OF SR-76 AND MONTEREY ROAD; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

* * * * *

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

Section 1: The Mayor and City Clerk are hereby authorized to execute a lease extension agreement (Exhibit A attached) with 7-Eleven for a city-owned property at the northeast corner of SR-76 and Monterey Road. A copy of the agreement is on file in the office of the City Clerk.

Section 2: This resolution shall take effect upon adoption.

Resolution 73-07

Commissioner Krauskopf offered the foregoing resolution and moved its adoption. The motion was seconded by Commissioner Christie and upon being put to a roll call vote, the vote was as follows:

	YES	NO	ABSENT
MARY HUTCHINSON, MAYOR	–		
JEFFREY KRAUSKOPF, VICE-MAYOR	–		
CAROL WAXLER, COMMISSIONER	–		
MICHAEL MORTELL, COMMISSIONER	–		
JAMES A. CHRISTIE, COMMISSIONER	–		

ADOPTED this 14th day of May, 2007.

ATTEST:

CHERYL WHITE
CITY CLERK

MARY L. HUTCHINSON
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

PAUL J. NICOLETTI
CITY ATTORNEY

CITY OF STUART · FLORIDA · INCORPORATED 1914 · SAILFISH CAPITAL OF THE WORLD

Cheryl A. White
City Clerk

AMENDMENT NO. 1

PROPERTY NO. 27729

On the 25th day of February, 1987, 7-Eleven, Inc. formerly known as The Southland Corporation, as LESSEE, and City of Stuart, as LESSOR, entered into a Lease Agreement (herein "Lease Agreement"), covering the property known as 2375 S. Kanner Highway at Monterey Road, Stuart, Martin County, Florida and more fully described on Exhibit "A" attached hereto and made a part hereof.

LESSOR and LESSEE presently desire to amend said Lease Agreement. Now therefore, in consideration of the premises and $10.00 paid to the other, receipt of which is hereby acknowledged, said Lease Agreement shall be and is hereby amended as follows:

The current term of this Lease Agreement will expire on September 30, 2007. In anticipation of this expiration, and a mutual desire to implement the new terms, this Lease Amendment No. 1 shall become effective prior to the expiration of the existing lease, at which time the new lease term set forth in this amendment will commence, including the terms as follows:

1. Article 4.0 Term. LESSOR and LESSEE agree that LESSEE is hereby granted an additional term of ten (10) years, commencing July 1, 2007, and two (2) successive options to extend the term of the Lease Agreement for five (5) years for each such option upon the same covenants and conditions as provided in the Lease Agreement, except regarding the amount of the rent.

2. Exhibit B, Rent Rider. LESSOR and LESSEE agree to add the following language to amend the Rent Rider, as follows:

   A. The term "Lease Year" shall be the twelve month period beginning July 1st of each year.

   B. Rent payable during the Initial term, and each Extension Period:

   Commencing July 1, 2007 the rent shall be $150,000.00 per year payable in twelve (12) equal monthly installments of $12,500.00 each, plus applicable taxes. For every year of the Lease, including any option periods, if any, the rent shall be adjusted as follows:

   C. Rent Escalator. The minimum rent provided herein shall be the then existing annual rent, increased each year by the percentage increase, if any, in the average of the monthly Consumer Price Index For All Urban Consumers, all U.S. City Average ("CPI") prepared by the Department of Labor of the United States for the twelve (12) months prior to the ~~commencement of each~~ next ensuing lease year and including any optional extension period. Notwithstanding the CPI, the rent shall never decrease. If at the expiration of any lease year, including any optional extension period, the CPI is no longer published, then another index generally recognized as

authoritative shall be substituted by agreement, but if the parties do not agree, the substitute index shall be selected by the majority determination of three arbitrators appointed for the purpose, one being appointed by the LESSOR, one by the LESSEE and a third by the two arbitrators appointed by the LESSOR and LESSEE.

D. This paragraph of the Rent Rider shall be deleted and of no further force and effect.

3. The Premises as defined herein, shall not include a parcel of land (not larger than 7' x 7') and generally located within the legal description of Exhibit "A," but otherwise excluded from the Lease, (the "Excepted Property") and, subject to a future affirmative vote of the Stuart City Commission, may be used specifically for the purpose of erecting and maintaining an electronic billboard and related structures, which billboard may extend into the air over the Premises, but which shall be constructed in a manner that allows for safe operation of vehicles below, and which shall be further subject to specific location determination by the LESSOR, so as not to interfere with the use of the Premises by the LESSEE.

4. LESSOR agrees that it shall not permit on the said billboard any advertisement of a nature objectionable and/or detrimental to the existing business occupying the site or to the merchandise offered for sale by the existing business.

5. LESSOR will indemnify, defend, and hold harmless from and against any and all damages, claims, losses, suits and causes of action, including claims for injury to persons and damage to property, arising out of or related to the construction, maintenance, or existence of the billboard.

6. Notwithstanding the foregoing provisions in paragraph 5, above, and in addition thereto, the LESSOR agrees to be responsible to the LESSEE for any direct first party injury to the LESSEE as a result of the placement, use and maintenance of a billboard on the Excepted Property. In this context, "direct first party injury" shall mean any injury sustained to LESSEE's leased Premises, including any and all improvements thereon.

7. Article 3. Construction, is amended to include "any and all structures, signs (but excluding billboards), paving, underground pipes, concrete, buildings," as improvements that are subject to removal by the LESSEE at the LESSOR's discretion.

8. LESSEE agrees that it shall be solely responsible and solely liable for all clean-up and prevention measures associated with the underground petroleum storage tanks and pumping facilities ("motor fuels equipment") on the Premises in accordance with the directives and in a manner approved by the appropriate governmental authorities. LESSEE assumes the sole responsibility for the condition, operation and repair of the motor fuels equipment and will protect, defend, hold harmless and indemnify LESSOR from and against any and all expenses, claims, actions, liabilities, attorneys' fees, damages, losses, penalties, fines and interest of any kind whatsoever (including without limiting the foregoing, death of or injury to persons and damage to property), actually or allegedly and directly or indirectly resulting from the omission or commission of any LESSEE or its agents or employees, whether or not such act is within the scope of the employment of such agents or employees, or from leaks, seepages, spills or other loss of motor fuels or other toxic pollutants from the motor fuels equipment resulting from or in connection with the operations of Tenant on the Property. In addition, and without limitation, the LESSEE shall be fully and solely responsible for compliance with all governmental requirements and laws, and all liability for claims of third parties, related to the use, handling, storage, discharge, contamination, or clean-up of motor fuels by LESSEE, on the Premises or for motor fuels that emanate from the Premises in connection with LESSEE's operations.

