# C I T Y  O F  F O R T  P I E R C E

## CONFERENCE AGENDA

Conference Agenda Meeting - Monday, June 8, 2015 - 8:30 a.m.
City Hall - Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida

1. **Call to Order**

2. **Pledge of Allegiance**

3. **Roll Call**

4. **New Business**

   A. Presentation of the Intersection Designs for Fort Pierce - Rusty Roberts, All Aboard Florida

   B. Discussion of Section 108 and BEDI Grant Resources - Deputy City Manager

   C. Backus Museum Expansion Cultural Facility Grant Opportunity - Senior Planner

5. **Adjournment**

**City Commission Conference Agenda** **Agenda Item # 4. A.**

**Meeting Date:** 06/08/2015

**Re:** All Aboard Florida Presentation

**Submitted For:** Nick Mimms, Deputy City Manager, City Manager

**SUBJECT:**

Presentation of the Intersection Designs for Fort Pierce - Rusty Roberts, All Aboard Florida

**Attachments**

City Comments

AAF Presentation

**Form Review**

Form Started By: Jennifer Robinson Started On: 05/19/2015 10:06 AM

Final Approval Date: 05/19/2015

# CITY OF FORT PIERCE
# DEPARTMENT OF ENGINEERING

*Roadway Design, Engineering Reviews, Stormwater Utility Management,*
*Project Management, Traffic Control and Maintenance*


## All Aboard Florida 90% Plan Review

### Fisherman's Wharf Crossing

**Drawing No. CL-15**

1. Plans do not indicate any improvement to the existing pre-emption signals. Currently a prohibited right-turn signal is located on the north bound lanes of US 1 and a prohibited left-turn signal is located on the south bound lanes. We are requesting these signals be up-graded to the latest LED technology.
2. It appears that no improvements are proposed at this crossing to make this a sealed corridor. At this crossing, track No. 2's centerline appears to be approximately 9 feet closer to US 1 than the existing track. Due to the close proximity to the parallel US 1, we recommend the incorporation of exit gates at this crossing.

**Drawing No. RD-15**

3. The 2nd Street / Fisherman's Wharf project is now under construction. The project will included the installation of 5' wide sidewalks on both sides of Fisherman's Wharf. Please include pedestrian access on both sides of the crossing to accommodate pedestrian connection to US 1.

**Drawing No. SG-15**

4. Plans indicate the traffic signal mast arm will be removed. Please include a note on the plans that the mast arm, up-right and signal equipment will remain the ownership of the City of Fort Pierce and be delivered to the Public Works compound on Savannah Road, Fort Pierce.
5. Please ensure that the signal heads that will be replaced on the proposed railroad cantilever structure conform to the city's standard for LED signals and that the signals will be mounted vertically on the cantilever structure.
6. Illuminated street signs at this intersection will remain or be replaced.
7. The video detection cameras will need to be mounted to the cantilever structures on both sides of the tracks. One video detection camera is used for east bound traffic on Avenue H and one camera is used for detection of the west bound Fisherman's Wharf traffic.



P.O. BOX 1480 ◊ FORT PIERCE, FL 34954-1480 ◊ 772-467-3774

**Drawing No. SP-15A**

8. Due to the shift of the track closer to US 1, the stop bar for the intersection should be on the east side of the tracks preventing any storage of vehicles between the tracks and US 1.
9. Signs prohibiting right turns on red should be shown along with "Stop Here on Red" and "Do Not Stop on Tracks".

## Seaway Drive Crossing

**Drawing No. CL-16**

1. Plans do not indicate any improvement to the existing pre-emption signals. Currently a prohibited right-turn signal is located on the north bound lanes of US 1 and a prohibited left-turn signal is located on the south bound lanes. We are requesting these signals be up-graded to the latest LED technology.
2. It appears that no improvements are proposed at this crossing to make this a sealed corridor. At this crossing, track No. 2's centerline appears to be approximately 9 feet closer to US 1 than the existing track. Due to the close proximity to the parallel US 1, we recommend the incorporation of exit gates at this crossing.

**Drawing No. RD-16**

3. The proposed median on the east side of the tracks is called out to be pavers. Please change this to match existing which is stamped concrete. Colors should match existing. In addition, the median to be constructed on the west side of the tracks is shown as concrete. Please utilize the stamped concrete treatment on this side to match.
4. Please note that detectable warning pads necessary for ADA compliance are to be "Brick Red" in color within the City.

## Avenue D Crossing

**Drawing No. CL-17**

1. Currently pedestrian connectivity exists on both sides of Avenue D. Please maintain pedestrian crossings on both sides of the street.
2. The proposed signal pad and enclosure located on the northeast corner of the crossing appears to encroach on to private property. Please ensure equipment is within FEC right-of-way.

**Drawing No. RD-17**

3. The minimum width sidewalk to conform to city standards is 5' wide, please reflect on plans.
4. Maintain existing driveway access at the southeast corner of the crossing.

**Drawing No. RD-17A**

5. It appears the elevation of the roadway will be raised significantly, approximately 1' in some areas. Please indicate how drainage and elevation changes will be handled on the south side of Avenue D.

## Avenue A Crossing

**Drawing No. CL-18**

1. Plans indicate existing crossing gates No. 2 and No. 3 will be relocated. Please note on plans that concrete foundations will be removed and area to be replaced with concrete pavers to match existing.
2. Plans should note that existing 6" band curb should remain on both east and west sides of the tracks.

**Drawing No. RD-18**

3. Existing railroad right-of-way is shown on the plans as including Depot Drive between Avenue A and Orange Ave. Depot Drive is a City owned right-of-way within this block with railroad right-of-way being west of Depot Drive.
4. The existing decorative treatment the City currently has at this crossing is stamped asphalt. The City has no objection if this decorative treatment is replaced by concrete pavers. We request a note on the plans that contractor will coordinate with City for color selection of either treatment.
5. It appears that no improvements are proposed at this crossing to make this a sealed corridor. At this crossing, gates are being provided at all quadrants for pedestrian crossings. Due to the close proximity of Depot Drive and the exit from the City's parking garage, we are requesting that exit gates be included in the design to conform to the sealed corridor designation.

## Orange Avenue Crossing

**Drawing No. CL-19**

1. Plans indicate existing crossing gate No. 1 will be relocated. Please note on plans that concrete foundation will be removed and area to be replaced with concrete pavers to match existing.
2. Plans should note that existing 6" band curb should remain on both east and west sides of the tracks

**Drawing No. RD-19**

3. Existing railroad right-of-way is shown on the plans as including Depot Drive between Avenue A and Orange Ave. Depot Drive is a City owned right-of-way within this block with railroad right-of-way being west of Depot Drive.

4. The existing decorative treatment the City currently has at this crossing is stamped asphalt. The City has no objection if this decorative treatment is replaced by concrete pavers. We request a note on the plans that contractor will coordinate with City for color selection of either treatment.
5. It appears that no improvements are proposed at this crossing to make this a sealed corridor. At this crossing, gates are being provided at all quadrants for pedestrian crossings. Due to the close proximity of Depot Drive and the exit from the City's parking garage, we are requesting that exit gates be included in the design to conform to the sealed corridor designation.

## Savannah Road Crossing

### Drawing No. RD-20

1. Please indicate the right-of-way on Savannah Road to ensure proposed widening conforms to existing right-of-way.
2. Please include stamped concrete decorative treatment to proposed medians.

## All Crossings

1. All work within City of Fort Pierce right-of-way will require a Right-of-Way Permit.
2. City reserves the right to provide additional comments as review continues.

# City of Fort Pierce

## CITY COMMISSION WORKSHOP

June 8, 2015

ALL ABOARD FLORIDA

# Agenda

- Rail infrastructure overview
- Review of crossings
- Review of bridges
- Q&A

ALL ABOARD FLORIDA

# [ Rail Infrastructure Overview ]

- Planned Improvements
  - Second track
  - Upgrade of existing track
  - Crossing improvements
  - Bridge improvements

- City of Fort Pierce
  - 6 route miles of track in Fort Pierce
  - 8 grade crossings

ALL ABOARD FLORIDA

# [ Rail Infrastructure Overview ]

- Schedule
  - 90% design plans provided for comment to:
    - Fort Pierce
    - St. Lucie Village
    - FAU Harbor Branch
    - St. Lucie County
    - FDOT District 4
    - FDOT Central Office
  - Final plans expected June 2015
  - Construction anticipated start late Summer

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# Sealed Corridor

- Guideline from Federal Railroad Administration
- Applies to grade crossings where train speeds are 79mph to 110mph
- Recommended features are:
  - Exit gates
  - Traffic separators
  - Grade separation
  - Roadway closure
  - Conversion to one-way street

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# Sealed Corridor

- Fort Pierce
  - 3 Crossings to receive Sealed Corridor Treatment
    - City Causeway/SR A1A
    - Savannah Road
    - Midway Road
  - Proposed features are:
    - Traffic separators or medians
    - Pre-emption

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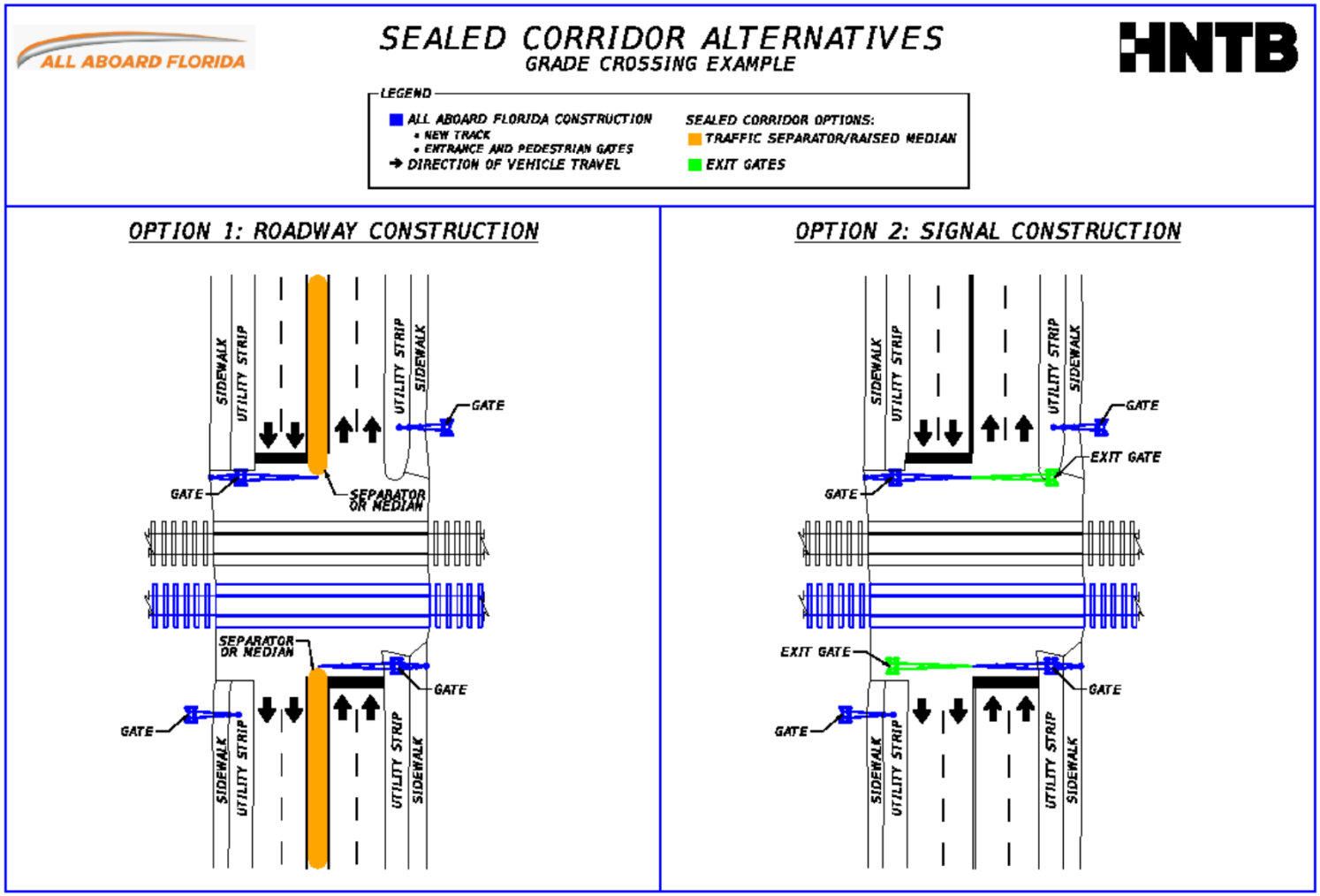
# Sealed Corridor



# Quiet Zone

- Defined by the Train Horn Rule, 49 CFR Part 222
- Only public authorities can apply (not railroads)
- Train does not use horn under normal operations
- Similar features to Sealed Corridor
- AAF features may qualify Fort Pierce as QZ
  - City needs to run Quiet Zone Calculator (free online tool)
  - AAF can provide inputs and assistance

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# Crossing Exhibits

Grade Crossings within Fort Pierce:

- Traffic Separators
  - Savannah Road
  - **Midway Road (EXHIBIT)**
- Existing Medians & Traffic Signal Pre-emption
  - City Causeway/SR A1A
  - **Seaway Drive (EXHIBIT)**
  - Avenue A
  - **Orange Avenue (EXHIBIT)**
- Entrance Gates
  - Fisherman's Wharf
  - Avenue D

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# Crossing Exhibits

- Traffic Separators
  - Savannah Road
  - **Midway Road (EXHIBIT)**

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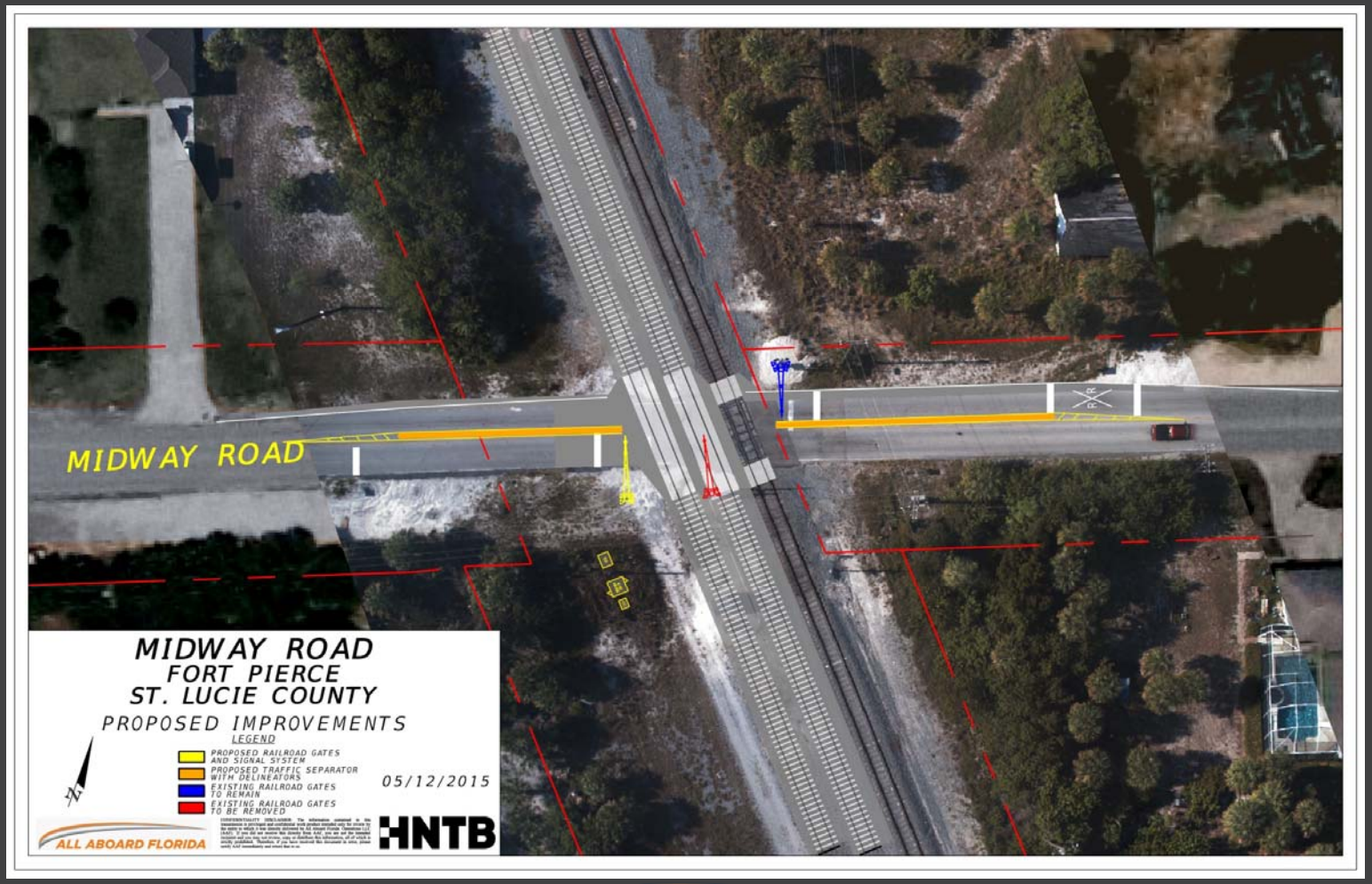
# Crossing Exhibits