9. Paragraph 28.0 "Notice" of the original lease agreement is amended as follows:

LESSOR: City of Stuart, Florida
Attention City Manager
121 SW Flagler Avenue
Stuart, Florida 34994

LESSEE: 7-Eleven, Inc.
Attn: Real Estate Services
1722 Routh Street, Suite 1000
Dallas, TX 75201-2506

With a copy to:
7-Eleven, Inc.
Attn: Real Estate
1300 Lee Rd.
Orlando, FL 32810

All other terms and conditions of said Lease Agreement, Exhibit "B" attached, shall remain unchanged.

This Amendment No. 1 is to be effective the 20th day of July, 2007.

In all other respects said Lease Agreement is hereby ratified and reaffirmed.

Executed this 6th day of August, 2007.

ATTEST:

by Mary Nash
MARY NASH, Deputy City Clerk

by
PAUL J. PICCOLETTI

LESSOR: CITY OF STUART

Mary L. Hutchinson, Mayor

ATTEST:

by
Assistant Secretary
Marijan Smith

LESSEE: 7-ELEVEN, INC.

by
~~Vice President /~~ Attorney-in-Fact
DAVID HOLLAND

EXHIBIT A

LEGAL DESCRIPTION

THE SOUTH 260 FEET OF THE WEST 310.5 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 38 SOUTH, RANGE 41 EAST, LESS ROAD RIGHT-OF-WAYS.

Being more particularly described as follows:

Beginning at a Point on a Curve on the East Right-of-Way of State Road No. 76, (100 foot Right-of-Way) and the North Right-of-Way of Monterey Road (80 foot Right-of-Way); thence South 89°11'49" East, along the North line of Monterey Road, a distance of 251.80 feet, to a point; thence North 00°19'16" East, a distance of 220.00 feet, to the South line of Seville Street (50 foot Right-of-Way); thence North 89°11'49" West, along said Right-of-Way, a distance of 268.95 feet, to a Point on a Curve and the East Right-of-Way of State Road No. 76, said Curve being concaved to the West, having a Radius of 9772.09 feet, a Central Angle of 01°17'40"; thence in a clockwise direction along the Arc of said Curve, a distance of 220.81 feet, to the Point and Place of Beginning.

Exhibit B

PREPARED BY:
STEPHEN NAVARRETTA, ESQ.
WARNER, FOX & SEELE
ATTORNEYS, P.A.
514 S.E. Port St. Lucie Blvd.
Suite 514-A
Port St. Lucie, FL 33452

LEASE AGREEMENT

1.0 PARTIES. This LEASE AGREEMENT is between the City of Stuart, Florida, a municipality, herein referred to as LESSOR, and THE SOUTHLAND CORPORATION, a Texas corporation, herein referred to as "LESSEE".

2.0 PREMISES. Lessor hereby leases to Lessee and Lessee leases from Lessor, for the term and upon the terms and conditions hereinafter set forth, all that certain tract of land described in Exhibit A, which has been initialed by the parties and is attached hereto and made a part hereof, together with all rights and appurtenances thereto belonging or in any wise incident or appertaining thereto, hereinafter referred to as the "premises" or "leased premises".

3.0 CONSTRUCTION. Lessee agrees at its expense promptly to make application for all permits necessary for the construction on the leased premises of a building, signs, parking lot, and driveway entrances strictly in accordance with the uses specified in Section 6.0 of this lease. Lessor agrees to cooperate with Lessee in obtaining said permits, and in the event Lessee is unable prior to six (6) months from the date hereof to obtain any of the necessary permits, Lessee shall have the right to declare this lease cancelled and terminated, in which event, Lessor and Lessee shall be released and relieved of any further obligation hereunder. All improvements to the property other than trade fixtures and equipment shall become the property of Lessor upon termination or cancellation of this lease. Upon cancellation and termination of the lease pursuant to this provision or any other provision of this lease any underground motor fuel storage tanks (herein tanks) installed by Leasee shall become the property of Lessor provided, however, that Lessor may at its sole option require Lessee at Lessee's sole expense to remove any such tanks and at Lessee's sole expense restore, fill and grade the land to Lessor's reasonable satisfaction and upon completion of the removal of the tanks and restoration of the land Lessor shall abandon and release Lessor's interest in the tanks. Nothwithstanding any language herein to the contrary, it is the affirmative obligation of Lessee to apply for and obtain all licenses, permits and other authorizations set forth in this Article, and Lessee warrants that it will use all reasonable efforts to obtain said licenses, permits and authorizations within six (6) months after the execution of this lease. If there is an unreasonable delay in Lessee obtaining said licenses, permits and authorizations, which in no event shall be more than one (1) year after the commencement of the initial term of this lease, either party may terminate this Lease Agreement without further obligation or liability to the other. In connection with any construction undertaken by Lessee, Lessee shall be required, prior to the commencement of such construction, to obtain from the contractor a payment and performance bond with a surety insurer authorized to do business in Florida as a surety, and to provide to Lessor proof that such a bond satisfying the terms of this Article has been obtained. Such bond shall be conditioned that the contractor perform the contract in the time and manner prescribed in the contract and promptly make payments to all persons defined in Florida Statute §713.01 whose claims derive directly or indirectly from the prosecution of the work provided for in the contract.

4.0 TERM. The term of this lease shall commence on the first day of the first calendar month following Lessee's obtaining the necessary permits licenses and authorizations as contemplated by Article 3.0, above, and shall continue for a period of ten (10) years thereafter, unless sooner terminated or extended as hereinafter provided. Lessee shall have and is hereby granted a total of two (2) successive options to extend the term of this lease for any period of time not exceeding five (5) years for each such option upon the same covenants

and conditions as herein provided. If Lessee shall elect to exercise one or more of such options, it shall do so by giving Lessor written notice at least 90 days prior to the expiration of the primary term or of the then current extension and in such notice Lessee shall state the date to which it elects to extend the term. See Schedule X attached hereto and made a part hereof.

5.0 RENT. The payment of rent shall commence on the first day of the first calendar month following: (a) the date that Lessee or its assigns shall first be open for business to the public as a convenience store, or (b) six (6) months after the commencement of the lease term as set forth in Article 4.0, whichever event occurs first. Lessee agrees to pay Lessor or its designee a rental in accordance with the provisions of the Rent Rider attached hereto as Exhibit B. If rental is set forth in an annual amount, such annual rental shall be divided by 12 and paid monthly in advance on or before the fifth day of each month (unless such rental shall be abated or diminished as provided hereinafter). Monthly rental payments may be paid by check and sent to Lessor by ordinary first class mail. At the time of paying such rent, Lessee shall also pay Lessor the privilege tax levied under Section 212.031, Florida Statutes, in the amount that may be required by that law from time to time, the current amount being 5% of the total rent charged for the premises and such other taxes that may hereinafter be imposed upon any interest created by this lease.

6.0 USE. The premises may be used for the retail sale of merchandise customarily sold at grocery stores of the type commonly called supermarkets, including but not limited to groceries, produce, meat, dairy products, beer, wine and alcoholic beverages, gasoline and petroleum products and sundries and for any other lawful purpose. Lessee agrees promptly to apply for an "offsale" beer and wine license for the premises. If Lessee finds that such a license is not obtainable, Lessee may terminate this lease at any time within forty (40) days after the date of execution of this lease, but if Lessee fails to terminate this lease within such period, thereafter Lessee shall not have any right to terminate this lease because such a license is not obtained. If Lessee terminates this lease under this provision, Lessee agrees to reimburse Lessor for all reasonable expenses incurred by Lessor.

Subject to the provisions of this lease, including without limitation Article 3.0, captioned "CONSTRUCTION" and Article 12.0, captioned "ALTERATIONS", Lessee shall have the rights, at Lessee's expense: to enter the premises, at any time after the date of this lease for the purposes of making investigations and surveys; to clear from the property any and all structures, personal property and debris; to construct and install on the premises a convenience grocery store and any additional improvements and equipment that Lessee may desire; and to make any alterations that Lessee may desire in the premises and the building, improvements and equipment at any time located thereon.

Further use restrictions in regard to Lessee's premises or its sublessees and assigns are set forth in Exhibit C attached hereto.

7.0 UTILITIES. Lessee agrees to pay before delinquency all charges for gas, electricity, and water used by it, including all service charges, monthly service fees, impact fees and connection fees for trash service, wastewater service, sewer service and water.

8.0 TAXES. Lessee agrees to pay all taxes levied upon personal property, including trade fixtures and inventory, kept on the leased premises, as well as all taxes levied against the

land and the building and improvements situated thereon during the term of this lease, after presentation to Lessee by Lessor of statement(s) from the taxing authority(ies).

Lessor agrees that Lessee will not be liable for and Lessor will forfeit all rights to recover said real estate taxes if presentation of statement(s) is not made to Lessee prior to the date of delinquency. Lessor may, however, direct the taxing authority(ies) to send the statement(s) directly to Lessee. Lessor further agrees that Lessee, in the name of Lessor but at Lessee's sole expense, may protest any assessment before any taxing authority or board or maintain any necessary legal action in reference to said assessment or for the recovery of any taxes paid thereon.

9.0 LESSEE TO INSURE OWN PROPERTY. Lessee, at Lessee's expense, shall take out and maintain fire, extended coverage and vandalism insurance covering its personal property, the buildings, and all improvements installed on the premises by Lessee in an amount equal to the full insurable value thereof, or provide adequate proof of self-insurance.

9.1 LIABILITY INSURANCE. Lessee shall procure, keep in force, and pay for comprehensive public liability insurance indemnifying Lessor and Lessee against all claims and demands for injury to or death of persons or damage to property which may be claimed to have occurred upon the premises in amounts which shall be (at the time Lessee and/or its contractors enter the premises in accordance with Article 6.0 of this Lease) not less than $1,000,000.00 combined single limit for property damage and death to one or more persons. Such policy shall insure Lessee and Lessor against any liability that may accrue against them or either of them, on account of any occurrence on or to the premises on and following the date Lessee and/or its contractors enter the premises pursuant to Article 6.0 hereof and during the term thereof, resulting in personal injury, death, property damage, or any other liability whatsoever; and said policies shall include indemnity against loss, expense and damage of any and every kind, including costs of investigation and attorney's fees, and other costs of defense.

Certificate of ins. (including underground) City as additional insured Storage tanks

Such insurance shall be effected with financially responsible insurers authorized to do business in the State of Florida under valid and enforceable policies, and such policies shall name Lessor and Lessee as the insured, as their respective interests appear. Such insurance shall provide that it shall not be canceled without at least ten (10) days prior written notice to each insured named therein. Upon receipt of written request from Lessor Lessee shall provide certificates of such policies setting forth in full the provisions thereof and issued by such insurers together with the provisions thereof and evidence satisfactory to Lessor of the payment of all premiums for such policies, shall be delivered by Lessee to Lessor and certificates as aforesaid of such policies shall upon request of Lessor be delivered by Lessee to the holder of any mortgage affecting the premises. Lessor may require an increase in the limits of coverage or extent of coverage at any time such increase is deemed commercially reasonable by Lessor and Lessee. In the event of Lessee's failure provide such insurance, Lessor may but shall not be required to obtain, such insurance and collect the cost thereof as a part of the rent herein reserved.