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# Crossing Exhibits

- Existing Medians & Traffic Signal Pre-emption
  - City Causeway/SR A1A
  - **Seaway Drive (EXHIBIT)**
  - Avenue A
  - **Orange Avenue (EXHIBIT)**

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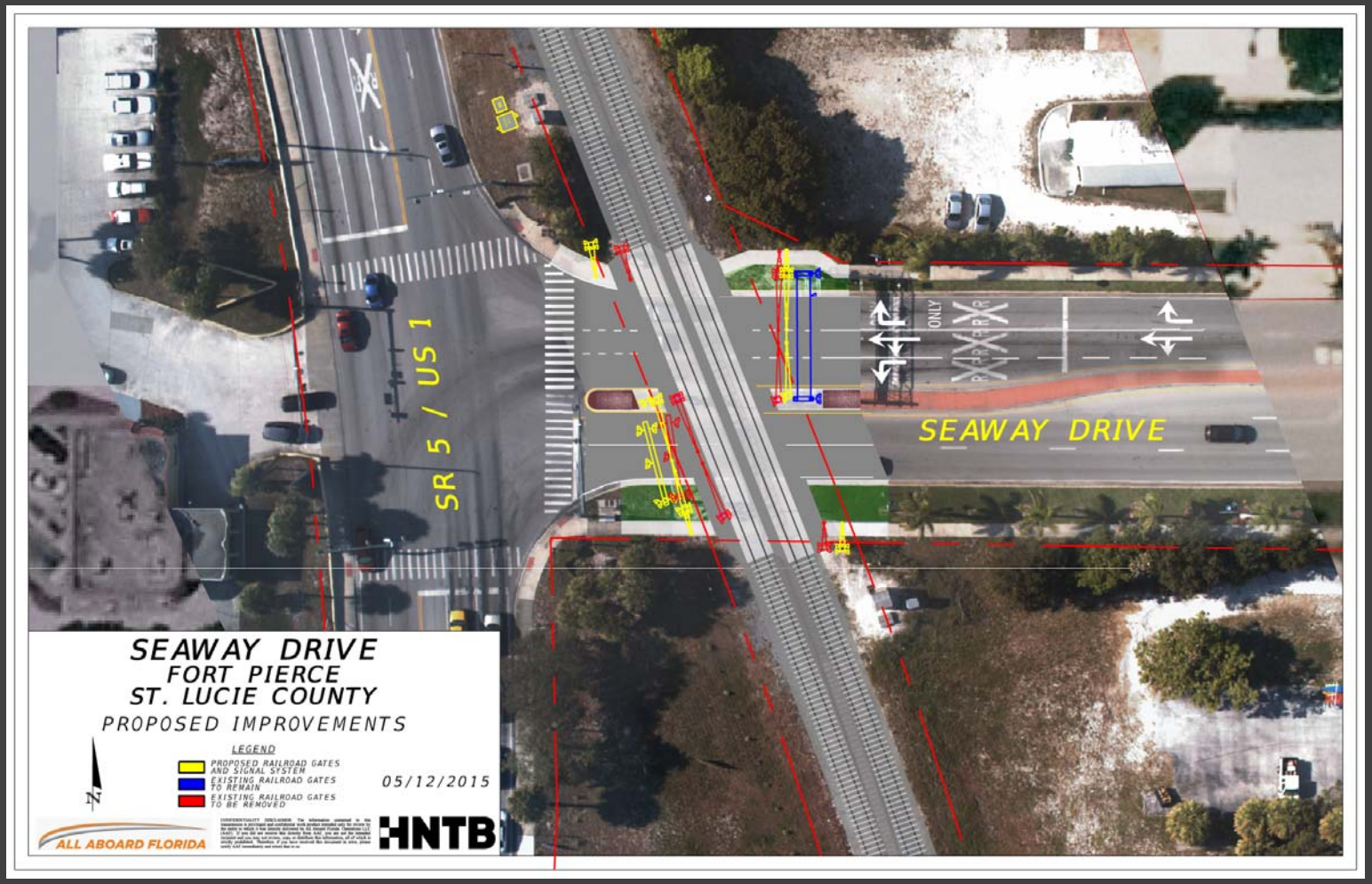
# Crossing Exhibits

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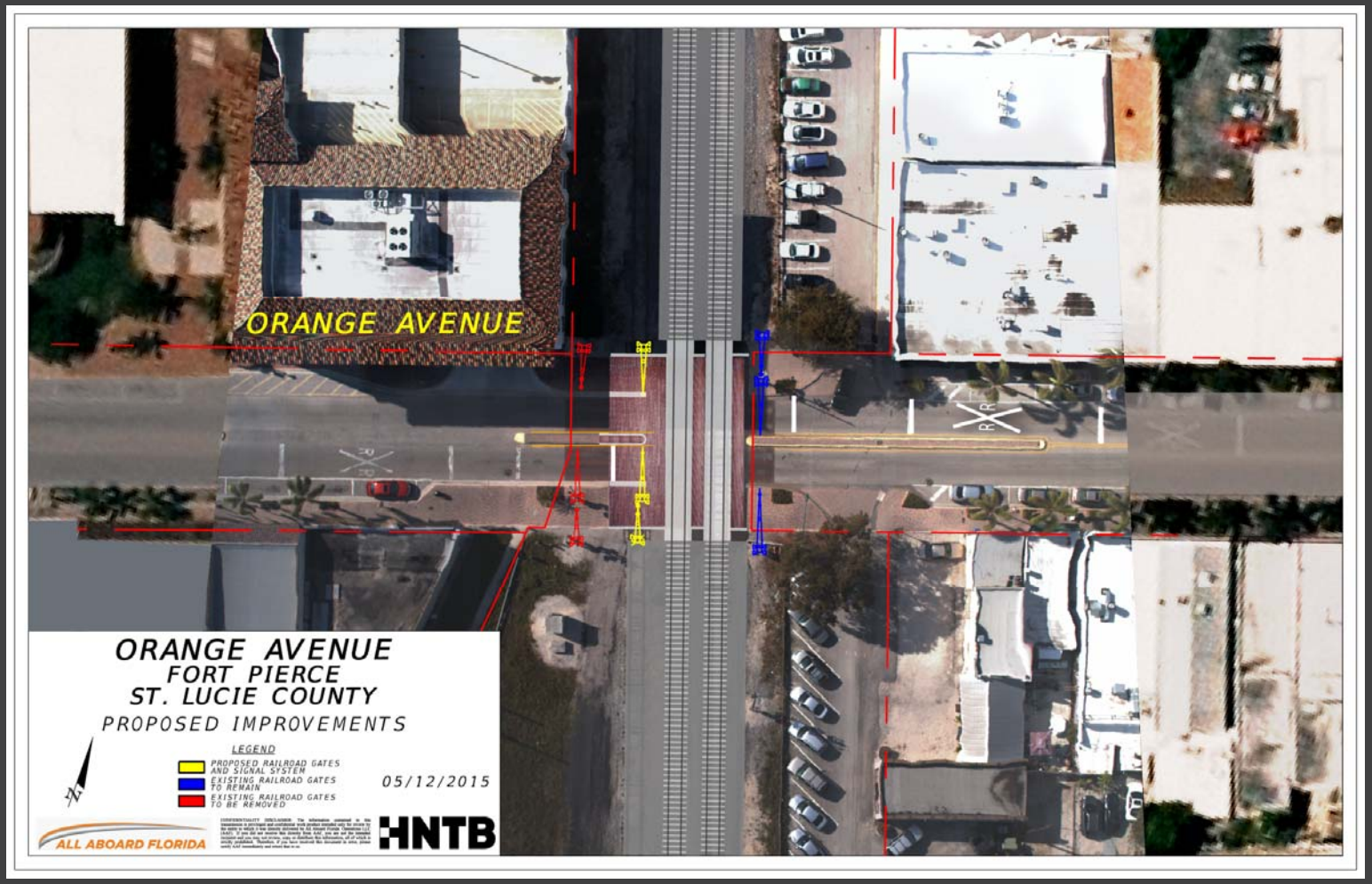
# Crossing Exhibits

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# [ Grade Crossing Simulation ]

THIS IS A VIDEO

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# Bridge Improvements

- Fort Pierce Bridges (3 total)
  - Taylor Creek
  - Avenue C
  - Moores Creek

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# Bridge Improvements

Taylor Creek

- Existing double track bridge
- Upgrade middle spans
- Maintain clearance over creek

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# Bridge Improvements

Avenue C

- Existing single track bridge to remain
- Build adjacent new bridge
- Clearances remain same

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# Bridge Improvements

Moore's Creek

- Existing single track bridge to remain
- Build adjacent new bridge

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[ Q&A ]

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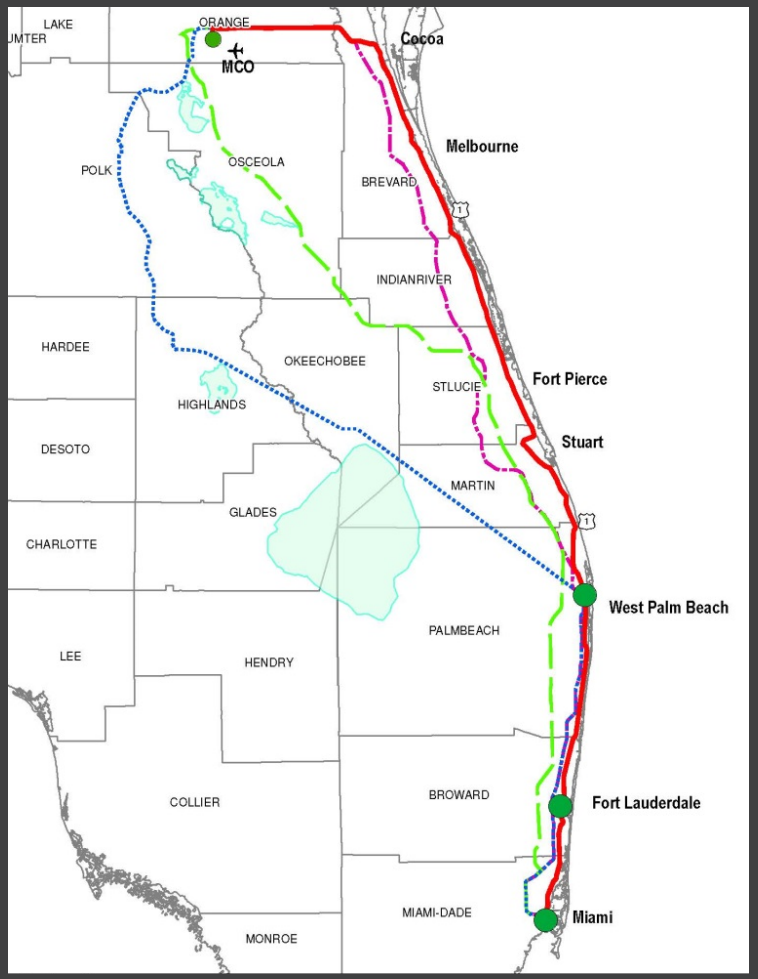
FLORIDA

# [ Alignments in EIS ]




**Explanation of Features**

- FEC Corridor
- CSX Corridor
- Turnpike Corridor
- I-95 Corridor
- County_Boundaries_jun11_0911

Data Sources:
ESRI 2012, FRA 2012, AMEC 2013

ALL ABOARD FLORIDA

**City Commission Conference Agenda** **Agenda Item # 4. B.**

**Meeting Date:** 06/08/2015

**Re:** Section 108 and BEDI Grant Contract

**Submitted For:** Nick Mimms, Deputy City Manager, City Manager

**SUBJECT:**

Discussion of Section 108 and BEDI Grant Resources - Deputy City Manager

**Attachments**

Section 108 & BEDI Grant Contract

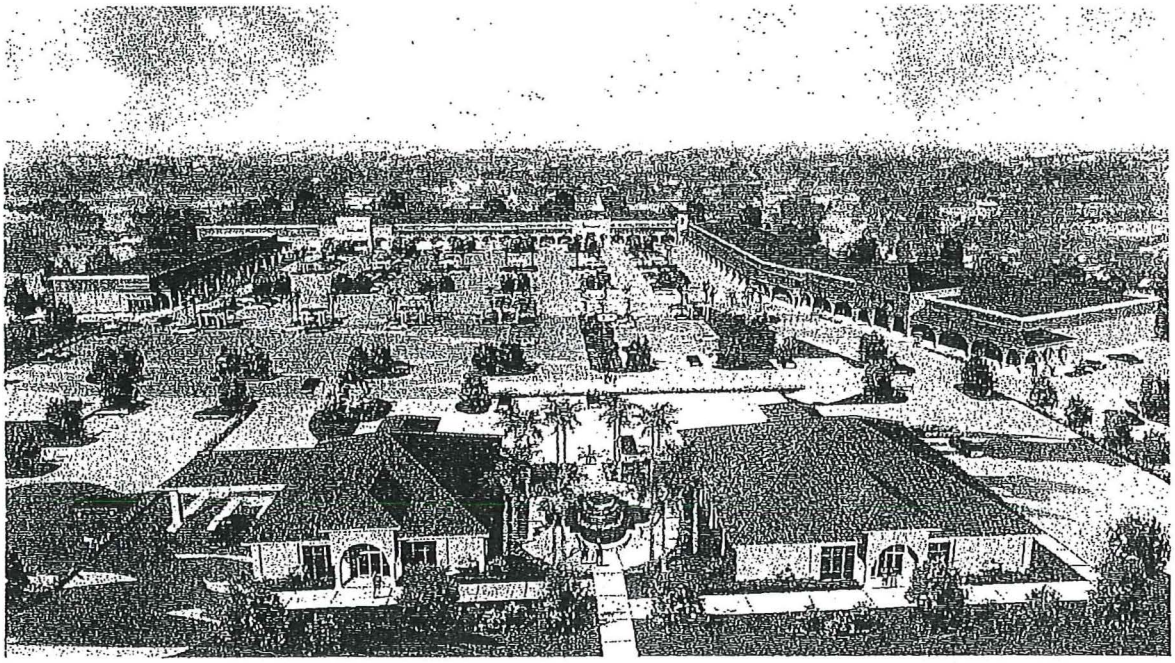
**Form Review**

Form Started By: Jennifer Robinson Started On: 05/28/2015 09:50 AM

Final Approval Date: 05/28/2015

# Coral Square Shoppes

# Redevelopment Project



City of Fort Pierce

Section 108 Loan Guarantee: B-08-MS-12-0031
BEDI Grant: B-07-BD-12-0019

Grant No. B-07-BD-12-0019

**BROWNFIELDS ECONOMIC DEVELOPMENT (BEDI) GRANT AGREEMENT**
**U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Date of Grant Agreement:** _____

This Agreement is made and entered into by and between THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT, acting by and through the Assistant Secretary for Community Planning and Development, ("HUD"), and the **City of Fort Pierce, Florida** (the "Recipient").

1. Background; Purpose. This Agreement is authorized by section 108(q) of the Housing and Community Development Act of 1974, as amended by section 232(a) of the Multifamily Housing Property Disposition Reform Act of 1994, codified at 42 U.S.C. 5308(q) (collectively, "the Act"). Pursuant to the Act, on January 18, 2007 at 72 FR 2396 and on September 24, 2007 at 72 FR 54324, HUD published a Notice of Funding Availability and Program Guidelines for the Brownfields Economic Development Initiative (the "NOFA"), which set forth the terms and conditions under which units of general local government could apply for and receive grants under section 108(q) of the Act ("BEDI Grants") and related section 108 loan guarantees from HUD for Brownfields Economic Development Projects ("BEDI Projects"), as defined in the NOFA. Pursuant to the NOFA, the Recipient has applied for, and HUD has approved, a BEDI Grant for the Recipient. The purpose of this Agreement is to set forth the terms and conditions under which HUD will provide BEDI Grant funds to the Recipient in connection with the Approved BEDI Projects described in the Recipient's Approved Application, as further defined herein. The terms and conditions of the related Section 108 Guarantee (as defined in paragraph 3 hereof) are set forth in the Recipient's separate Section 108 loan guarantee application, Funding Approval, and Contract for Loan Guarantee Assistance.