10.0 INDEMNIFICATION. In consideration of the premises being leased to Lessee, Lessee agrees that Lessee at all times will indemnify and hold harmless Lessor from all loss, damage, liability and expense that may arise or be claimed against Lessor and be in favor of any person, firm, or corporation, for any injuries or damage to the person or property of any person, firm, or corporation, related to or arising from the use or occupancy of the premises by Lessee or related to or arising from any acts, omissions, neglect, or fault of Lessee,

his agents, servants, employees, licensees, customers, or invitees; or related to or arising from Lessee's failure to comply with any law, statute, ordinance or regulation. Further, Lessee agrees that Lessor shall not be liable to Lessee for any damages, losses or injuries to the person or property of Lessee which may be caused by the acts, neglect, omissions, or faults of any person, firm, or corporation (except for Lessor's negligence), and that Lessee will indemnify and keep harmless Lessor from all damage, liability, loss, injury, or expense which may arise or be claimed against Lessor and be in favor of any person, firm, or corporation, or any injuries or damage to the person or property of any person, firm, or corporation, where such injuries or damage arose about or upon the premises.

11.0 MAINTENANCE. Lessee agrees to keep up the improvements at any time located on the premises in good repair, casualty damage and reasonable wear and tear excepted.

12.0 ALTERATIONS. Lessee may make such alterations, but not additions, from time to time in the improvements at any time located on the leased premises as Lessee may desire, which alterations will be made by Lessee in a good, workmanlike manner without cost to the Lessor. No additions to the leased premises shall be made without the specific prior written approval of Lessor which shall be either granted or denied upon application by Lessee and the submission of specific plans and specifications for said additions. All alterations and additions shall become the property of Lessor.

13.0 TRADE FIXTURES. Lessee may install or cause to be installed such equipment and trade fixtures as are reasonably necessary for the operation of its business. Such equipment and trade fixtures shall remain personal property, and title thereto shall continue in the owner thereof, regardless of the manner in which same may be attached or affixed to the leased premises. In the event such equipment and trade fixtures are subject to a lien or title retention instrument, the holder of any such lien or title retention instrument shall have the right and be able to enforce the same as stated therein.

14.0 CASUALTY DAMAGE. If, in the opinion of Lessee, the leased premises are rendered substantially unfit for the occupancy or use herein contemplated by any casualty or peril insured against in a standard fire and extended coverage insurance policy of the type then commonly purchased by Lessee (such a casualty or peril being hereinafter referred to as an insurablecasualty or peril) and the primary term or the then current extension of the term shall have at least two (2) years to run, Lessee at its option may promptly and diligently restore the leased premises to the condition existing prior to the occurrence of the insurable casualty or peril or may release and turn over to Lessor the insurance proceeds as a result thereof and cancel and terminate this lease. If, in the opinion of Lessee, the leased premises are rendered substantially unfit for the occupancy or use herein contemplated by any casualty or peril other than an insurable casualty or peril, or by any casualty or peril whatever when the primary term or the then current extension of the term shall have less than two (2) years to run, Lessee may either restore the leased premises at its expense as above provided or Lessee may terminate this lease effective as of the date of occurrence of the casualty or peril. If, in the opinion of Lessee, the leased premises are not thereby rendered substantially unfit for the occupancy or use herein contemplated, Lessee shall promptly and diligently restore the leased premises at Lessee's expense to the condition existing prior to the occurrence of the casualty or peril. Since Lessee has agreed to restore the leased premises in the event of casualty damage and since Lessee has numerous other properties as to which it is self-insured, Lessee may be a self-insurer as to the leased premises; provided, that on the written request

of Lessor, Lessee shall procure and maintain fire and extended coverage insurance on the building of the type then commonly purchased by Lessee to at least 80% of its insurable value, naming Lessor as an additional assured and containing a standard mortgage clause, if requested.

15.0 COMPLIANCE WITH LAWS. Lessee will promptly comply with all applicable and valid laws, ordinances and regulations of federal, state, county, municipal or other lawful authority pertaining to the use and occupancy of the leased premises.

16.0 ASSIGNMENT, SUBLETTING, SUBORDINATION AND ATTORNMENT. Any assignment of this lease or any right or interest hereunder, voluntarily or by operation of law, or any subletting of the premises or any part thereof, shall be void and in such event Lessor may, at Lessor's option, terminate this lease. The assignment or sublease shall be valid, however, and Lessor shall have waived such option to terminate if, before the assignment or sublease, Lessor and the person or entity to which the premises or any part thereof is to be assigned or subleased reach agreement in writing that the character, credit and business of such person or entity is acceptable to Lessor under commercially reasonable standards and that the rent payable during the balance of the term under this lease with regard to the premises or that part thereof to be assigned or subleased shall be an amount equal to rents then being charged for usage comparable to the premises in size and location. A consent to any assignment of this lease, voluntarily or by operation of law, or to any subletting of premises shall apply only to the specific instance covered thereby. In any event, any assignment, subordination or attornment, even if consented to in writing by Lessor, shall not relieve Lessee from its primary liability under this lease for the payment of rent or any other duty or obligation of, including without limitation the duties and obligations set forth in Sections 9.0, 9.1 and 10.0, of this lease, Lessee unless specifically agreed to in writing by Lessor. Any assignment or sublease shall be subject to all the terms and conditions of this lease.

17.0 BANKRUPTCY. Should Lessee make an assignment for benefit of creditors, or be adjudicated bankrupt, such action shall constitute a breach of this lease for which Lessor, at its option, may terminate all rights of Lessee or its successors in interest under this lease.

18.0 EMINENT DOMAIN. If a portion of the premises shall be taken, entered upon or possessed for public or quasi-public use preliminary to condemnation proceedings or otherwise, and such taking, etc. shall preclude Lessee's use of the property as set forth in Article 6.0, captioned "Use", or seriously diminish Lessee's level of operations on the premises, Lessee's sole remedy as to Lessor shall be to terminate this lease upon not less than thirty (30) days notice to Lessor, which notice must be given within thirty (30) days after Lessee shall be required to surrender possession of the part of the premises so taken. The termination of this lease as above provided shall not operate to deprive Lessee of the right to make claim against the condemning authority for any damages suffered by Lessee, but Lessee shall have no right to make any claim against Lessor because of such termination.