2. Approved Grant Amount, Projects, and Uses of Funds.

a. By execution of this Agreement on behalf of the Secretary in the space provided below, HUD agrees, subject to the terms of this Agreement, to provide BEDI Grant funds in the amount of $800,000 ("BEDI Grant").

b. This grant is approved for the following Approved BEDI Project described in the Approved Application: Coral Square Shopping Center Redevelopment Project ("Approved Project").

c. The grant funds shall be used by the Recipient in connection with the Approved Project for the following specifically Approved Uses ("Approved Uses"):

(i) for a debt service reserve, and

(ii) to make a loan to the developer, Coral Square Shoppes FLA, LLC [the Obligor under the Contract for Loan Guarantee Assistance Under Section 108] for site remediation.

3. Relationship to Section 108 Loan Guarantee Application. This approved BEDI Grant is conditioned upon the Recipient's receipt of Section 108 guaranteed loan proceeds for the Approved Project in an amount not less than $3,395,000 (the "Section 108 Guarantee").

Section 108 Guarantee proceeds shall be advanced and disbursed to carry out eligible activities pursuant to the Contract for Loan Guarantee Assistance Under Section 108, executed concurrently herewith, in a ratio not less than $4.24 of such proceeds for each $1.00 of BEDI Grant funds disbursed for Approved Uses (the "Ratio").

4. Regulations; Approved Application. This Agreement will be governed and controlled by the following in effect as of the date of notification to the Recipient of award of this grant: the Act, the NOFA, and HUD regulations codified at 24 CFR Part 570 or incorporated therein (provisions for use of CDBG funds, to the extent applicable) (hereafter collectively referred to as the "Regulations"). The Recipient's application submissions, including the certifications and assurances and any documentation required to meet any grant award conditions, and including any amendments made in accordance with this Agreement, are hereby incorporated in this Agreement as finally approved by HUD (herein referred to as the "Approved Application"). Unless the context otherwise requires, a reference to "this Agreement" herein shall be deemed to include the Act, the Regulations, and the Approved Application.

5. Performance Agreement of Recipient; Reporting.

a. By execution of this Agreement on its behalf in the space provided below, the Recipient agrees to carry out the Approved Project on a timely basis and otherwise in compliance with this Agreement (including the Act, the NOFA, the Regulations, and the Approved Application, except as otherwise specifically provided in this Agreement). The Recipient agrees to assure, and to accept responsibility for, such compliance by any other entities to which it makes grant funds available for, or which it otherwise allows to participate in, the Approved Project covered by this Agreement.

b. The Recipient shall comply with the performance reporting requirements set forth in 24 CFR 570, the NOFA, and this

Agreement. With respect to reporting requirements established under the NOFA, Recipients (including Small Cities recipients) of BEDI grants from Fiscal Year 2005 and later agree to submit annual logic model performance reports indicating BEDI program outputs and outcomes achieved against those proposed in the Recipient's approved application. The first completed form HUD-96010, Logic Model, shall be submitted one year from the effective date of this Agreement to the address set forth in paragraph 11.

6. Release, Deposit, and Timing of Expenditure of Grant Funds and Program Income.

a. The Recipient agrees to comply with environmental review procedures under 24 CFR 570.200(a)(4) and 24 CFR Part 58 in order to obtain releases of grant funds under this Agreement. In particular, the Recipient must not commit local or Federal funds for the approved activities prior to obtaining HUD approval of its request for release of funds, except as provided in 24 CFR 58.22(c), 58.34 or 58.35(b).

b. Notwithstanding any other provision of the Regulations or this Agreement, the Recipient may not withdraw grant funds from the U.S. Treasury on account of the BEDI Grant under this Agreement until after execution on behalf of HUD of the Guarantee and Contract for Loan Guarantee Assistance for the applicable Approved Project described in paragraph 2 of this Agreement.

c. This BEDI Grant must be entirely withdrawn and expended for Approved Uses for the applicable Approved Project on or before August 31, 2010.

d. All program income from this BEDI Grant is deemed to be program income of the Approved Project, which is jointly financed by the Section 108 Guarantee. The Recipient agrees that all such program income constitutes security for the repayment of the Section 108 Guarantee, shall be initially deposited in, the Loan Repayment Account established by the Recipient or its designated public agency under paragraph 6 of the Contract(s) for Loan Guarantee Assistance for the Section 108 Guarantee, and shall be disbursed for the purposes and within the time period specified in said paragraph 6 of such Contract. Upon full and complete repayment of the Section 108 Guarantee, all such program income shall be used in accordance with 24 CFR 570.504. CDBG-APPROVED PROJECTS.

7. Pre-Award Costs. Notwithstanding any other provision of this Agreement or the Regulations, "the effective date of the grant agreement" for this BEDI Grant for purposes of 24 CFR 570.200(h) is the date of award of this BEDI Grant by HUD, which was September 24, 2007. "Pre-award costs" may be incurred by the Recipient prior to such date and reimbursed with BEDI Grant funds hereunder, to the extent such costs comply with 24 CFR 570.200(h) and this Agreement. The BEDI Grant funds provided hereunder may be used to pay for costs incurred on or after such date, provided

such costs otherwise comply with this Agreement. However, the timing of use and the availability of the BEDI Grant funds to actually pay for such costs are subject to paragraph 6 of this Agreement.

8. Amendment; Record-Keeping.

a. This Agreement or the Approved Application may be amended only with the prior written approval of HUD. To request approval of an amendment, the Recipient shall attach the proposed revisions to the applicable pages of this Agreement or the Approved Application to a cover letter addressed as required below (see paragraph 11) for notices to HUD and signed by the Recipient's official representative for this grant. In considering proposed amendments to this Agreement or the Approved Application, HUD shall review, among other things, whether the amendment would have affected the ranking of the application in the year it was approved sufficiently to have resulted in the application not ranking high enough for funding, and whether the amendment is otherwise consistent with the Act, the Regulations, and the NOFA. Any increase in the amount of the approved BEDI Grant represents a new grant obligation by HUD and must be documented by a formal amendment to this Agreement, or a new BEDI Grant Agreement, executed on behalf of the parties by officials with the authority to execute the original Agreement.

b. The Recipient shall at all times maintain an up-to-date copy of its Approved Application, including all amendments approved in writing by HUD, and all drawdowns, deposits, and expenditures of grant funds and program income under this Agreement and any other records required by 24 CFR 570.506, in its files and available for audit or inspection by duly authorized representatives of HUD or the Comptroller General of the United States.

9. Default; Remedies. A default under this Agreement shall consist of any use of grant funds other than as authorized by this Agreement, any other noncompliance with this Agreement deemed material by HUD, or any misrepresentation or omission in the application submissions which, if known to HUD, would have resulted in this grant not being provided. If HUD determines that the Recipient is in default, HUD will give the Recipient written notice of this determination and the corrective or remedial actions proposed by HUD to cure the default or mitigate its effects, to the extent possible, and to prevent a continuation or recurrence of the default (the "initial notice of default"). Further description of the processes of audit, performance monitoring, and the corrective and remedial actions available to HUD which apply to grants under the Act, including this BEDI Grant, is provided in 24 CFR 570, particularly Subpart O. No delay or omission by HUD in exercising any right or remedy under this Agreement shall impair HUD's ability to exercise such right or remedy or constitute a waiver of, or acquiescence in, any Recipient default.

10. Close-out. Except as may be otherwise specifically provided, close-out of this grant shall be subject to 24 CFR 570.509, or such close-out instructions as may hereafter be issued by HUD specifically for BEDI Grants.

11. General. HUD notifications to the Recipient under this Agreement may be addressed to the Recipient's address as stated in the Approved Application, unless the Recipient otherwise notifies HUD in writing. Recipient notifications to HUD shall be to the:

U.S. Department of Housing and Urban Development
Attention, Director, Financial Management Division,
451 Seventh Street, SW, Room 7180
Washington, DC 20410,

unless the Recipient is otherwise notified in writing by HUD.

The Recipient's rights under this Agreement may not be assigned without the prior written approval of HUD. This Agreement constitutes the entire Agreement between the Recipient and HUD, and it may not be amended except in writing and executed by authorized officials of both HUD and the Recipient, as provided in paragraph 8.

12. Binding Agreement. This Agreement is binding with respect to HUD in accordance with its terms upon execution by HUD in the space provided below, subject to execution on behalf of the Recipient.

13. Special Condition(s).

a. This Grant Agreement is incorporated in a Contract for Loan Guarantee Assistance of even date herewith under commitment number B-08-MC-12-0019 between the Recipient and the Secretary of Housing and Urban Development (the "Contract") and made a part thereof.

b. Paragraph 3 of this Grant Agreement requires that BEDI Grant funds are to be disbursed by the Recipient for Approved Uses in a ratio not to exceed $1.00 of BEDI Grant funds to $4.24 of Section 108 Guaranteed Loan Funds disbursed for approved activities.

c. Paragraph 3 of this Grant Agreement requires the Recipient to use $3,395,000 of Section 108 Guarantee proceeds for approved activities under the Contract as a condition of receiving this BEDI Grant. In the event the Recipient fails to use Section 108 Guarantee proceeds to carry out approved activities in the amount of $3,395,000 within the time period permitted in paragraph 1(a) of the Contract (including any extensions of such period approved by HUD), the BEDI grant must be repaid to HUD to the extent that the amount of BEDI funds

withdrawn and not repaid to HUD exceeds $1.00 of BEDI funds for each $4.24 of Section 108 Guarantee proceeds actually used for approved activities. For example, if all BEDI Grant funds have been disbursed to the Recipient and not repaid to HUD, the amount of BEDI Grant funds repaid shall be equal to the difference between the total required amount of Section 108 Guarantee proceeds ($3,395,000) and the amount of Section 108 funds actually used for approved activities divided by 4.24. Repayment shall be made within one year after the end of such time period-specified paragraph 1(a) of the Contract. Any repayment shall be from sources other than the Section 108 Guarantee proceeds.

d. In the event the Borrower is required to repay BEDI grant funds pursuant to paragraph 13.c. above, the Borrower shall pay interest on such repayment. Interest shall be remitted to HUD and shall be calculated at the prevailing Federal rate (which rate will be furnished by the U.S. Treasury) for the period beginning one year after the date of the Grant Agreement, plus any extension granted pursuant to paragraph 13.b. above, and ending upon the full and final repayment of the amount determined under paragraph 13.c. above.

**[Rest of Page Intentionally Left Blank]**

**THE UNDERSIGNED**, as authorized officials on behalf of the Recipient or the Secretary, have executed this BEDI Grant Agreement, which shall be effective as of the date of execution hereof on behalf of the Secretary.

Fort Pierce, Florida
**RECIPIENT**

**BY:** _____
**(Signature)**

Robert J. Benton, III
**(Name)**

Mayor, City of Fort Pierce
**(Title)**

10/05/2009
**(Date)**

59-600322
**Employer Identification Number (EIN) of Recipient**

**APPROVED AS TO FORM AND CORRECTNESS**

**BY:** _____
City Attorney

**SECRETARY OF HOUSING AND URBAN DEVELOPMENT**

**BY:** _____
**(Signature)**

Nelson R. Bregón
**(Name)**

General Deputy Assistant Secretary for Community Planning and Development
**(Title)**

_____
**(Date)**

B. Timely Payment to Fiscal Agent or Trustee

Notwithstanding anything contained in Section I, Section II, or Section III, the Borrower, in accordance with the Contract, shall be required to make all payments of interest and principal, including any Optional Redemption payment, directly to the Fiscal Agent or the Trustee (as applicable) on the seventh Business Day prior to the appropriate Interim Payment Date, Interest Due Date, Principal Due Date, Prepayment Date, or date of Optional Redemption, as applicable.

C. Interest on Late Payments

If a payment of principal or interest herein provided for shall not be made by either (i) 2:30 p.m. on an Interest Due Date or Principal Due Date; or (ii) 2:30 p.m. on the second Business Day (as herein defined) next succeeding an Interim Payment Date, then interest shall accrue on the amount of such payment at the then applicable interest rate or rates payable on this Note, from the relevant due date, as the case may be, until the date such payment is made. Nothing in the immediately preceding sentence shall be construed as permitting or implying that the Borrower may, without the written consent of the Holder and the Secretary, modify, extend, alter or affect in any manner whatsoever the right of the Holder timely to receive any and all payments of principal and interest specified in this Note.

D. Applicability of Fiscal Agency Agreement or Trust Agreement

Prior to the Conversion Date, this Note and Advances and payments made hereunder shall be administered pursuant to the terms of the Fiscal Agency Agreement and are subject to such agreement. On or after the Conversion Date, this Note and Advances and payments made hereunder shall be administered pursuant to the Trust Agreement and are subject to such agreement. The terms and provisions of the Fiscal Agency Agreement or the Trust Agreement, insofar as they affect the rights, duties and obligations of the Holder and/or the Borrower, are hereby incorporated herein and form a part of this Note. The Borrower hereby agrees to be bound by all obligations of the Borrower to the Fiscal Agent set forth in the Fiscal Agency Agreement. Capitalized terms not defined in this Note shall have the meanings ascribed to them in the Fiscal Agency Agreement or Trust Agreement, as applicable. The Fiscal Agency Agreement provides for the Fiscal Agent to perform certain duties, including the duties of (i) paying agent and calculation agent for this Note until its Conversion Date, and (ii) registrar for this Note until this Note is canceled or a new registrar appointed, each in accordance with the Fiscal Agency Agreement. The Trust Agreement provides for the Trustee to perform certain duties, including the duties of collection agent for this Note after its Conversion Date until a new Trustee is appointed in accordance with the Trust Agreement. This Note may be surrendered to the Fiscal Agent for registration of transfer or exchange, as provided in the Fiscal Agency Agreement. The Fiscal Agent and Trustee each shall permit reasonable inspection to be made of a copy of the Fiscal Agency Agreement or Trust Agreement kept on file at its respective corporate trust office. Neither the Fiscal Agency Agreement nor the Trust Agreement shall change the Borrower's payment obligations under this Note.

E. Applicability of Contract and Secretary's Guarantee

This Note evidences indebtedness incurred pursuant to and in accordance with the Contract and pursuant to Section 108 of Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. § 5308) (the "HCD Act"). This Note is subject to the terms and provisions of the Contract, to which Contract reference is hereby made for a statement of said terms and provisions and for a description of the collateral security for this Note. The payment of principal on the applicable Principal Due Dates and interest on the applicable Interim Payment Dates or Interest Due Dates under this Note is unconditionally guaranteed by the Secretary to the Holder through a guarantee (the "Guarantee"). Execution of the Secretary's Guarantee is required before this Note is effective, and such Guarantee shall be issued pursuant to and in accordance with the terms of the Contract and Section 108 of the HCD Act.

F. Default

A default under this Note shall occur upon failure by the Borrower to pay principal or interest on this Note when due hereunder. If a Borrower defaults on the payment of any interest or Principal Amounts when due, or if the Secretary gives notice of a final decision to declare the Borrower in default pursuant to the following paragraph of this Section IV.F, the Secretary may, but is not obligated to, make on any date on or prior to the Conversion Date with fourteen calendar days prior notice to the Fiscal Agent, or on the seventh Business Day preceding any Interest Due Date on or after the first permissible Optional Redemption date with seven Business Days prior notice to the Trustee, an acceleration payment to the Fiscal Agent or the Trustee, as applicable, equal to the Aggregate Principal Amount of the Note, together with accrued and unpaid interest thereon to such acceleration payment date or Interest Due Date, as applicable. In the event that any such acceleration payment is made from sources other than funds pledged by the Borrower as security under the Contract (or other Borrower funds), the amounts paid on behalf of the Borrower shall be deemed to be immediately due and payable to the Secretary. Nothing in this paragraph shall be construed as permitting or implying that the Borrower may, without the written consent of the Holder and the Secretary, modify, extend, alter or affect in any manner whatsoever the right of the Holder timely to receive any and all payments of principal and interest specified in this Note.

In addition, the Secretary may declare the Borrower in default under this Note if the Secretary makes a final decision in accordance with the provisions of 24 C.F.R. § 570.913 (or any successor regulation thereof), including requirements for reasonable notice and opportunity for hearing, that the Borrower has failed to comply substantially with Title I of the HCD Act. Following the giving of such reasonable notice, the Secretary may take the remedial actions specified as available in the relevant provisions of the Contract pending the Secretary's final decision.

G. Holder's Reliance on Guarantee

Following a default by the Borrower under the terms of this Note, the Holder agrees to rely wholly and exclusively for repayment of this Note upon the Guarantee. The enforcement of any instruments or agreements securing or otherwise related to this Note shall be the sole responsibility of the Secretary, and the Holder shall not be responsible for the preparation, contents or administration of such instruments and agreements, or for any actions taken in connection with such instruments and agreement. The Holder, to the extent it is legally able to do so, shall bind or cause to be bound its successors and assigns to all limitations imposed upon the Holder by this Note.

H. Amendment

This Note may only be amended with the prior written consent of the Secretary and the Borrower. No such amendment shall reduce, without the prior written consent of the Holder of this Note, in any manner the amount of, or delay the timing of, payments required to be received on this Note by the Holder, Fiscal Agent or Trustee, including Guarantee Payments; provided that prior to the Conversion Date, the Commitment Amounts on the Commitment Schedule attached hereto, and the Principal Amounts due on the corresponding Principal Due Dates may be rescheduled pursuant to written instructions given to the Fiscal Agent by the Secretary with the written agreement of the Borrower and the Secretary absent the consent of the Holder.

I. Waivers

The Borrower hereby waives any requirement for presentment, protest or other demand or notice with respect to this Note. The Borrower hereby waives notice of default and opportunity for hearing for any failure to make a payment when due.

J. Delivery and Effective Date

This Note is deemed issued, executed, and delivered on behalf of the Borrower by its authorized official as an obligation guaranteed by the Secretary pursuant to Section 108 of the HCD Act, effective as of the date of the Secretary's Guarantee.

## V. Borrower-Specific Provisions

[This space intentionally left blank]

**THE UNDERSIGNED**, as an authorized official of the Borrower, has executed and delivered this Note.

Fort Pierce, Florida
BORROWER

By: _____
(Signature)

APPROVED AS TO FORM AND CORRECTNESS

BY: _____
City Attorney

Robert J. Benton, III
(Name)

Mayor, City of Fort Pierce
(Title)

ASSIGNMENT AND TRANSFER

For value received, the undersigned assigns and transfers this Note to

_____

(Name and Address of Assignee)

_____

_____

(Social Security or Other Identifying Number of Assignee)

and irrevocably appoints _____ attorney-in-fact to transfer it on the books kept for registration of the Note, with full power of substitution.

Dated: _____

_____

Note: The signature to this assignment must correspond with the name as written on the face of the Note without alteration or enlargement or other change.

Signature Guaranteed:

_____

Qualified Financial Institution

By: _____

Authorized Signature

[This page to be completed by the Fiscal Agent for transfer of the Note by the Holder as of the Conversion Date pursuant to the last paragraph of Section I.A. of this Note.]

## APPENDIX A

### Special Pre-Conversion Interest Rates.

(a) The Holder and the Secretary contemplate that the majority of the outstanding Variable/Fixed Rate Notes will be purchased by underwriters selected by the Secretary for sale in public offerings to occur each year. If a public offering including this Note has not occurred by each March 1 following the initial Advance under this Note, the Secretary shall, upon request, advise the Holder as to when a public offering including this Note is expected to occur, and the Holder and the Secretary agree to consult with each other as to what the interest rate on this Note will be after May 1 of that year if a public offering has not occurred by such May 1. The Holder shall notify the Secretary if such consultation has not occurred by April 1 of that year. If no public offering including this Note has occurred on or before such May 1, the applicable interest rate on this Note from such May 1 shall be the rate (if any) negotiated and agreed upon by the Secretary and the Holder. Such rate may be the Standard Note Rate or some other rate agreed upon by the Holder and the Secretary at least two Business Days before such May 1 (such other rate, the "Negotiated Special Interest Rate"). The Secretary shall notify the Fiscal Agent and the Holder in writing of any Negotiated Special Interest Rate within two Business Days of the determination thereof.

(b) If the Secretary and the Holder do not, by the April 15th preceding such May 1, negotiate and agree under Section (a) of this Appendix on an interest rate applicable to this Note, then the Holder may, on or before the April 20th preceding such May 1, give written notice to the Secretary of its intent to change the interest rate on this Note and, if such notice was given during such period, the Holder may, on such May 1, unilaterally determine (subject to the terms of this paragraph) the interest rate that this Note will bear (such rate, the "Holder Determined Interest Rate") from and including such May 1 to but excluding the earliest of: (i) the Conversion Date; (ii) the date that this Note is purchased by a new Holder (as described in Section (c) below) or (iii) a Monthly Special Reset Date (as defined below). Interest from and including such May 1 to but excluding the Public Offering Date shall be paid on the unpaid principal balance of all outstanding Advances under this Note at the rate(s) to be determined by the Holder which, based upon then prevailing market conditions and taking into account all the circumstances, will enable the Holder to sell this Note at one hundred percent (100%) of the aggregate amount of all Advances hereunder prior to the date of such sale. Such interest rate shall be determined as of such May 1 and shall be determined again on the foregoing basis on the first of each month thereafter (the first of each month after such May 1, a "Monthly Special Reset Date"). The Holder shall notify the Fiscal Agent and the Secretary in writing within two

Business Days following such dates of the determination of the Holder Determined Interest Rate and each applicable interest rate determined on a Monthly Special Reset Date.

(c) If the Secretary and the Holder have failed to agree upon an interest rate pursuant to Section (a) of this Appendix A, the Secretary, upon seven calendar days notice to the Holder, may arrange for the purchase of this Note in full by another entity on the following May 1 or any Business Day thereafter. If such a purchase occurs, the Holder shall sell and assign this Note to the purchaser thereof without recourse to the Holder and deliver this Note and its Guarantee to the Fiscal Agent for registration in the name of the purchaser thereof in accordance with the Secretary's written instructions. The purchase price for this Note shall be 100% of the aggregate amount of all Advances owing hereunder plus accrued interest to the date of purchase. Payment to the Holder of the purchase price for this Note shall be made by the purchaser thereof in Federal funds at the offices of the Holder, or at such other place as shall be agreed upon by the Holder and the Secretary, at 10:00 a.m., New York time, on the date of purchase. After such purchase date this Note shall bear a rate of interest negotiated between the Secretary and the new interim Holder (the "New Purchaser Special Interest Rate"). The Secretary shall notify the Fiscal Agent and the new purchaser in writing of any New Purchaser Special Interest Rate within two Business Days following the date of determination thereof.

(d) Notwithstanding Sections (a) through (c) (inclusive) of this Appendix, no Borrower is obligated to pay interest at a variable rate exceeding the maximum rate permitted by generally applicable law of the Borrower's state (such rate, the "Maximum Rate"). If the Borrower receives notice of a variable interest payment that exceeds the Maximum Rate, then the Borrower shall timely pay such amount as does not exceed the Maximum Rate, and concurrently shall notify the Secretary and the Fiscal Agent of the reason for any interest non-payment.

# COMMITMENT SCHEDULE

Note No. B-08-MC-12-0031

| Principal Due Date | Commitment Amount |
|---|---|
| August 1, 2010 | $0 |
| August 1, 2011 | $0 |
| August 1, 2012 | $0 |
| August 1, 2013 | $283,000 |
| August 1, 2014 | $283,000 |
| August 1, 2015 | $283,000 |
| August 1, 2016 | $283,000 |
| August 1, 2017 | $283,000 |
| August 1, 2018 | $283,000 |
| August 1, 2019 | $283,000 |
| August 1, 2020 | $283,000 |
| August 1, 2021 | $283,000 |
| August 1, 2022 | $283,000 |
| August 1, 2023 | $283,000 |
| August 1, 2024 | $283,000 |
| August 1, 2025 | $283,000 |
| August 1, 2026 | $283,000 |
| August 1, 2027 | $283,000 |
| August 1, 2028 | $283,000 |
| August 1, 2029 | $282,000 |
| Maximum Commitment Amount = | **$3,395,000** |

## SCHEDULE P&I*

Note No. _____

| Principal Amount | Principal Due Date | Interest Rate | Optional Redemption Available | |
|---|---|---|---|---|
| | | | YES | NO |
| | August 1, 2010 | | | X |
| | August 1, 2011 | | | X |
| | August 1, 2012 | | | X |
| | August 1, 2013 | | | X |
| | August 1, 2014 | | | X |
| | August 1, 2015 | | | X |
| | August 1, 2016 | | | X |
| | August 1, 2017 | | | X |
| | August 1, 2018 | | | X |
| | August 1, 2019 | | | X |
| | August 1, 2020 | | X | |
| | August 1, 2021 | | X | |
| | August 1, 2022 | | X | |
| | August 1, 2023 | | X | |
| | August 1, 2024 | | X | |
| | August 1, 2025 | | X | |
| | August 1, 2026 | | X | |
| | August 1, 2027 | | X | |
| | August 1, 2028 | | X | |
| | August 1, 2029 | | X | |

$_____ = Aggregate Principal Amount

Principal Amounts due on or after August 1, 2020, may be redeemed, subject to the terms contained herein and in the Trust Agreement, on any Interest Due Date on or after August 1, 2019.

*This schedule will not be completed when initially executed and delivered by the Borrower for Guarantee for interim, variable-rate financing. It will be completed when assigned by the Holder at the request of the Borrower for conversion to Fixed Rates on the Conversion Date. The first date shown above on which Optional Redemption is available is expected to be the same when this schedule is completed, if the Borrower participates in the initial Section 108 public offering after receiving an interim financing Advance hereunder. If the Borrower participates in a later public offering, the first date on which Optional Redemption is available is expected to be correspondingly later.

| Standard Form 1194<br>I TFRM 6-000<br>Fiscal Service<br>Bureau of Accounts | **AUTHORIZED SIGNATURE CARD FOR PAYMENT VOUCHERS ON LETTER OF CREDIT** | Letter of Credit Number<br><br>Federal Reserve Bank |
|---|---|---|

| Letter of Credit Issued in Favor of *(Recipient)* | Issued *by (Federal Agency)* |
|---|---|
| City of Fort Pierce | U.S. Department of Housing and Urban Development |

SIGNATURES OF INDIVIDUALS AUTHORIZED TO DRAW ON THE CITED LETTER OF CREDIT

___ ONLY ONE SIGNATURE REQUIRED ON PAYMENT VOUCHERS or

_X_ ANY TWO SIGNATURES REQUIRED TO SIGN OR COUNTERSIGN

| | |
|---|---|
| Typed Name and Signature<br>David L. Recor, City Manager | Typed Name and Signature<br>Gloria Johnson, Director of Finance |
| Typed Name and Signature<br>Melissa Moore, Assistant Director of Finance | Typed Name and Signature<br>Christa Razem, Grants Administrator |
| I CERTIFY THAT THE SIGNATURES ABOVE ARE OF THE INDIVIDUALS AUTHORIZED TO DRAW PAYMENT VOUCHERS FOR THE CITED LETTER OF CREDIT. | APPROVED: [to be completed by HUD] |
| DATE AND SIGNATURE OF AUTHORIZING OFFICIAL (Recipient)<br>[individual signing here should be different from persons who sign above] | DATE AND SIGNATURE OF AGENCY CERTIFYING OFFICER |

# U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## CONTRACT FOR LOAN GUARANTEE ASSISTANCE UNDER SECTION 108 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED, 42 U.S.C. §5308

Date of Contract_____

This Contract for Loan Guarantee Assistance ("Contract") is entered into between the City of Fort Pierce, Florida, as Borrower (the "Borrower"), and the Secretary of Housing and Urban Development ("Secretary"), as guarantor for the Guarantee made pursuant to section 108 ("Section 108") of title I of the Housing and Community Development Act of 1974, as amended (the "Act") and 24 CFR Part 570, Subpart M, of the promissory note executed contemporaneously herewith and numbered B-08-MC-12-0031, in the Maximum Commitment Amount of $ 3,395,000 [for the Coral Square Shopping Center Project], and any amended note or note issued in substitution for such note and having the same note number (the "Note"). This is the first Contract under the Funding Approval ("Commitment") of the same number, which was approved by the Secretary on July 8, 2009. The funds paid or credited to the account of the Borrower pursuant to the Note are referred to herein as the "Guaranteed Loan Funds." The Note (including the Fiscal Agency Agreement and the Trust Agreement as defined in Section I.A. of the Note and incorporated therein) is hereby incorporated into the Contract. Terms used in the Contract with initial capital letters and not otherwise defined in the text hereof shall have the respective meanings given thereto in the Note. The Fiscal Agency Agreement and the Trust Agreement are sometimes collectively referred to herein as the "Fiscal Agency/Trust Agreements," and the Fiscal Agent and the Trustee respectively are sometimes collectively referred to as the "Fiscal Agent/Trustee."

### PART I

A. **The Note: Advances and Records.** The Note provides that Advances and Conversion Date Advances shall be made thereunder upon the written request of the Borrower and the approval of the Secretary, pursuant to this Contract and the Fiscal Agency Agreement. The Commitment Schedule attached to the Note represents the principal repayment schedule for the Maximum Commitment Amount of the Note. At all times, the total amount of all Advances and Conversion Date Advances under the Note for all Principal Due Dates shall not exceed the Maximum Commitment Amount of the Note. Prior to the Conversion Date (as defined in the Note, Section I.A.), the total amount of Advances made by the Holder for each Principal Due Date under the Note shall not exceed the applicable Commitment Amount for such Principal Due Date set forth in the Commitment Schedule of the Note. Prior to the

Conversion Date, the Borrower agrees that the Fiscal Agent pursuant to the Fiscal Agency Agreement shall record the date and amount of each payment and Advance under the Note and shall maintain the books and records of all Advances and Conversion Date Advances for each Principal Due Date, interest rates on Advances, payments, and Principal Amounts outstanding for each Principal Due Date. On and after the Conversion Date, the Borrower agrees that the Trustee pursuant to the Trust Agreement will maintain the books and records of all payments on the Note and all Principal Amounts and interest rates on such Principal Amounts (each as to be set forth on Schedule P&I to the Note). No advances of any kind may be made on the Note after its Conversion Date.

B. **Borrower's Requests for Advances.** All requests for Advances or Conversion Date Advances by the Borrower under the Note shall: be in writing; specify the amount of the Advance requested; identify the Note by Borrower, number and Maximum Commitment Amount; be addressed to the Secretary at the address for notices specified in paragraph 12(f) of this Contract; be signed by an authorized official of the Borrower; and otherwise be in the form prescribed by the Secretary. Advances and Conversion Date Advances shall be requested and will only be approved and made in increments of not less than $1,000 for any Principal Due Date. A request for an initial Advance under a Note, or a request for a Conversion Date Advance, shall be received by the Secretary at least ten Business Days prior to the Borrower's proposed Funding Date or Conversion Date, as applicable. All other requests for Advances shall be received by the Secretary not less than five Business Days prior to the proposed Funding Date. The Borrower may not deliver a Note or a request for an Advance or Conversion Date Advance to the Secretary more than two calendar months prior to the Borrower's proposed Funding Date. At least two Business Days prior to the proposed Funding Date or Conversion Date if the Borrower's request was timely received, or the next available Funding Date for which the request was timely received, the Secretary shall, except as otherwise provided in paragraph 11(c) or 12 hereof, deliver a corresponding Authorization Order or Advance Order (as applicable) to the Fiscal Agent in accordance with Section 2.03 or 2.04 of the Fiscal Agency Agreement for the applicable Funding Date or Conversion Date. If the Borrower requests an Advance or Conversion Date Advance of less than the outstanding Maximum Commitment Amount under the Note, the Borrower may also specify in its written request the amount of the Advance or Conversion Date Advance to be allocated to each Commitment Amount or Principal Amount per Principal Due Date under the Note. If the Borrower does not specify how the Advance or Conversion Date Advance should be allocated among Commitment Amounts/Principal Due Dates, the Borrower hereby authorizes the Secretary to direct the Fiscal Agent to allocate the

Advance to the respective Commitment Amounts or Principal Amounts in order of the earliest Principal Due Date(s).

C. **Conversion; Public Offering.** On the Conversion Date (if any), trust certificates backed by the Note (and similar notes issued by other Section 108 borrowers) will be purchased for a purchase price of the full principal amount thereof by underwriters selected by the Secretary (the "Underwriters") pursuant to an Underwriting Agreement between the Underwriters and the Secretary, at a closing on such Conversion Date as determined by the Secretary and the Underwriters. The Borrower agrees that the interest rate at which the trust certificate of a specified maturity is sold to the Underwriters shall govern the interest rate inserted on the Conversion Date in Schedule P&I of the Note for the Principal Amount of corresponding maturity.

D. **Consents.** By execution of this Contract, the Borrower ratifies and consents to the Secretary's selection of the Underwriters and authorizes the Secretary to negotiate with the Underwriters the terms of the Underwriting Agreement and of the public offering of interests in the trust certificates to investors (including the applicable interest rates). In addition, by execution hereof the Borrower ratifies and consents to the Secretary's selection of the Fiscal Agent/Trustee and agrees to the respective terms of the Fiscal Agency/Trust Agreements. If Advances have been made in the Maximum Commitment Amount of the Note not less than ten Business Days prior to the proposed Conversion Date, or if the Borrower requests a Conversion Date Advance, the Borrower authorizes the Secretary to deliver Schedule P&I to the Note completed in accordance herewith to the Fiscal Agent/Trustee on the Conversion Date in accordance with the Fiscal Agency/Trust Agreements, concurrent with delivery of the Secretary's Guarantee of the trust certificates at the closing on the Conversion Date, and thereafter the Note shall be enforceable in accordance with its terms including Schedule P&I. In addition, the Secretary reserves the right to notify the Borrower not less than one calendar month in advance of a specified Conversion Date that the Note will be sold to the Underwriters on such date, if the Secretary in his sole discretion determines that market conditions or program needs require the participation in the proposed public offering of all or substantially all Borrowers with outstanding Advances.