19.0 EXPENSE OF ENFORCEMENT. Lessee shall pay to Lessor all costs and expenses, including reasonable attorneys' fees and attorneys' fees on appeal, incurred by Lessor in enforcing any of Lessee's promises or agreements contained in this lease, in remedying any breach of any term, covenant or provision hereof, in recovering possession of the premises or any part thereof, in collecting any delinquent rent, taxes or other charges payable by the Lessee as herein provided, in

terminating this lease for a breach thereof, or in connection with any litigation, other than condemnation proceedings, commenced by or against Lessee to which Lessor shall become a party.

21.0 DEFAULT. In the event Lessee shall default in the payment of the monthly rent as provided herein, Lessor shall promptly so notify Lessee in writing, and failure of Lessee to cure such default within twenty (20) days after receipt of such notice shall, at the option of the Lessor, work as a forfeiture of this lease, or Lessor may enforce performance in any manner provided by law, and Lessor's agent or attorney shall have the right without further notice or demand to re-enter and remove all persons from Lessor's property without being deemed guilty of any manner of trespass and without prejudice to any remedies for arrears of rent or breach of covenant, or Lessor's agent or attorney may resume possession of the property and relet the same for the remainder of the term at the best rental such agent or attorney can obtain for the account of Lessee, who shall pay any deficiency, and Lessor shall have a lien as security for such rental upon the fixtures and equipment belonging to Lessee which are on the leased premises. In the event Lessee shall default in the performance of any of the terms or provisions of this lease other than the payment of monthly rent, Lessor shall promptly so notify Lessee in writing. If Lessee shall fail to cure such default within twenty (20) days after receipt of such notice, or if the default is of such character as to require more than twenty (20) days to cure and Lessee shall fail to commence to do so within the twenty (20) days after receipt of such notice, and thereafter fail to diligently proceed to cure such default, then in either such event Lessor may either (a) cure such default and such expenses shall be added to the rent otherwise due; or (b) seek injunctive relief to enforce the terms and provisions of this lease with all damages, attorneys' fees and costs to be paid by Lesee; or (c) terminate this lease.

In the event Lessor shall default in the performance of any of the terms or provisions of this lease, Lessee shall promptly so notify Lessor in writing. If Lessor shall fail to cure such default within twenty (20) days after receipt of such notice, or if the default is of such character as to require more than twenty (20) days to cure and Lessor shall fail to commence to do so within twenty (20) days after receipt of such notice and thereafter diligently proceed to cure such default, then in either such event Lessee may cure such default and such expense shall be deducted from the rent otherwise due or cancel and terminate this lease.

22.0 RIGHT OF FIRST REFUSAL. If during the term of this Lease, or any extension thereof, Lessor shall receive a bona fide offer to purchase the leased premises which offer is acceptable to Lessor, Lessor agrees that Lessee shall have and is hereby granted an option to purchase the leased premises upon the same terms and provisions. Lessor agrees immediately after receipt of such offer to give Lessee notice in writing of the terms and provisions thereof, and that Lessee may exercise its option to purchase said property at any time within twenty (20) days after such notice is received by Lessee. If Lessee shall elect to exercise such option it shall do so by giving notice in writing to Lessor within such twenty (20) day period and a contract of sale shall be executed by the parties and title closed within a reasonable time thereafter. It is expressly provided and agreed between the parties hereto, however, that Lessee shall not have the foregoing option to purchase if the offer to purchase or any proposed sale of the leased premises is in connection with or in furtherance of a public purpose, the determination of which shall be made by Lessor in Lessor's sole discretion, or contemplates a conveyance of the leased premises to any federal, state, county or municipal governmental authority or subdivision of government or agency thereof.

23.0 LESSOR'S COVENANTS. Lessor covenants that it has good and marketable title to the leased premises in fee simple absolute and that the same is subject to no leases, tenancies, agreements, encumbrances, liens, restrictions and defects in title affecting the leased premises or the rights granted Lessee in this lease; that there are no restrictive covenants, zoning or other ordinances or regulations applicable to the leased premises which will prevent Lessee from conducting its usual business; and that in the event the leased premises are in an area where the sale of beer for off-premises consumption is permitted by law, there are no restrictive covenants applicable to the leased premises which will prevent Lessee from selling beer for off-premises consumption.

24.0 QUIET ENJOYMENT. Lessee, upon paying the rent and performing the covenants and agreements of this lease, shall quietly have, hold and enjoy the leased premises and all rights granted Lessee in this lease during the term thereof and extensions thereto, if any.

25.0 LEASEHOLD TITLE POLICY. If the permits contemplated in Article 3.0 hereof are obtained, Lessor agrees to furnish Lessee at Lessor's expense, a leasehold title policy issued by a title company acceptable to Lessee.

26.0 LIENS. Lessee shall at all times have the right to encumber, by mortgage or deed of trust, or other proper instrument in the nature thereof, as security for any actual bona fide debt, its leasehold estate hereby created, or any portion thereof, together with its leasehold right and interest in and to all buildings and improvements and its interest in any equipment located on the leased premises.*

Lessee shall keep the premises free and clear of any liens arising out of work performed or caused to be performed by Lessee and shall indemnify, hold harmless and defend Lessor from any liens and encumbrances arising out of any work performed or materials furnished to or at the direction of Lessee. If any lien is filed, Lessee shall do all acts necessary to discharge such lien within thirty (30) days of receipt of notice of its filing, or if Lessee desires to contest any lien, then Lessee shall deposit with Lessor security, in cash or U. S. Government securities, equal to 200% of the amount of the lien claimed to insure payment of the claim, interest, attorneys' fees and costs. If Lessee shall fail to pay any lien claim when due or shall fail to deposit the security with Lessor, then Lessor shall have the right to expend all sums necessary to discharge the lien claim and Lessee shall pay as additional rent when the next rental payment is due all sums expended by Lessor in discharging any lien, including attorneys' fees and costs.