## PART II

1. **Receipt, Deposit and Use of Guaranteed Loan Funds.**

(a) Except for funds deducted on the Conversion Date pursuant to paragraph 4(b) and fees and charges deducted by the Fiscal Agent/Trustee pursuant to paragraph 4(a), the Guaranteed Loan Funds shall be electronically transferred in accordance with the Borrower's instructions for deposit in a separate, identifiable account (the "Guaranteed Loan Funds Account") with a financial institution whose deposits or accounts are Federally insured. The Guaranteed Loan Funds Account shall be established and designated as prescribed in the attached form document entitled "Letter Agreement for Section 108 Loan Guarantee Program Deposit Account" **(Attachment 1)** and shall be continuously maintained for the Guaranteed Loan Funds. Such Letter Agreement must be executed when the Guaranteed Loan Funds Account is established. (A fully executed copy of such Letter Agreement shall be submitted to the Secretary within thirty days of its execution.)

The Borrower shall make withdrawals from said account only for payment of the costs of approved Section 108 activities, for transfer to the Loan Repayment Account or for the temporary investment of funds pursuant to this paragraph 1(a). Such temporary investment of funds into the Guaranteed Loan Funds Investment Account shall be required within three Business Days after the balance of deposited funds exceeds the amount of the Federal deposit insurance on the Guaranteed Loan Funds Account. At that time, any balance of funds in the Guaranteed Loan Funds Account exceeding such insurance coverage shall be fully (100%) and continuously invested in Government Obligations, as defined in paragraph 10 hereof, held in the Guaranteed Loan Funds Investment Account.

All temporary investments, whether or not required as above, shall be limited to Government Obligations having maturities that are consistent with the cash requirements of the approved activities. In no event shall the investments mature on or after October 31, 2010, or have maturities which exceed one year. All such investments shall be held in trust for the benefit of the Secretary by the above financial institution in an account (the "Guaranteed Loan Funds Investment Account") established and designated as prescribed in the attached form document entitled "Letter Agreement for Section 108 Loan Guarantee Program Investment Account" **(Attachment 2)**, which account shall be maintained for all Government Obligations purchased with funds from the Guaranteed Loan Funds Account. The Guaranteed Loan Funds Investment Account need only be established if and when the Borrower is required to invest, or otherwise invests, the Guaranteed Loan Funds in Government Obligations. Such Letter

Agreement must be executed when the Guaranteed Loan Funds Investment Account is established. (A fully executed copy of such Letter Agreement shall be submitted to the Secretary within thirty days of its execution.) All proceeds and income derived from such investments shall be returned to the Guaranteed Loan Funds Account.

All funds in the Guaranteed Loan Funds Account or the Guaranteed Loan Funds Investment Account must be withdrawn and disbursed by the Borrower for approved activities by October 31, 2010. Any funds remaining in either Account after this date shall be immediately transferred to the Loan Repayment Account established pursuant to paragraph 6 of this Contract.

(b) The Borrower shall by the fifteenth day of each month provide the Secretary with a written statement showing the balance of funds in the Guaranteed Loan Funds Account and the withdrawals from such account during the preceding calendar month, and a statement identifying the obligations and their assignments in the Guaranteed Loan Funds Investment Account.

(c) Upon the Secretary giving notice that the Borrower is in Default under this Contract or the Note, all right, title, and interest of the Borrower in and to the Guaranteed Loan Funds and Guaranteed Loan Funds Investment Accounts shall immediately vest in the Secretary for use in making payment on the Note, purchase of Government Obligations in accordance with paragraph 10, or payment of any other obligations of the Borrower under this Contract or the Fiscal Agency/Trust Agreements.

2. **Payments Due on Note; Final Payment and Discharge.** The Borrower shall pay to the Fiscal Agent/Trustee, as collection agent for the Note, all amounts due pursuant to the terms of the Note. In accordance with the Note and the Fiscal Agency/Trust Agreements, payment shall be made by 3:00 P.M. (New York City time) on the seventh Business Day (the "Note Payment Date") preceding the relevant Interest Due Date or Principal Due Date (each as defined in the Note). If any Note Payment Date falls on a day that is not a Business Day, then the required payment shall be made on the next Business Day. Payment may be made by check or wire transfer.

Upon final payment of all amounts due to Holders under the Note, including any payment made by the Secretary pursuant to the Guarantee, the Fiscal Agent/Trustee is required by the Fiscal Agency/Trust Agreements to return the Note to the Secretary. Upon final payment to the Secretary of any amounts due as a result of Guarantee Payments or otherwise due under this Contract, the Secretary will cancel and return the Note to the Borrower in discharge of the Borrower's obligations under the Note.

3. **Selection of New Fiscal Agent or Trustee.** The Secretary shall select a new Fiscal Agent or Trustee if the Fiscal Agent or Trustee resigns or is removed by the Secretary. The Borrower hereby consents in advance to any such selection and to any changes in the Fiscal Agency/Trust Agreements agreed to by any Fiscal Agent or Trustee and the Secretary, subject to paragraph 4(e) of this Contract.

4. **Payments Due Fiscal Agent or Trustee; Documents to the Secretary.**

(a) The Borrower agrees to pay the fees of the Fiscal Agent as required by Exhibit G to the Fiscal Agency Agreement, and any additional amounts that may be due pursuant to Section 6.01 of the Fiscal Agency Agreement. If not paid by the Borrower by any other means prior thereto, the Borrower agrees that any such fees or additional amounts that have been incurred prior to an Advance or a Conversion Date Advance may be deducted by the Fiscal Agent/Trustee from the proceeds of the Advance or Conversion Date Advance, as applicable.

(b) The Borrower agrees to pay the Borrower's share, as determined by the Secretary, of the customary and usual issuance, underwriting, and other costs related to the public offering and future administration of the Note and the trust certificates, as approved by the Secretary, including the cost of reimbursement and/or compensation of the Trustee pursuant to the Trust Agreement, including Sections 3.11 and 7.01 thereof. In connection with the public offering on the Conversion Date, such payment shall either be made by wire transfer to the Trustee on the day prior to the Conversion Date or shall be deducted from the Guaranteed Loan Funds on the Conversion Date.

(c) The Borrower shall submit to the Secretary not later than ten Business Days prior to the Funding Date for the initial Advance hereunder, or if not submitted earlier, prior to any Conversion Date or Public Offering Date applicable to the Note, this executed Contract, the executed Note, a request for an Advance or a Conversion Date Advance (as applicable) in proper form, and an opinion acceptable to the Secretary from the Borrower's counsel to the effect that: (i) the governing body of the Borrower has authorized by resolution or ordinance, in accordance with applicable State and local law, the issuance of the Note and the execution of this Contract; (ii) the Note and this Contract are valid, binding, and enforceable obligations of the Borrower; (iii) the pledge of funds pursuant to 24 CFR 570.705(b)(2) and paragraph 5(a) of this Contract is valid and binding; and (iv) there is no outstanding litigation that will affect the validity of the Note or this Contract. In addition, the Borrower shall submit any other additional documents or opinions specifically

required by this Contract (e.g., paragraph 5(c), or paragraph 15, *et seq.*), at the time required thereby.

(d) The Borrower agrees to reimburse the Underwriters upon demand by the Secretary for the Borrower's share, as determined by the Secretary, of all reasonable out-of-pocket expenses (including reasonable fees and disbursements of counsel) incurred in connection with a proposed public offering, if the Underwriters incur such additional costs for the public offering because of any refusal, inability, or failure on the part of the Borrower timely to submit in acceptable form any document required by this Contract (including paragraph 4(c)), or because of any withdrawal by the Borrower from the public offering, after the Borrower has submitted a request for a Conversion Date Advance hereunder. By execution and delivery of this Contract to the Secretary, the Borrower hereby expressly authorizes the Secretary to pay amounts due under this paragraph from funds pledged under paragraph 5(a) of this Contract.

(e) The undertakings in paragraphs 3 and 4 of this Contract are expressly subject to the requirement that the Fiscal Agency/Trust Agreements shall in no event require payment of fees or charges, reimbursement of expenses, or any indemnification by the Borrower from any source other than funds pledged pursuant to paragraphs 5 or 15 *et seq.* of this Contract.

5. **Security.** The Borrower hereby pledges as security for repayment of the Note, and such other charges as may be authorized in this Contract, the following:

(a) All allocations or grants which have been made or for which the Borrower may become eligible under Section 106 of the Act, as well as any grants which are or may become available to the Borrower pursuant to Section 108(q).

(b) Program income, as defined at 24 CFR 570.500(a) (or any successor regulation), directly generated from the use of the Guaranteed Loan Funds.

(c) Other security as described in paragraph 15, *et seq.*

(d) All proceeds (including insurance and condemnation proceeds) from any of the foregoing.

(e) All funds or investments in the accounts established pursuant to paragraphs 1 and 6 of this Contract.

6. **Loan Repayment Account.**

(a) All amounts pledged pursuant to paragraphs 5(b), 5(c), and 5(d) of this Contract shall be deposited immediately on

receipt in a separate identifiable account (the "Loan Repayment Account") with a financial institution whose deposits or accounts are Federally insured. The Loan Repayment Account shall be established and designated as prescribed in the attached form document entitled "Letter Agreement for Section 108 Loan Guarantee Program Deposit Account" **(Attachment 1)** and shall be maintained for such pledged funds. The Loan Repayment Account need only be established if and when the Borrower receives amounts pledged pursuant to paragraph 5(b), 5(c) or 5(d). Such Letter Agreement must be executed when the Loan Repayment Account is established. (A fully executed copy of such Letter Agreement shall be submitted to the Secretary within thirty days of its execution.) Borrower shall make withdrawals from said account only for the purpose of paying interest and principal due on the Note (including the purchase of Government Obligations in accordance with paragraph 10 hereof), for payment of any other obligation of the Borrower under this Contract or the Fiscal Agency/Trust Agreements, or for the temporary investment of funds pursuant to this paragraph, until final payment and discharge of the indebtedness evidenced by the Note, unless otherwise expressly authorized by the Secretary in writing. Such temporary investment of funds shall be required within three Business Days after the balance of deposited funds exceeds the amount of the Federal deposit insurance on the Loan Repayment Account. At that time, the balance of funds in the Loan Repayment Account exceeding such insurance coverage shall be fully (100%) and continuously invested in Government Obligations, as defined in paragraph 10 hereof.

All temporary investments, whether or not required as above, shall be limited to Government Obligations having maturities that are consistent with cash requirements for payment of principal and interest as required under the Note. In no event shall the maturities of such investments exceed one year. All such investments shall be held in trust for the benefit of the Secretary by the above financial institution in an account (the "Loan Repayment Investment Account") established and designated as prescribed in the attached form document entitled "Letter Agreement for Section 108 Loan Guarantee Program Investment Account" **(Attachment 2)**, which account shall be maintained for all Government Obligations purchased with funds from the Loan Repayment Account. Such Letter Agreement must be executed when the Loan Repayment Investment Account is established. (A fully executed copy of such Letter Agreement shall be submitted to the Secretary within thirty days of its execution.) All proceeds and income derived from such investments shall be returned to the Loan Repayment Account.

(b) Borrower shall by the fifteenth day of each month, provide the Secretary with a written statement showing the

balance of funds in the Loan Repayment Account and the deposits and withdrawals of all funds in such account during the preceding calendar month and a statement identifying the obligations and their assignments in the Loan Repayment Investment Account.

(c) Upon the Secretary giving notice that the Borrower is in Default under this Contract or the Note, all right, title, and interest of the Borrower in and to the Loan Repayment and Loan Repayment Investment Accounts shall immediately vest in the Secretary for use in making payment on the Note, purchase of Government Obligations in accordance with paragraph 10, or payment of any other obligation of the Borrower under this Contract or the Fiscal Agency/Trust Agreements.

7. **Use of CDBG, EDI or BEDI Funds for Repayment.** Any funds available to the Borrower under Section 106 of the Act (including program income derived therefrom) are authorized to be used by the Borrower for payments due on the Note, Optional Redemption (as defined in the Note), payment of any other obligation of the Borrower under this Contract or the Fiscal Agency/Trust Agreements, or the purchase of Government Obligations in accordance with paragraph 10. Any funds specifically available to the Borrower for such payments or as a debt service reserve under an EDI or BEDI Grant Agreement pursuant to Section 108(q) of the Act which supports the eligible project(s) and activities financed by the Note may also be used therefor; any other use of Section 108(q) funds for such purposes shall require the prior written approval of the Secretary. Unless otherwise specifically provided herein or unless otherwise expressly authorized by the Secretary in writing, the Borrower shall substantially disburse funds available in the Loan Repayment or the Loan Repayment Investment Accounts before funds from grants under Section 106 of the Act are withdrawn from the U.S. Treasury for such purposes.

8. **Secretary's Right to Restrict Use of CDBG Funds to Repayment.** Upon a determination by the Secretary that payments required by paragraph 2 and/or paragraph 4 of this Contract are unlikely to be made as specified, the Secretary may give the Borrower notice that the availability to the Borrower of funds pledged under paragraph 5(a) of this Contract for purposes other than satisfaction of the pledge is being restricted. This restriction shall be in an amount estimated by the Secretary to be sufficient to ensure that the payments referred to in paragraph 2 and/or paragraph 4 hereof are made when due. This restriction may be given effect by conditioning the restricted amounts to prohibit disbursement for purposes other than satisfaction of the pledge at the time such restricted funds are approved as grants, by limiting the Borrower's ability to draw down or expend the restricted funds for other purposes, and by disapproving payment requests submitted with respect to such grants for purposes other than satisfaction of the pledge.

9. **Secretary's Right to Use Pledged Funds for Repayment.** The Secretary may use funds pledged under paragraph 5(a) of this Contract or funds restricted under grants pursuant to paragraph 8 of this Contract to make any payment required of the Borrower under paragraph 2 and/or paragraph 4, if such payment has not been timely made by the Borrower.

10. **Defeasance.** For purposes of this Contract, after the Conversion Date the Note shall be deemed to have been paid (defeased) if there shall have been deposited with the Trustee either moneys or Government Obligations (as defined below), which in the sole determination of the Secretary, mature and bear interest at times and in amounts sufficient, together with any other moneys on deposit with the Trustee for such purpose, to pay when due the principal and interest to become due on the Note. The Aggregate Principal Amount of the Note or any unpaid Principal Amount may be so defeased, in whole or in part, as of any Interest Due Date, or any other Business Day acceptable to both HUD and the Borrower. In accordance with the Note and the Trust Agreement, the Borrower shall give timely notice and written instructions to the Secretary and the Trustee concerning any principal amounts proposed to be defeased, including any Optional Redemptions proposed, which instructions shall be approved by the Secretary. If the unpaid Aggregate Principal Amount of the Note guaranteed pursuant to this Contract shall be defeased and deemed to have been paid in full, then the Borrower shall be released from all agreements, covenants, and further obligations under the Note.

"Government Obligation" means a direct obligation of, or any obligation for which the full and timely payment of principal and interest is guaranteed by, the United States of America, including but not limited to, United States Treasury Certificates of Indebtedness, Notes and Bonds - State and Local Government Series or certificates of ownership of the principal of or interest on direct obligations of, or obligations unconditionally guaranteed by, the United States of America, which obligations are held in trust by a commercial bank which is a member of the Federal Reserve System and has capital and surplus (exclusive of undivided profits) in excess of $100,000,000.

11. **Default.** (a) A Default under the Note and this Contract shall occur upon failure by the Borrower to:

(i) pay when due an installment of principal or interest on the Note; or (ii) punctually and properly perform, observe, and comply with any covenant, agreement, or condition contained in: (A) this Contract, (B) any security agreement, deed of trust, mortgage, assignment, guarantee, or other contract securing payment of indebtedness evidenced by the Note, or (C) any future

amendments, modifications, restatements, renewals, or extensions of any such documents.

(b) The Borrower waives notice of Default and opportunity for hearing with respect to a Default under paragraph 11(a).

(c) In addition to Defaults under paragraph 11(a), the Secretary may declare the Note in Default if the Secretary makes a final decision in accordance with the provisions of section 111 of the Act and 24 CFR 570.913 (or any successor provisions), including requirements for reasonable notice and opportunity for hearing, that the Borrower has failed to comply substantially with title I of the Act. Notwithstanding any other provision, following the giving of such reasonable notice, the Secretary may, in the Secretary's sole discretion pending the Secretary's final decision, withhold the guarantee of any or all obligations not yet guaranteed on behalf of the Borrower under outstanding commitments, suspend approval of any further Advances or Conversion Date Advances under the Note, and/or direct the Borrower's financial institution to: refuse to honor any instruments drawn upon, or withdrawals from, the Guaranteed Loan Funds Account or the Loan Repayment Account initiated by the Borrower, and/or refuse to release obligations and assignments by the Borrower from the Guaranteed Loan Funds Investment Account or the Loan Repayment Investment Account.

12. **Remedial Actions**. Upon a Default or declaration of Default under this Contract, the Secretary may, in the Secretary's sole discretion, take any or all of the following remedial actions:

(a) With any funds or security pledged under this Contract, the Secretary may: (i) continue to make payments due on the Note, (ii) make a prepayment under Section I.D. of the Note or make an acceleration payment with respect to the principal amount of the Note subject to Optional Redemption as provided in Section III of the Note, (iii) purchase Government Obligations in accordance with paragraph 10 of this Contract, (iv) pay any interest due for late payment as provided in the Note, this Contract, or the Fiscal Agency/Trust Agreements, (v) pay any other obligation of the Borrower under this Contract or the Fiscal Agency/Trust Agreements, and/or (vi) pay any reasonable expenses incurred by the Secretary or the Fiscal Agent/Trustee as result of the Borrower's Default.

(b) The Secretary may withhold the guarantee of any or all obligations not yet guaranteed or the disbursement of any or all grants not yet disbursed in full under outstanding guarantee commitments or grant approvals for the Borrower under Sections 108 and/or 106 of the Act.

(c) The Secretary may withhold approval of any or all further Advances or Conversion Date Advances under the Note (if

applicable); direct the Borrower's financial institution to refuse to: honor any instruments drawn upon, or withdrawals from, the Guaranteed Loan Funds Account or the Loan Repayment Account by the Borrower, and/or to release obligations and assignments by the Borrower from the Guaranteed Loan Funds Investment Account or the Loan Repayment Investment Account; and/or direct the Borrower and/or the Borrower's financial institution to transfer remaining balances from the Guaranteed Loan Funds Account to the Loan Repayment Account.

(d) Until the Conversion Date, or with respect to amounts subject to Optional Redemption, the Secretary may accelerate the Note.

(e) The Secretary may exercise any other appropriate remedies or sanctions available by law or regulation applicable to the assistance provided under this Contract, or may institute any other action available under law to recover Guaranteed Loan Funds or to reimburse the Secretary for any payment under the Secretary's Guarantee or any reasonable expenses incurred by the Secretary as a result of the Default.

(f) All notices and submissions provided for hereunder shall be in writing (including by telex, telecopier or any other form of facsimile communication) and mailed or sent or delivered, as to each party hereto, at its address set forth below or at such other address as shall be designated by such party in a written notice to the other party hereto. All such notices and other communications shall be effective when received as follows: (i) if sent by hand delivery, upon delivery; (ii) if sent by mail, upon the earlier of the date of receipt or five Business Days after deposit in the mail, postage prepaid; (iii) if sent by telex, upon receipt by the sender of an answer back; and (iv) if sent by telecopier, upon receipt.

The Secretary:

U.S. Dept. of Housing and Urban Development
Attention: Paul Webster, Director
Financial Management Division
451 7th Street SW, Room 7180
Washington, DC 20410

Borrower:

City of Fort Pierce
Attention: Grants Administrator
100 North U.S. Highway 1
Fort Pierce, Florida 34950

13. **Limited Liability.** Notwithstanding any other provision of this Contract, the Fiscal Agency/Trust Agreements or the Note, any recovery against the Borrower for any liability for amounts due pursuant to the Note, the Fiscal Agency/Trust Agreements or this Contract shall be limited to the sources of security pledged in paragraph 5 or any Special Conditions of this Contract. Neither the general credit nor the taxing power of the Borrower, or of the State in which the Borrower is located, is pledged for any payment due under the Note, the Contract, or the Fiscal Agency/Trust Agreements.

14. **Incorporated Grant Agreement.** The Contract and the Note are hereby incorporated in and made a part of the Grant Agreement authorized by the Secretary on October 22, 2008 under the Funding Approval for grant number B-08-MC-12-0031 to the Borrower. In carrying out activities with the Guaranteed Loan Funds hereunder, the Borrower agrees to comply with the Act and 24 CFR Part 570, as provided in Subpart M thereof.

15. **Special Conditions and Modifications:**

(a) Paragraph 5(c) of the contract is amended by deleting the paragraph as written in its entirety and substituting therefor the following:

"(c) Other security, including, but not limited to, all rights of the Borrower (but none of the obligations of the Borrower) in and to the 'Security Documents' (as defined in paragraph 15(d) hereof) and to the Collateral described therein. If necessary to provide the Secretary with a valid security interest in such other security, the Borrower shall execute a security agreement (the 'Borrower Security Agreement'), which Borrower Security Agreement shall be in a form acceptable to the Secretary."

(b) Guaranteed Loan Funds shall be used by the Borrower to make a loan to Coral Square Shoppes FLA, LLC (the "Obligor" and "Obligor Loan") to assist in financing the initial development of the **Coral Square Shopping Center** (the "Project"), in accordance with 24 CFR 570.703(i)(1), pursuant to 24 CFR 570.203(b). The Obligor Loan shall be evidenced by a promissory note (the "Obligor Note") and a loan agreement (the "Obligor Loan Agreement"), which Obligor Note and Obligor Loan Agreement shall be in a form acceptable to the Secretary. The amount of principal and/or interest payable under the Obligor Note during the twelve-month period beginning July 1 of each year and ending on June 30 of the next succeeding year shall be equal to or greater than the amount of principal and/or interest payable under the Note for the corresponding period. Unless otherwise agreed to by the Secretary in writing,

the Obligor Note shall not be subject to redemption or prepayment earlier than the earliest possible redemption date under the terms of the Note.

(c) In order to secure the payment and performance of the secured obligations of the Obligor to the Borrower, the Borrower shall obtain the following collateral (collectively, the "Collateral"):

(i) A first lien on the real property described in **Attachment 3** hereof (the "Property"), established through an appropriate and properly recorded mortgage (the "Mortgage"). The Mortgage shall contain such provisions as the Secretary deems necessary.

(ii) Any and all rights, titles, and interests of the Obligor in and to any leases covering the Property. Such rights, titles, and interests of the Obligor shall be the subject of a collateral assignment of leases and rents (the "Collateral Assignment of Leases and Rents"), which shall be in a form acceptable to the Secretary.

(iii) Any and all rights, titles, and interests of the Obligor in and to any licenses, permits, and other agreements covering the Property. Such rights, titles, and interests shall be the subject of a collateral assignment of interest in licenses, permits, and other agreements (the "Collateral Assignment of Interest in Licenses, Permits, and Agreements"), which shall be in a form acceptable to the Secretary.

(iv) Such other alternative collateral or security arrangements as may be requested by the Borrower and approved by the Secretary in writing.

(d) Unless otherwise agreed to by the Secretary, the Borrower shall select a financial institution acceptable to the Secretary (the "Custodian") to act as custodian for the documents specified in (e) below (hereinafter referred to as the "Security Documents"). The Borrower and the Custodian shall enter into a written agreement containing such provisions as the Secretary deems necessary. A fully executed copy of such agreement, with original signatures, shall be forwarded to the Secretary contemporaneously with the delivery of documents pursuant to (e) below.

(e) Not later than five business days after the initial disbursement of the Guaranteed Loan Funds to the

Obligor, the Borrower shall deliver to the Custodian the following:

(i) The original Obligor Note, endorsed in blank and without recourse.

(ii) The original Obligor Loan Agreement and a collateral assignment thereof to the Secretary, which assignment shall be in a form acceptable to the Secretary.

(iii) The original recorded Mortgage signed by the Obligor and an assignment thereof to the Secretary, in a recordable form but unrecorded, which assignment shall be in a form acceptable to the Secretary. Alternatively, Borrower shall deliver a copy of the Mortgage submitted for recordation with the original to be delivered upon receipt after recordation.

(iv) The original recorded Collateral Assignment of Leases and Rents and an assignment thereof to the Secretary, in a recordable form but unrecorded, which assignment shall be in a form acceptable to the Secretary.

(v) The original Collateral Assignment of Interest in Licenses, Permits, and Agreements and a collateral assignment thereof to the Secretary, which assignment shall be in a form acceptable to the Secretary.

(vi) An opinion of the Borrower's counsel on its letterhead, addressed and satisfactory to the Secretary, that:

(A) The Obligor is duly organized and validly existing as a ***[corporation, partnership, etc.]*** under the laws of the State of _____ and is ***[existing, qualified to do business, in good standing, as applicable]*** in and under the laws of the State of Florida;

(B) The Obligor Note has been duly executed and delivered by a party authorized by the Obligor to take such action and is a valid and binding obligation of the Obligor, enforceable in accordance with its terms, except as limited by bankruptcy and similar laws affecting creditors generally; and

(C) The security instruments specified in

(ii) through (v) above are valid and legally binding obligations, enforceable in accordance with their respective terms.

To the extent that the foregoing opinion deals with matters customarily within the due diligence of counsel to the Obligor, Borrower's counsel may attach and expressly rely on an opinion of Obligor's counsel satisfactory to the Secretary.

(vii) A mortgagee title policy, issued by a company and in a form acceptable to the Secretary, naming the Borrower as the insured party. The policy must either include in the definition of the "insured" each successor in ownership of the indebtedness secured by the Mortgage or be accompanied by an endorsement of the policy to the Secretary.

(viii) A certified survey with a legal description conforming to the title policy and the Mortgage.

(ix) An appraisal of the fee simple ownership interest in the Property specifying an estimate of fair market value of not less than 125 percent of the principal balance of the Note, or as otherwise agreed to by the Secretary. The appraisal shall be completed by an appraiser who is certified by the state and has a professional designation (such as "SRA" or "MAI"), and shall conform to the standards of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA").

(x) Any instruments, documents, agreements, and legal opinions required pursuant to paragraph 15(c)(v).

(f) Paragraph 12 is amended by adding at the end thereof the following language:

"(g) The Secretary may complete the endorsement of the Obligor Note and record the assignments referred to in paragraph 15(e) and thereby effectuate the transfer of the documents referenced and underlying indebtedness from the Borrower to the Secretary or the Secretary's assignee.

"(h) The Secretary may exercise or enforce any and all other rights or remedies (including any and all rights and remedies available to a secured party under the Uniform Commercial Code) available by law or agreement (including any of the Security Documents, as defined in paragraph 15(d) against

the Collateral, against the Borrower, against the Obligor, or against any other person or property."

(g) The Borrower agrees that it shall promptly notify the Secretary in writing upon the occurrence of any event which constitutes a default (an "Event of Default") under (and as defined in) any of the Security Documents, as defined in paragraph 15(d). Notification of an Event of Default shall be delivered to the Secretary as directed in paragraph 12(f) above. Upon the occurrence of an Event of Default, the Secretary may (without prior notice or hearing, which Borrower hereby expressly waives), in addition to (and not in lieu of) exercising any and all remedies that may be available under the Security Documents, declare the Note in Default and exercise any and all remedies available under paragraph 12. This paragraph shall not affect the right of the Secretary to declare the Note in Default pursuant to paragraph 11 and to exercise in connection therewith any and all remedies available under paragraph 12.

(h) Additional Grounds for Default. Notice of Default. Restriction of Pledged Grants. Availability of Other Remedial Actions.

(i) The Borrower acknowledges and agrees that the Secretary's guarantee of the Note is made in reliance upon the availability of grants pledged pursuant to paragraph 5(a) (individually, a "Pledged Grant" and, collectively, the "Pledged Grants") in any Federal fiscal year subsequent to the Federal fiscal year ending September 30, 2010, to: (A) pay when due the payments to become due on the Note, or (B) defease (or, if permitted, prepay) the full amount outstanding on the Note. The Borrower further acknowledges and agrees that if the Secretary (in the Secretary's sole discretion) determines that Pledged Grants are unlikely to be available for either of such purposes, such determination shall be a permissible basis for any of the actions specified in paragraphs (ii) and (iii) below (without notice or hearing, which the Borrower expressly waives).

(ii) Upon written notice from the Secretary to the Borrower at the address specified in paragraph 12(f) above that the Secretary (in the Secretary's sole discretion) has determined that Pledged Grants are unlikely to be available for either of the purposes specified in (A) and (B) of paragraph (i) above (such notice being hereinafter referred to as the "Notice of Impaired Security"), the Secretary may limit the availability of Pledged

Grants by withholding amounts at the time a Pledged Grant is approved or by disapproving payment requests (drawdowns) submitted with respect to Pledged Grants.

(iii) If after 60 days from the Notice of Impaired Security the Secretary (in the Secretary's sole discretion) determines that Pledged Grants are still unlikely to be available for either of the purposes specified in (A) and (B) of paragraph (i) above, the Secretary may declare the Note in Default and exercise any and all remedies available under paragraph 12. This paragraph (iii) shall not affect the right of the Secretary to declare the Note and/or this Contract in Default pursuant to paragraph 11 and to exercise in connection therewith any and all remedies available under paragraph 12.

(iv) All notices and submissions provided for hereunder shall be submitted as directed in paragraph 12(f) above.

(i) The Grant Agreement, of even date herewith, for the grant made to the Borrower pursuant to Section 108(q), under grant number B-07-BD-12-0019, is hereby incorporated into this Contract and made a part thereof.

(j) To the extent not inconsistent with the Contract, the Note or any other documents referred to in the said instruments, the Secretary shall undertake with its best efforts to provide the Borrower with not less than sixty (60) days advance notice of any proposed Conversion Date.

[Remainder of Page Intentionally Left Blank]

**THE UNDERSIGNED**, as authorized officials on behalf of the Borrower or the Secretary, have executed this Contract for Loan Guarantee Assistance, which shall be effective as of the date of execution hereof on behalf of the Secretary.

City of Fort Pierce
BORROWER

BY: _____
(Signature)

Robert J. Benton, III
(Name)

Mayor, City of Fort Pierce
(Title)

10/05/2009
(Date)

APPROVED AS TO FORM AND CORRECTNESS

BY: _____
City Attorney

SECRETARY OF HOUSING AND URBAN DEVELOPMENT

BY: _____
(Signature)

Nelson R. Bregón
(Name)

General Deputy Assistant Secretary for Community Planning and Development
(Title)

_____
(Date)

**Attachment 1**

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**LETTER AGREEMENT FOR**
**SECTION 108 LOAN GUARANTEE PROGRAM**
**DEPOSIT ACCOUNT**

National City Bank, now a part of PNC
Name of Institution (and Branch)

205 Datura Street
Street

West Palm Beach, Florida 33401
City, State, Zip Code

**********

[✓] This account is established for funds received by the Borrower under Note(s) guaranteed by the United States Department of Housing and Urban Development (HUD) under the Section 108 Loan Guarantee Program **(Guaranteed Loan Funds Account).**

[ ] This account is established for repayment of the Note(s) guaranteed by HUD under the Section 108 Loan Guarantee Program **(Loan Repayment Account).**

[ ] This account is established as a debt service reserve under the Section 108 Loan Guarantee Program **(Debt Service Reserve Account).**

You are hereby authorized and requested to establish a deposit account to be specifically designated:

"[Name of Borrower] CITY OF FORT PIERCE, as Trustee of United States Department of Housing and Urban Development." All deposits made into such account shall be subject to withdrawal therefrom by the Borrower named below, unless and until HUD provides you with a notice that it is assuming control over the account. Thereafter withdrawals may not be made by the Borrower. Within a reasonable period of time, not to exceed two business days, after your receipt of such notice from HUD, you shall so prevent such Borrower withdrawals and, if requested by HUD in writing, shall thereafter forward monthly to HUD, to an account it specifies in its notice, the collected and available balance in such account.

You are further authorized, after receipt of the notice from HUD, to refuse to honor any instrument drawn upon or withdrawals from such account by parties other than HUD. In no instance shall the funds in the deposit account be used to offset funds which may have been advanced to, or on behalf of, the Borrower by

you. You are permitted, however, to debit from the account your customary fees and charges for maintaining the account and the amount of any deposits that are made to the account and returned unpaid for any reason.

Such account shall also be subject to your standard agreement and documents relating to the opening and maintenance of bank accounts with you. In the event of any conflict between this Letter Agreement and such agreements and documents, this Letter Agreement shall control.

This letter is submitted to you in duplicate. Please execute the duplicate copy of the certificate below, acknowledging the existence of such account, so that we may present the copy signed by you to HUD.