Such mortgagee or trustee may, at its option, at any time before the rights of the Lessee shall have been forfeited to the Lessor as herein provided, pay any of the rents due hereunder or do any other act or thing required of or permitted to the Lessee by the terms of this lease, to prevent the forfeiture or termination of this lease, and all payments so made and all things so done and performed by or for any such mortgagee or trustee shall be as effective to prevent a forfeiture of the rights of the Lessee hereunder as the same would have been if done and performed by Lessee.

**No such mortgagee or trustee of the rights and interest of the Lessee hereunder shall be or become liable to the Lessor as an assignee of this lease or otherwise unless it expressly assumes the liability of the Lessee and no assumption shall be inferred from or shall be the result of foreclosure or other appropriate proceedings in the nature thereof or shall be the result of any other action or remedy provided for by such mortgage or deed of trust.

27.0 NOTICE REGARDING LIENS. Anything to the contrary contained in this lease notwithstanding, with regard to any labor, services or materials furnished for the improvement of the premises:

(a) All persons are put upon notice of the fact that Lessee does not have the power to subject the interest of Lessor in the premises to any mechanic's or other liens of any kind.

(b) All persons who hereafter, during the term of this lease, furnish work, services or materials to the premises upon the request of Lessee or any person claiming under, by or through Lessee must look only to the interest of Lessee and not to that of Lessor.

(c) Lessee shall use its best efforts to not permit or suffer to be filed or claimed against the interest of Lessor in the premises during the continuance of this lease any claim of lien or liens of any kind by any person claiming under, by, through or against Lessee. Lessee shall indemnify and hold Lessor harmless from any mechanic's or materialmen's lien filed against the leased premises, or the building of which the same forms a part, for work performed for, or materials furnished to Lessee. Lessee shall have the right to contest in good faith the validity or amount of any such lien.

28.0 NOTICES. Any notices required or permitted hereunder shall be in writing and delivered either in person to the other party or the other party's authorized agent, or by United States Certified Mail, Return Receipt Requested, postage fully prepaid, to the addresses set forth hereinafter, or to such other address as either party may designate by 10 days prior notice, in writing and deliver as herein provided. Unless otherwise provided in this lease, all such notices that are mailed in accordance with this Article shall be deemed to have been given or served as of the date of such mailing.

LESSOR: City of Stuart
P. O. Drawer 599
Stuart, Florida 33495

LESSEE: The Southland Corporation
Attn: Real Estate Department
2828 North Haskell Avenue
Dallas, Texas 75204

29.0 RECORDATION. Memorandum of Lease attached hereto as Exhibit D shall be executed by Lessee and Lessor and recorded for public record.

30.0 COVERED BY FLORIDA LAW. This lease shall be governed and interpreted by the laws of the State of Florida then in force. Each number, singular or plural, as used in this lease shall include all numbers and each gender shall be deemed to include all genders.

31.0 TIME OF THE ESSENCE. Time is of the essence of this lease and of each and every portion hereof. All of the terms, covenants and conditions contained in this lease to be performed by Lessee, if Lessee shall consist of more than one person or organization, shall be deemed to be joint and several, and all rights and remedies granted to Lessor by law shall be cumulative and nonexclusive of any other remedy.

32.0 COMPLETE AGREEMENT. This lease contains a complete

expression of the agreement between the parties and there are no promises, representations or inducements except such as are herein provided.

This lease agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns.

1986 EXECUTED by Lessor this 11th day of November,

WITNESS

CITY OF STUART

BY: James A. Christie, Jr.
MAYOR

(Corporate Seal)

ATTEST: Betty H. Kenny
City Clerk

Approved as to form

BY: Thomas E. Warner
Asst. City Attorney

EXECUTED BY LESSEE THIS 25th day of February,
~~1986.~~ 1987

WITNESSES

THE SOUTHLAND CORPORATION

BY: ~~President~~ Corporate Real Estate Manager
Attorney-in-Fact

(Corporate Seal)

ATTEST:

Secretary

STATE OF FLORIDA
COUNTY OF MARTIN

The foregoing instrument was acknowledged before me this 11th day of November, 1986, by James A. Christie, Jr. Mayor and Betty H. Kenny, City Clerk of the City of Stuart on behalf of the City of Stuart.

Notary Public

My Commission Expires: Notary Public, State of Florida
My Commission Expires Dec. 14, 1987.

STATE OF FLORIDA
COUNTY OF MARTIN

The foregoing instrument was acknowledged before me

this 25th day of February, 1987, by Penny Hawkins, ~~President~~ Attorney-in-Fact and Robin Bryant Assistant Secretary of The Southland Corporation on behalf of said corporation.

Robin Bryant
Notary Public

My Commission Expires:

ADDENDUM TO LEASE BETWEEN
SOUTHLAND CORPORATION AND CITY OF STUART

In addition to the terms set forth in Paragraph 3.0 of this lease, the parties agree to the following terms which are incorporated in Paragraph 3.0 of this lease as if fully set forth therein:

Upon cancellation and termination of this lease pursuant to this provision or any other provision of this lease, any underground motor fuel storage tanks and related lines, pumps, dispensers and motor fuel islands (herein the "Motor Fuels Equipment") installed by Lessee shall, upon election of the city at its sole discretion, become the property of Lessor, provided however, upon cancellation and termination of this lease and election by the city to assert ownership of the Motor Fuels Equipment, Lessor hereby acknowledges that:

(i) inflammable gases and/or toxic materials may be present in the Motor Fuels Equipment; and

(ii) Lessee MAKES NO WARRANTY OR REPRESENTATION of any kind or nature whatsoever as to the condition of the Motor Fuels Equipment INCLUDING BUT NOT LIMITED TO THE WARRANTIES OR MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE and Lessor thereby accepts the Motor Fuels Equipment in an AS IS, WHERE IS, condition, WITH ALL FAULTS. Lessor covenants and warrants that it will not utilize the Motor Fuels Equipment except in the manner for which it was designed and intended. Lessor assumes the sole responsibility for the condition, operation and repair of the Motor Fuels Equipment and will protect, defend, hold harmless and indemnify Lessee, its directors, officers, shareholders, agents and employees from and against any and all expenses, claims, actions, liabilities, attorney's fees, damages, losses, penalties, fines and interest of any kind whatsoever (including without limiting the foregoing, death of or injury to persons and damage to property), actually or allegedly and directly or indirectly resulting from or connected with the Motor Fuels Equipment or from the omission or commission of any such related or connected act, lawful or unlawful, by Lessor or its agents or employees, whether or not such act is within the scope of the employment of such agents or employees, or from leaks, seepage, spills or other loss of motor fuels or other toxic pollutants from the Motor Fuels Equipment.