Name of Borrower: CITY OF FORT PIERCE

By: _____ Date: 10/05/2009
[Signature]

Name and Title: Robert J. Benton, III
Mayor, City of Fort Pierce

**********

The undersigned institution certifies to the United States Department of Housing and Urban Development (HUD) that the account identified is in existence in this institution under account number: 988927390, and agrees with the Borrower named above and HUD to promptly comply with HUD's notice in the manner provided in the above letter, but in no event to exceed two business days. The undersigned institution further agrees, after receipt of the HUD notice as set forth above, to refuse to honor any instruments drawn upon or withdrawals from such account by parties other than HUD. In no instance shall the funds in the deposit account be used to offset funds which may have been advanced to, or on behalf of, the Borrower by the institution, except as set forth above. Deposits in this institution are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration up to statutory limits.

Name of Institution: National City Bank, now a part of PNC

By _____ Date: 9/24/2009
(Signature)

Name and Title: Keith Henry, Vice President

**Attachment 1**

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**LETTER AGREEMENT FOR**
**SECTION 108 LOAN GUARANTEE PROGRAM**
**DEPOSIT ACCOUNT**

National City Bank, now a part of PNC
Name of Institution (and Branch)

205 Datura Street
Street

West Palm Beach, Florida 33401
City, State, Zip Code

**********

[ ] This account is established for funds received by the Borrower under Note(s) guaranteed by the United States Department of Housing and Urban Development (HUD) under the Section 108 Loan Guarantee Program **(Guaranteed Loan Funds Account).**

[ ] This account is established for repayment of the Note(s) guaranteed by HUD under the Section 108 Loan Guarantee Program **(Loan Repayment Account).**

[✓] This account is established as a debt service reserve under the Section 108 Loan Guarantee Program **(Debt Service Reserve Account).**

You are hereby authorized and requested to establish a deposit account to be specifically designated:

"[Name of Borrower] CITY OF FORT PIERCE, as Trustee of United States Department of Housing and Urban Development." All deposits made into such account shall be subject to withdrawal therefrom by the Borrower named below, unless and until HUD provides you with a notice that it is assuming control over the account. Thereafter withdrawals may not be made by the Borrower. Within a reasonable period of time, not to exceed two business days, after your receipt of such notice from HUD, you shall so prevent such Borrower withdrawals and, if requested by HUD in writing, shall thereafter forward monthly to HUD, to an account it specifies in its notice, the collected and available balance in such account.

You are further authorized, after receipt of the notice from HUD, to refuse to honor any instrument drawn upon or withdrawals from such account by parties other than HUD. In no instance shall the funds in the deposit account be used to offset funds which may have been advanced to, or on behalf of, the Borrower by

you. You are permitted, however, to debit from the account your customary fees and charges for maintaining the account and the amount of any deposits that are made to the account and returned unpaid for any reason.

Such account shall also be subject to your standard agreement and documents relating to the opening and maintenance of bank accounts with you. In the event of any conflict between this Letter Agreement and such agreements and documents, this Letter Agreement shall control.

This letter is submitted to you in duplicate. Please execute the duplicate copy of the certificate below, acknowledging the existence of such account, so that we may present the copy signed by you to HUD.

Name of Borrower: City of Fort Pierce

By: [Signature] Date: 10/05/2009

Name and Title: Robert J. Benton, III
Mayor, City of Ft. Pierce

**********

The undersigned institution certifies to the United States Department of Housing and Urban Development (HUD) that the account identified is in existence in this institution under account number: 988927403, and agrees with the Borrower named above and HUD to promptly comply with HUD's notice in the manner provided in the above letter, but in no event to exceed two business days. The undersigned institution further agrees, after receipt of the HUD notice as set forth above, to refuse to honor any instruments drawn upon or withdrawals from such account by parties other than HUD. In no instance shall the funds in the deposit account be used to offset funds which may have been advanced to, or on behalf of, the Borrower by the institution, except as set forth above. Deposits in this institution are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration up to statutory limits.

Name of Institution: National City Bank, now a part of PNC

By: (Signature) Date: 9/24/2009

Name and Title: Keith Henry, Vice President

Attachment 3

LEGAL DESCRIPTION

EXHIBIT "A"

PARCEL 1:

Commencing at the Intersection of the East-West 1/4 section line of Section 22, Township 35 South, Range 40 East, and the centerline of U.S. Highway No. 1; Thence run East 40 feet to the East right-of-way of U.S. Highway No. 1; Thence run South along said right-of-way 1,403.2 feet to the POINT OF BEGINNING; Thence continue South along said right-of-way 400 feet; Thence run East parallel with the 1/4 section line 400 feet; Thence run North parallel with U.S. Highway No. 1, 400 feet; Thence run West parallel with the 1/4 section line 400 feet to the POINT OF BEGINNING; Less the West 83 feet thereof.

LESS (From Parcel No. 1) the following parcel previously conveyed to ABC Liquors, Inc. by instrument recorded in Official Records Book 197, Page 223; St. Lucie County, Florida Public Records.

Commencing at the Intersection of the North line of the Southwest 1/4 of Section 22, Township 35 South, Range 40 East and the centerline of U.S. Highway No. 1, run South 89 degrees 20 minutes East along the said quarter section line 40 feet to a point on the East right-of-way line of U.S. Highway No. 1; Thence run South 0 degrees 03 minutes West along said right-of-way line 1,403.2 feet to the POINT OF BEGINNING; Thence run South 89 degrees 20 minutes East 233 feet; Thence run South 0 degrees 03 minutes West 150 feet; Thence run North 89 degrees 20 minutes West 233 feet; Thence run North 0 degrees 03 minutes East 150 feet to the POINT OF BEGINNING; Less and Excepting the West 83 feet thereof.

PARCEL 2:

Commencing at the Intersection of the East-West 1/4 section line of Section 22, Township 35 South, Range 40 East, and the centerline of U.S. Highway No. 1, run East 40 feet to the East right-of-way line of U.S. Highway No. 1; Thence run South along said East right-of-way line 1,803.2 feet, to the POINT OF BEGINNING; Thence continue South 434 feet to the Northerly right-of-way line of the Florida East Coast Railroad; Thence run Northeasterly along said railroad right-of-way line 427.05 feet to a point; Thence run North, parallel with U.S. Highway No. 1, 280.11 feet to a point; Thence run West parallel with the 1/4 section line 400 feet to the POINT OF BEGINNING. Less and Excepting the West 83 feet thereof.

Less (From Parcel No. 2) the following parcel previously conveyed to First Federal Savings and Loan Association of Indian River County by instrument recorded in Official Records Book 220, Page 2084, St. Lucie County, Florida, Public Records.

Commence at the Intersection of the North line of the Southwest Quarter of Section 22, Township 35 South, Range 40 East, and the centerline of U.S. Highway No. 1; Thence run East along said quarter section line 40 feet to a point on the East right-of-way line of U.S. Highway No. 1; Thence run South 0 degrees 03 minutes West along said right-of-way line 2,093.2 feet to a point; Thence run South 89 degrees 20 minutes East 83 feet to the POINT OF BEGINNING; Thence run North 89 degrees 03 minutes East 148.07 feet; Thence run South 20 degrees 27 minutes 20 seconds East 149.93 feet to a point; Thence run South 89 degrees 32 minutes 40 seconds West, parallel to the Northerly right-of-way line of Florida East Coast Railway, 203.7 feet to a point; Thence run North 0 degrees 03 minutes East 150.83 feet to POINT OF BEGINNING.

PARCEL 3:

Commencing at the Intersection of the East-West 1/4 section line of Section 22, Township 35 South, Range 40 East and the centerline of U.S. Highway No. 1; Thence run East along the said 1/4 section line 40 feet to a point on the East right-of-way line of U.S. Highway No. 1; Thence run South 0 degrees 03 minutes West along said East right-of-way line 783.2 feet to a point; Thence run South 89 degrees 20 minutes East, parallel with the aforesaid 1/4 section line 360 feet (Also being along the James Paxson North property line); Thence continue to run South 89 degrees 20 minutes East, parallel with the 1/4 section line 400 feet to a point; Thence run South 0 degrees 03 minutes West parallel with the said East right-of-way line of U.S. Highway No. 1 a distance of 550

feet, to the POINT OF B[illegible]NNING; Thence continue to run South 0 degrees 03 m[illegible]tes West parallel with the said East right-of-way li[illegible] of U.S. Highway No. 1 a distance of 630.03 feet; more[illegible]s to the point of intersection with the Northerly right-of-way line of the Florida East Coast Railroad; Thence run South 69 degrees 32 minutes 40 seconds West along said Railroad right-of-way line 693.83 feet, more or less, to a point; Thence run North 0 degrees 03 minutes East, parallel with the East right-of-way line of U.S. Highway No. 1, a distance of 280.11 feet to a point; Thence North 89 degrees 20 minutes West, 317 feet to the point of intersection with the East line of the County of St. Lucie right-of-way; Thence North 0 degrees 03 minutes East along said County of St. Lucie right-of-way line 100 feet to a point; Thence South 89 degrees 20 minutes East a distance of 317 feet to a point; Thence run North 0 degrees 03 minutes East a distance of 400 feet to a point, being on the South property line of the James Paxson property; Thence run South 89 degrees 20 minutes East along said South property line of the James Paxson property 250 feet to a point; Also being the Southeast corner of said James Paxson property; Thence run North 0 degrees 03 minutes East along the East property line of the James Paxson property 100 feet to a point; Thence run South 89 degrees 20 minutes East, parallel with the aforesaid section line, a distance of 400 feet to the POINT OF BEGINNING.

The foregoing combined descriptions are also described as the following parcel of land situate and being in St. Lucie County, Florida, to-wit:

Commencing at the Intersection of the East-West 1/4 section line of Section 22, Township 35 South, Range 40 East, and the centerline of U.S. Highway No. 1; Thence run South 89 degrees 20 minutes East along the 1/4 section line 40 feet to the East right-of-way line of U.S. Highway No. 1; Thence run South 0 degrees 03 minutes West along said right-of-way line 1,553.20 feet; Thence run South 89 degrees 20 minutes East 83 feet to the POINT OF BEGINNING; Thence continue South 89 degrees 20 minutes East 150 feet; Thence run North 0 degrees 03 minutes East 150 feet; Thence run South 89 degrees 20 minutes East 417 feet; Thence run North 0 degrees 03 minutes East 100 feet; Thence run South 89 degrees 20 minutes East 400 feet; Thence run South 0 degrees 03 minutes West 630.03 feet to the North right-of-way line for the Florida East Coast Railroad; Thence run South 69 degrees 32 minutes 40 seconds West along said right-of-way 1,092.37 feet to a point that is 83 feet East of the East right-of-way line for U.S. Highway No. 1; Thence run North 0 degrees 03 minutes East 53.36 feet; Thence run North 69 degrees 32 minutes 40 seconds East 203.7 feet; Thence run North 20 degrees 27 minutes 20 seconds West 149.93 feet; Thence run South 69 degrees 03 minutes West 148.07 feet; Thence run North 0 degrees 03 minutes East 540 feet to the POINT OF BEGINNING.

# U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
# SECTION 108 LOAN GUARANTEE PROGRAM

## VARIABLE/FIXED RATE NOTE

NOTE NUMBER: **B-08-MC-12-0031**

BORROWER: **Fort Pierce, Florida**

DATE OF NOTE: _____

PRINCIPAL DUE DATES AND PRINCIPAL AMOUNT: Before the Conversion Date, the aggregate of Advances made for each applicable Principal Due Date specified in the Commitment Schedule to this Note; on or after the Conversion Date, the Principal Amount (if any) listed for each Principal Due Date in Schedule P & I hereto.

MAXIMUM COMMITMENT AMOUNT: **$3,395,000**

COMMITMENT AMOUNTS: See Commitment Schedule attached hereto.

VARIABLE INTEREST RATE: As set forth below.

REGISTERED HOLDER: AFTERWATCH & CO
As Nominee for
Money Market Obligations Trust
on behalf of its Government Obligations Fund

## I. Terms Applicable Before the Conversion Date

A. Advances

For value received, the undersigned, the City of Fort Pierce (the "Borrower"), which term includes any successors and assigns), a public entity organized and existing under the laws of the State (or Commonwealth as applicable) of Florida, promises to pay to the Registered Holder (the

"Holder," which term includes any successors or assigns), at the time, in the manner, and with interest at the rate or rates hereinafter provided, such amounts as may be advanced under this Note from time to time by the Holder for disbursement to, or on behalf of, the Borrower (individually, an "Advance", and collectively, "Advances"). The Holder shall make Advances upon the written request of the Borrower and the approval of the Secretary of Housing and Urban Development or his designee (the "Secretary"), pursuant to the Contract for Loan Guarantee Assistance (as further defined in Section IV.A. of this Note, the "Contract"), and the Amended and Restated Master Fiscal Agency Agreement (the "Fiscal Agency Agreement") dated as of May 17, 2000, between The Chase Manhattan Bank (now known as Bank of New York Mellon), as Fiscal Agent (the "Fiscal Agent"), and the Secretary. The total amount of Advances made for each Principal Due Date under this Note shall not exceed the applicable Commitment Amount for such Principal Due Date set forth on the Commitment Schedule attached hereto. The aggregate of all Advances under this Note for all Principal Due Dates shall not exceed the Maximum Commitment Amount specified on the attached Commitment Schedule. The Fiscal Agent shall record the date and amount of all payments and Advances on this Note and maintain the books and records of all such Advances and Commitment Amounts for each corresponding Principal Due Date, and all payments. No Advances shall be made on this Note after its Conversion Date.

As used herein, "Conversion Date" means the date (if any) upon which this Note is (i) delivered by the Holder to the Fiscal Agent against payment therefore by the purchasers selected by the Secretary to make such payment; and (ii) assigned to Bank of New York Mellon (or any successor thereto) acting in its capacity as Trustee (the "Trustee") pursuant to a Trust Agreement between the Secretary and the Trustee, dated as of January 1, 1995, as such agreement may be amended or supplemented (the "Trust Agreement"). Upon the occurrence of both (i) and (ii) in the previous sentence, Section III of this Note applies, thereby converting this Note to a fixed rate obligation.

B. Variable Rate of Interest

From and including the date of each Advance to but excluding the earlier of (i) the Conversion Date, and (ii) the date of redemption or prepayment of such Advance pursuant to Section I.D. below (each such date of redemption or prepayment, a "Prepayment Date") interest shall be paid quarterly at a variable interest rate (as set forth below) on the unpaid principal balance of each Advance on the first day of each February, May, August and November (each, an "Interim Payment Date"), commencing on the first Interim Payment Date after the initial Advance is made under this Note. Interest also shall be paid on each applicable Conversion Date, Prepayment Date or Principal Due Date. The amount of interest payable on each Interim Payment Date will represent interest accrued during the three-month period ending immediately prior to such Interim Payment Date, or in the case of the first Interim Payment Date following each Advance that is not made on an Interim Payment Date, the period from and including the date of such Advance to but excluding the first Interim Payment Date following such Advance. The amount of interest payable on this Note's Conversion Date, Prepayment Date, or on any Principal Due Date that precedes such Conversion Date will represent interest accrued during the

period from the last Interim Payment Date to such Conversion Date, Prepayment Date, or Principal Due Date, respectively.

The initial variable interest rate for each Advance will be set on the date of such Advance and will be equal to 20 basis points (0.2%) above the Applicable LIBO Rate (as hereinafter defined) and thereafter will be adjusted monthly on the first day of each month (each, a "Reset Date") to a variable interest rate equal to 20 basis points (0.2%) above the Applicable LIBO Rate (such interest rate, as reset from time to time, the "Standard Note Rate"). If the Conversion Date for this Note has not occurred by the March 1 following the initial Advance under this Note, then the terms of Appendix A shall be used to set the variable interest rate. If the Fiscal Agent does not receive notice of either a Negotiated Special Interest Rate or Holder Determined Special Interest Rate (as defined in Appendix A attached hereto) from the Secretary or Holder, respectively, by the times specified in Appendix A to this Note, then the Standard Note Rate shall apply for the period to which such Negotiated Special Interest Rate or Holder Determined Special Interest Rate would otherwise apply. The Fiscal Agent may conclusively rely on any such notice as to the correctness of any matters set forth therein. Appendix A shall be inapplicable to this Note on or after the Conversion Date.