Attached to and forming part of the Lease Agreement dated _____, 1987, by and between the City of Stuart, Florida and The Southland Corporation, covering certain premises situated in Stuart, Florida.

Initialled for Identification
for The Southland Corporation

BY: _____

Initialled for Identification
for the City of Stuart, FL

BY: _____

SCHEDULE X

CONDITIONS PRECEDENT. Lessor hereby acknowledges that Lessee is leasing the premises for the purpose of erecting and operating thereon a retail convenience store including self-service motor fuel installation with the location of the improvements, including but not limited to buildings, signs, landscaping, parking, paving, curb breaks, motor fuel dispensing and underground facilities to be strictly in accordance with the uses specified in Section 6.0 of this lease (herein the 'IMPROVEMENTS'). Therefore, this lease is subject to the satisfaction or waiver of the conditions precedent and covenants set forth below, the nonsatisfaction or non-waiver of any of which shall allow Lessee to terminate this lease no later than six (6) months from the date of execution and delivery of this lease:

(a) The premises being so zoned as to permit the construction and operation of the business specified above, said zoning to be applied for and obtained by and at the expense of Lessor.

(b) The approval of all public or governmental authorities of all matters relating to requisite subdivision, lot splits, special use permits development approvals, building permits or similar requirements, and the issuance to Lessee of the related permits, licenses, and approvals, satisfactory to Lessee.

(c) The City of Stuart shall make available water and sewer service through a twelve (12") inch water line and a six inch (6") sewer force main which are located across Monterey Road from the premises. Lessee must pay all costs of bringing the service to the premises and connection to said water or sewer lines and must pay all appropriate water and sewer availability or connection fees. If the City of Stuart fails to provide the service set forth in this paragraph prior to the commencement of the fixed term of this lease, then Lessee, at its sole option, may cancel this lease without penalty.

(d) There being no covenant, restriction, or ordinance which would prohibit the use of the leased premises for the sale of:

i. alcoholic beverages, groceries or ready-to-eat food for consumption off the premises;

ii. retail auto parts and accessories.

iii. motor fuels and automotive lubricants.

(e) There being no easement or restriction which would adversely affect Lessee's intended construction or use of the leased premises.

(f) A sign permit in accordance with city and county ordinances for the installation of building, pole, and pricing signs for motor fuels of the type customarily installed by Lessee having been issued by the appropriate authorities, said permit to be applied for and obtained by and at the expense of Lessee.

(g) The appropriate alcoholic beverage licensing authority having issued an off-premises beer and wine sales permit or, if such permit cannot be issued prior to forty (40) days after the date of execution and delivery of this lease, Lessee having satisfied itself that such permit will be available.

(h) The approval of the Stuart City Commission of the plans and specifications of the IMPROVEMENTS as proposed to the City of Stuart by Lessee as may modified, amended and

conditioned during the approval process by thecity of Stuart and the location of the IMPROVEMENTS, as shown on the plans and specifications proposed (submitted) to and approved by the city of Stuart, having been obtained and a building permit having been issued for the construction of the IMPROVEMENTS, said approval and permit to be applied for and obtained by and at the expense of Lessee.

(i) The survey reflecting conditions which will permit Lessee to construct the IMPROVEMENTS in a manner and at a cost acceptable to Lessee. If the survey shows any variation from the description set forth on the plans and specifications submitted to and approved by the City of Stuart and Lessee then Lessee shall have the option (1) to terminate this lease without further liability, or (2) to accept the description as disclosed by the survey.

(j) Test borings, percolation and other soil and ground water tests (including but not limited to, testing for hydrocarbons, hazardous wastes, toxic pollutants and other contaminants) being obtained by and at the expense of Lessee showing underground conditions satisfactory to Lessee.

(k) The obtaining of any ingress/egress and access rights contemplated on the plans and specifications (submitted) proposed to and approved by the City of Stuart and Lessee.

Lessor hereby covenants and agrees to use due diligence and good faith in procuring all necessary approvals for which Lessor is responsible and to execute such documents, make such appearances, and do such other things as may be reasonable necessary to satisfy the aforementioned conditions.

Notwithstanding anything to the contrary in this Agreement, if Lessee intends to use the subject property for a self-service motor fuel operation, then Schedule X, Items (a) through (k) will apply. However, if a self-service motor fuel operation is not to be used, all items in Schedule X not specifically related to gas pumps will still be and remain a contingency factor. In any event Schedule X shall have no relation to and shall not be applied or considered in connection with any matters arising from proposed changes, additions modifications, alterations and reconfigurations in the plans and specifications that are approved by Lessor within the first six months after execution and delivery of this lease.

Attached to and forming part of Lease Agreement dated November 11, 1986, 1986 by and between the City of Stuart, Florida, and The Southland Corporation, covering certain premises situated at Stuart, Florida.

Initialed for identification for the Southland Corporation

BY: _____

Initialed for identification for the City of Stuart

BY: _____

EXHIBIT A

LEGAL DESCRIPTION

THE SOUTH 260 FEET OF THE WEST 310.5 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 38 SOUTH, RANGE 41 EAST, LESS ROAD RIGHT-OF-WAYS.

Being more particularly described as follows:

Beginning at a Point on a Curve on the East Right-of-Way of State Road No. 76 (100 foot Right-of-Way) and the North Right-of-Way of Monterey Road (80 foot Right-of-Way); thence South 89°11'49" East, along the North line of Monterey Road, a distance of 251.80 feet, to a point; thence North 00°19'16" East, a distance of 220.00 feet, to the South line of Seville Street (50 foot Right-of-Way); thence North 89°11'49" West, along said Right-of-Way, a distance of 268.95 feet, to a Point on a Curve and the East Right-of-Way of State Road No. 76, said Curve being concaved to the West, having a Radius of 9772.09 feet, a Central Angle of 01°17'40"; thence in a clockwise direction along the Arc of said Curve, a distance of 220.81 feet, to the Point and Place of Beginning.

Attached to and forming part of Lease Agreement dated May 11, 1986, by and between the City of Stuart, Florida, and The Southland Corporation, covering certain premises situated at Stuart, Florida.

Intialed for identification for the Southland Corporation

BY: _____

Initialed for identification for the City of Stuart

BY: _____

EXHIBIT B
RENT RIDER

A. 'Lease Year' Defined: For purposes of this Rent Rider, the first 'lease year' shall mean the day of the first calendar month following: (i) the date that Lessee or its assigns shall first be open for business to the public as a convenience store, or (ii) six months after the commencement of the lease term as set forth in Article 4.0, whichever event occurs first, and ending on the date 12 months thereafter; and succeeding lease years during the term of the lease and any renewal thereof shall commence and end on the dates corresponding to those on which the first lease year begins and ends.

B. Rent Payable During Initial Ten Year Term:

Commencing on the first day of the first lease year, the annual rent shall be $50,000.00 payable in 12 equal monthly installments of $4,166.07 each.

2. Commencing on the first day of the second lease year, and in lieu of the rent provided for in the immediately preceding subparagrah 1, the annual rent shall be $51,000.00 payable in twelve equal monthly installments of $4,250.00 each.

3. Commencing on the first day of the third lease year, and in lieu of rent provided for in the immediately preceding subparagraph 2, the annual rent shall be $52,020.00, payable in twelve equal monthly installments of $4,335.00 each.

4. Commencing on the first day of the fourth lease year, and in lieu of the rent provided for in the immediately preceding subparagraph 3, the annual rent shall be $53,060.40, payable in twelve equal monthly installments of $4,421.70 each.

5. Commencing on the first day of the fifth lease year, and in lieu of the rent provided for in the immediately preceding subparagraph 4, the annual rent shall be $54,121.61, payable in twelve equal monthly installments of $4,510.13 each.

6. Commencing on the first day of the sixth lease year, and in lieu of the rent provided for in the immediately preceding subparagraph 5, the annual rent shall be $55,204.04, payable in twelve equal monthly installments of $4,600.34 each.

7. Commencing on the first day of the seventh lease year, and in lieu of the rent provided for in the immediately preceding subparagraph 6, the annual rent shall be $56,308.12, payable in twelve equal monthly installments of $4,692.34 each.

8. Commencing on the first day of the eighth lease year, and in lieu of the rent provided for in the immediately preceding subparagraph 7, the annual rent shall be $57,434.28, payable in twelve equal monthly installments of $4,786.19 each.

9. Commencing on the first day of the ninth lease year, and in lieu of the rent provided for in the immediately preceding subparagraph 8, the annual rent shall be $58,582.97, payable in twelve equal monthly installments of $4,881.91 each.

10. Commencing on the first day of the tenth lease year, and in lieu of the rent provided for in the immediately preceding subparagraph 9, the annual rent shall be $59,754.63, payable in twelve equal monthly installments of $4,979.55 each.

C. Rent Payable During Extension of Term of Lease. If Lessee shall exercise its option to extend the term of the lease in accordance with Article 4.0, captioned "Term", the following shall apply in the eleventh lease year and all lease years subsequent to the eleventh lease year:

Commencing on the first day of the eleventh lease year or any lease year subsequent to the eleventh lease year, the annual rental shall be equal to the sum of the annual rental applicable to the lease year immediately preceding such lease year plus an amount equal to two (2.0%) per cent of the annual rent applicable to the lease year immediately preceding such lease year, payable in twelve (12) equal monthly instalments.

D. Additional Rent. In addition to the regular monthly rent provided for in Paragraphs B and C of this Rent Rider, Lessee agrees to pay Lessor as and for additional rent over and above the sums specified in Paragraphs B and C as follows:

If the Cost of Living Index shall increase by more than five and one-half (5 1/2%) percent during the most recent twelve (12) month period for which such Cost of Living Index has been published on a date 30 days prior to the first day of the next succeeding lease year, then and in such event the applicable monthly rent for the next succeeding lease year shall be increased by a percentage equal to fifty (50%) percent of the excess over five and one-half (5 1/2%) percent of such increase in the Cost of Living Index, such rent increase to be effective as of the first day of the said next succeeding lease year.

For purposes of this Paragraph D, the Cost of Living Index shall refer to the "Consumer Price Index for Urban Wage Earners and Clerical Workers" "(1967 = 100)" specified for "All Items," relating to Miami, Florida, and issued by the Bureau of Labor Statistics of the United States Department of Labor. If such Index shall be discontinued with no successor or comparable successor Index, the parties shall attempt to agree upon a substitute formula, but if the parties are unable to agree upon a substitute formula, then the matter shall be determined by arbitration in accordance with the rules of American Arbitration Association then prevailing.

E. Payment of the monthly installments referred to in this Rent Rider shall be made in advance on or before the fifth day of each month.

F. Tax. At the time of paying rent, Lessee shall also pay Lessor the privilege tax levied under Florida Statutes §212.031, in the amount that may be required by that law from time to time, the current amount being 5% of the total rent charged for the premises and such other taxes that may hereinfter be imposed upon any interest created by this lease.

Attached to and forming part of Lease Agreement dated as of November 11, 1986, covering certain premises situated in Stuart, Florida.

Initialed for identification for the Southland Corporation

BY: _____

Initialed for identification for the City of Stuart.:

BY: _____

EXHIBIT C

NONE

Attached to and forming part of Lease Agreement dated November 11, 1986, by and between the City of Stuart, Florida, and The Southland Corporation, covering certain premises situated at Stuart, Florida.

Intialed for identification
for the Southland Corporation

BY: _____

Initialed for identification
for the City of Stuart

BY: _____

RETURN TO:

WARNER, FOX & SEELEY
ATTORNEYS, P.A.
514 S.E. Port St. Lucie Blvd.
Suite 514-A
Port St. Lucie, Fl. 33452