"LIBO Rate" for any given Business Day means, except in the case of manifest error, the interest rate per annum published on that day in the Eastern Edition of The Wall Street Journal or any successor publication ("WSJ"), published by Dow Jones & Company, Inc., in the section titled "Money Rates" (or any successor section) and opposite the caption "London Interbank Offered Rates (LIBOR) -- three months" (or any successor caption). If such rate does not appear in WSJ on a given Business Day, for each interest period, the LIBO Rate shall be the interest rate, converted to a bond-equivalent yield basis, for deposits in U.S. dollars for three months which appears on Telerate Page 3750 or such other page as may replace Page 3750 on that service or such other service or services as may be nominated by the British Bankers' Association for the purpose of displaying such rate (together, "Telerate Page 3750") as of 11:00 a.m., London time, on the day (the "Determination Date") that is two London Banking Days preceding the relevant Reset Date or Advance. If such rate does not appear on Telerate Page 3750 on such Determination Date, such rate shall be obtained from the Reuters Screen ISDA Page as of 11:00 a.m., London time, on such Determination Date. If, in turn, such rate does not appear on the Reuters Screen ISDA Page on such Determination Date, the offered quotation from each of four reference banks (expressed as a percentage per annum) as of approximately 11:00 a.m., London time, on such Determination Date for deposits in U.S. dollars to prime banks on the London interbank market for a 3-month period, commencing on the Reset Date or date of such Advance, shall be obtained. If at least two such quotations are provided, the LIBO Rate for such Reset Date or date of such Advance will be the arithmetic mean of the quotations, rounded to five decimal places. If fewer than two such quotations are provided as requested, the LIBO Rate for that Determination Date shall be the rate for the most recent day preceding such Determination Date for which the LIBO Rate shall have been displayed on Telerate Page 3750. The LIBO Rate for any interest period shall be converted to a bond-equivalent yield basis by multiplying such rate by the actual number of days in such interest period and dividing that number by 180.

"Applicable LIBO Rate" means: (1) with respect to the initial interest rate for the first Advance hereunder, the LIBO Rate two London Banking Days before the date of such first Advance; (2) with respect to the initial interest rate for any subsequent Advance made before the first Reset Date, the interest rate borne by the first Advance; (3) with respect to the initial interest rate for any subsequent Advance made after the first Reset Date, the LIBO Rate two London Banking Days before the immediately preceding Reset Date; and (4) with respect to the subsequent interest rate at any Reset Date for any Advance, the LIBO Rate two London Banking Days before such Reset Date.

"London Banking Day" means any day in which dealings in deposits in United States dollars are transacted in the London interbank market. Interest payable on or before the Conversion Date shall be calculated on the basis of a 360-day year and the actual number of days lapsed.

C. Principal Amount

Prior to the Conversion Date, the aggregate amount of Advances under this Note for each specified Principal Due Date shall be the Principal Amount paid by the Borrower on such Principal Due Date (as assigned to such Advances by the Secretary's instructions to the Fiscal Agent in accordance with the Contract and the Fiscal Agency Agreement), except to the extent such Principal Amount shall have been reduced by redemption before such Principal Due Date as provided below.

D. Redemption before Conversion Date

At any time on or before the Conversion Date, the Borrower, with the consent of the Secretary, may redeem this Note, in whole or in part, upon fourteen calendar days notice to the Fiscal Agent and the Secretary, at the purchase price of one hundred percent (100%) of the unpaid Principal Amount to be redeemed, plus accrued interest thereon to the date of redemption. Partial redemptions shall be credited against the applicable Principal Amount(s). The related Commitment Amounts and the Maximum Commitment Amount shall be adjusted concurrently with any such redemptions in accordance with the Secretary's instructions to the Fiscal Agent pursuant to the Contract and the Fiscal Agency Agreement.

## II. Conversion

The following events shall occur on the Conversion Date:

A. Schedule P&I

On the Conversion Date all Advances owed by the Borrower under this Note with the same Principal Due Date shall be aggregated into a single Principal Amount which will accrue interest at the fixed rate applicable to such Principal Due Date. Such Principal Amount may be adjusted by the Fiscal Agent in accordance with the following paragraph or paragraph IV.H, as applicable. Whether or not adjusted, each Principal Amount, the fixed rate applicable to each Principal Amount, and the applicable Principal Due Date, shall be listed by the Secretary in Schedule P&I. Schedule P&I will be provided by the Secretary to the Fiscal Agent and attached to this Note by the Fiscal Agent upon the Fiscal Agent's receipt of this Note on the Conversion Date.

B. Conversion Date Advances

If, on or prior to the Conversion Date, the Borrower has not utilized the entire Commitment Amount indicated on the Commitment Schedule attached hereto for a given Principal Due Date, the Borrower may, in accordance with the Fiscal Agency Agreement and the Contract, and with the approval of the Secretary, utilize such Commitment Amount on the Conversion Date to obtain a Conversion Date Advance. A "Conversion Date Advance" shall mean any amount by which the Secretary instructs the Fiscal Agent to increase a Principal Amount on Schedule P&I for a given Principal Due Date, effective as of the Conversion Date of this Note. Conversion Date Advances shall be funded by the sale of this Note to the purchaser selected by the Secretary. The proceeds of a Conversion Date Advance (net of any applicable fees) shall be distributed to or on behalf of the Borrower on the Conversion Date. The total amount of Conversion Date Advances hereunder shall not exceed the sum of any unused Commitment Amounts for all Principal Due Dates.

## III. Terms Applicable Upon Conversion

The following terms shall apply to this Note from the Conversion Date (if any) until this Note is canceled, or matured and paid in full:

Commencing on the Conversion Date, the Borrower promises to pay to the Holder on the applicable Principal Due Date each Principal Amount set forth on the attached Schedule P&I, together with interest on each such Principal Amount at the rate applicable thereto specified on the Schedule P&I. Interest shall be calculated and payments shall be made in the manner set forth below.

Interest on each scheduled Principal Amount of this Note due as of a given date specified on Schedule P&I hereto shall accrue at the related per annum rate specified on Schedule P&I from (and including) the Conversion Date to (but excluding) such Principal Due Date or, if applicable, to the applicable Interest Due Date on which an Optional Redemption (as defined below) occurs. Each interest amount accrued on each unpaid Principal Amount of this Note shall be due semiannually as of February 1 and August 1 of each year (each such February 1 and

August 1, an "Interest Due Date") commencing on the first such date after the Conversion Date, until each Principal Amount listed on Schedule P&I to this Note is paid in full. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

Certain Principal Amounts that are indicated as being eligible for Optional Redemption on Schedule P&I may be paid, in whole or in part, at the option of the Borrower as of any Interest Due Date on or after the date specified in such schedule (an "Optional Redemption"). In order to elect an Optional Redemption of such a Principal Amount, the Borrower shall give notice of its intention to prepay a Principal Amount to the Trustee and the Secretary not less than 60 days and not more than 90 days prior to the Interest Due Date as of which the Borrower intends to prepay the Principal Amount. The Trustee shall apply any payments received in respect of Optional Redemptions in accordance with written instructions of the Borrower, as approved by the Secretary. Principal Amounts that are not indicated as being eligible for Optional Redemption on Schedule P&I may not be prepaid.

## IV. General Terms

### A. Additional Definitions

For purposes of this Note, the following terms shall be defined as follows:

"Business Day" shall mean a day on which banking institutions in New York City are not required or authorized to remain closed and on which the Federal Reserve Bank and the New York Stock Exchange are not closed. If any payment (including a payment by the Secretary) is required to be made on a day that is not a Business Day, then payment shall be made on the next Business Day.

"Contract" shall mean the Contract for Loan Guarantee Assistance, and any amendments thereto, among the Secretary and the Borrower, the designated public entity named therein (if applicable), and the State named therein (if applicable), that refers to and incorporates this Note by the number hereof.

"Principal Amount" shall mean: (i) before the Conversion Date for this Note, the aggregate amount of Advances made for each Principal Due Date specified in the Commitment Schedule attached to this Note, less the amount of any redemptions pursuant to Section I.D. hereof, and any principal repayment; and (ii) on or after the Conversion Date, the principal amount (if any) stated for each Principal Due Date in Schedule P&I attached hereto, less the amount of any principal repayment and any Optional Redemptions made pursuant to Section III hereof and the Trust Agreement.

**City Commission Conference Agenda** **Agenda Item # 4. C.**

**Meeting Date:** 06/08/2015

**Re:** Backus Museum Expansion

**Submitted For:** Robert Bradshaw, City Manager

**SUBJECT:**

Backus Museum Expansion Cultural Facility Grant Opportunity - Senior Planner

**Attachments**

Email from Kathleen Fredrick

Memo from Senior Planner re: Backus Museum Expansion Cultural Facility Grant Opportunity

Site Aerial Exhibit

**Form Review**

Form Started By: Jennifer Robinson Started On: 05/28/2015 09:51 AM

Final Approval Date: 05/28/2015

To: Jennifer D Robinson/cfp@cfp,
Cc: Robert Bradshaw/cfp@cfp,
Bcc:
Subject: Fw: Site Plans for Museum addition <Watchdog: Virus checked>
From: Nicholas Mimms/cfp - Monday 06/01/2015 02:13 PM

Jennifer,

Please see attached information that may be used as backup for the City Commission Conference Agenda discussion on June 8, 2015.

**Nick Mimms, P.E.**
**Deputy City Manager**
**City of Fort Pierce**
**P.O. Box 1480**
**Fort Pierce, Florida 34950**
**Phone (772) 467-3793**
----- Forwarded by Nicholas Mimms/cfp on 06/01/2015 02:11 PM -----

**From:** Kathleen Fredrick [mailto:director@backusmuseum.com]
**Sent:** Wednesday, May 27, 2015 1:41 PM
**To:** nmimms@city-ftpierce.com; 'lhudson@city-ftpierce.com'
**Cc:** Greg Boggs; Lisa Nelson (lisarnelson@bellsouth.net); Mike Jacquin; Haydn Curtis; Karl Guettler
**Subject:** Site Plans for Museum addition

Dear Mayor Hudson and Mr. Mimms,

Here are improved plans for the Museum's modest wing and a bigger vision for the park. Let's schedule a meeting with Greg Boggs, Jack Andrews and whomever else needs to come to the table.
As you know, the Museum's lease is cumbersome and I am hopeful that working as partners we can move the project along. As I mentioned, our County grant requires us to break ground by April, 2016. Shortly, our contractor, Paul Jacquin, will be submitting our plans for site plan review.

We are applying for a Florida Cultural Facilities grant to help fund the project, which will be in excess of $1,000,000. The grant is due on June 15th. I would greatly appreciate a letter of support from the City of Fort Pierce to include with the grant application. Without the City's support, the chances of obtaining the grant are nil.

Please contact me to schedule a meeting. The only day I am unavailable is Monday, June 1st.

I am copying all the project's players in this email so that you will have their contact information readily available.

I am excited to finally see the Museum expand and the park return to a park, even better than before.

Sincerely,

Kathleen

Kathleen

Kathleen Piowaty Fredrick
Executive Director
A.E. Backus Museum & Gallery, Inc.
500 N. Indian River Drive
Fort Pierce, Fl 34950
772-465-0630
Backusmuseum.com

backus52315-landscape.pdf

backus52315site.pdf

# CITY OF FORT PIERCE

## PLANNING DEPARTMENT

*REBECCA GROHALL, AICP, PLANNING MANAGER*
*COMPREHENSIVE PLANNING ◊ DEVELOPMENT REVIEW*
*HISTORIC PRESERVATION ◊ URBAN DESIGN ◊ URBAN FORESTRY ◊ ZONING*


**TO:** Robert J. Bradshaw, City Manager

**FROM:** Kori Benton, Senior Planner

**SUBJECT:** **Backus Museum Expansion**
**Cultural Facility Grant Opportunity**

**DATE:** June 2, 2015

**ISSUE(S):** Request for a letter of support for the Backus Museum Expansion and Cultural Facility Grant Application

**SUMMARY:**

- The Backus Museum operates a 5,120 sq. ft. art and cultural facility, within the City's Veteran's Memorial Park, which provides programming, production, presentation, and exhibition of art, primarily of local and significance through a foundation upon renowned artist A.E. "Beanie" Backus.
- The Department of State administers a Cultural Facilities Expansion Program to coordinate and guide the State of Florida's support and funding of renovation, construction, or acquisition of cultural facilities.
- The City of Fort Pierce extended its partnership and support for the Backus Museum in 2010 with the authorization of a lease and expansion agreement for the subject facility.
- The previous expansion plan incorporated a phased development schedule which included the construction of multiple support structures and outdoor display area, however economic factors have hindered the success of the previous expansion plan.
- A revitalized and reorganized plan seeks a modest expansion of the existing structure and the development of support amenities to expand the programs and services offered by the museum.
- Support funding for the expansion plan is available through the Department of State in the form of a Cultural Facility Grant, which the Backus Museum is requesting a letter of support from the City Commission.

**FISCAL IMPACT:** None

**ATTACHMENTS:** Draft Letter of Support, Proposed Expansion Plans, Site & Landscape Plan, 2010 Lease Agreement, Previously Proposed Plans

City of Fort Pierce
Florida

**Office of the Mayor and City Commission**
City Hall, 100 North US 1
P.O. Box 1480 Fort Pierce, FL 34954-1480
(772) 467-3025 • www.CityOfFortPierce.com

June 1, 2015

Division of Cultural Affairs
R.A. Gray Bldg
500 South Bronough Street
Tallahassee, FL

RE: Florida Cultural Facilities Grant – A.E. "Beanie" Backus Museum

Dear Florida Council on Art & Culture Grant Panel,

On behalf of the City of Fort Pierce, it is my pleasure to submit this letter of support for the A.E. "Beanie" Backus Museum's Florida Cultural Facilities grant application. The proposed facility and program expansion will further the development and augmentation of our community's embrace of art and cultural through the expansion of civic interface, appreciation, and enjoyment of art and local history.

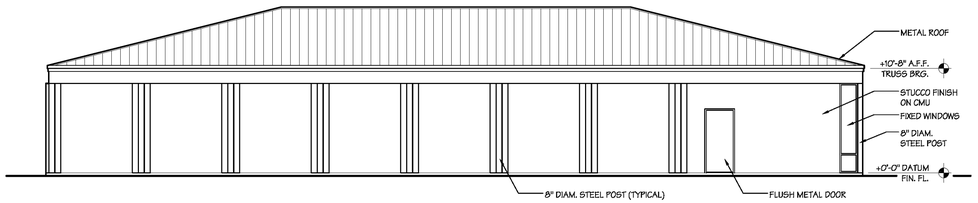
The City of Fort Pierce has rich history and culture which encompass the remarkable aspects of our attractive coastal town, in the heart of Florida. The late A.E. "Beanie" Backus, and the esteemed Backus Museum have embodied these facets through their work and mission. Art and culture are imperative to our community, enhancing the quality of life and appeal to residents and visitors alike. The Backus Museum continues to further the valiant mission of enhancing art education, exhibitions, public outreach, and widespread collaboration with local government, organizations, and schools to ensure promotion and prominence.

This opportunity provides the capacity to expand this marvelous destination, partnerships, and unique environment which promotes art and culture to audiences of all ages and backgrounds to ensure amplification of our community's embrace of art and culture.

The proposed facility expansion and enhancements will ensure the development of additional programs and activities to support growth of local jobs, tourism, and access to this exceptional experience for residents and visitors. Thank you for the opportunity to present support and encouragement for this request.

Sincerely,

Linda Hudson
Mayor, City of Fort Pierce

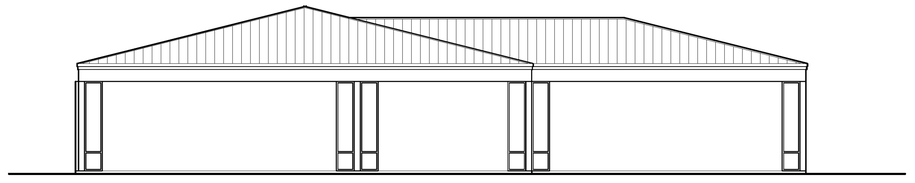



## 01 EXISTING NORTH ELEVATION

SCALE: 1/8" = 1'-0"

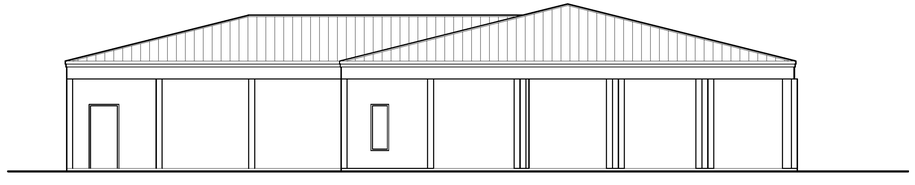
## 02 EXISTING SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



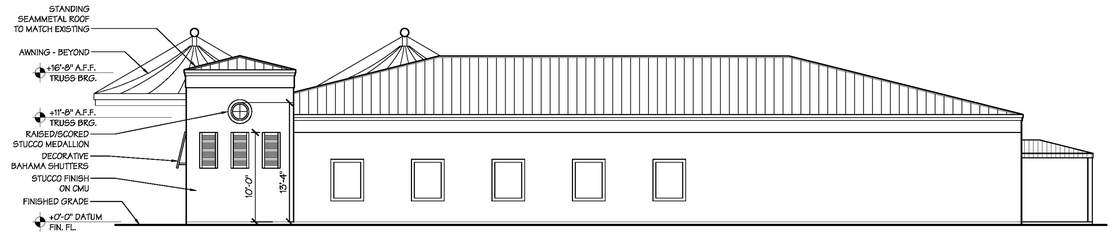
## 03 EXISTING WEST ELEVATION

SCALE: 1/8" = 1'-0"



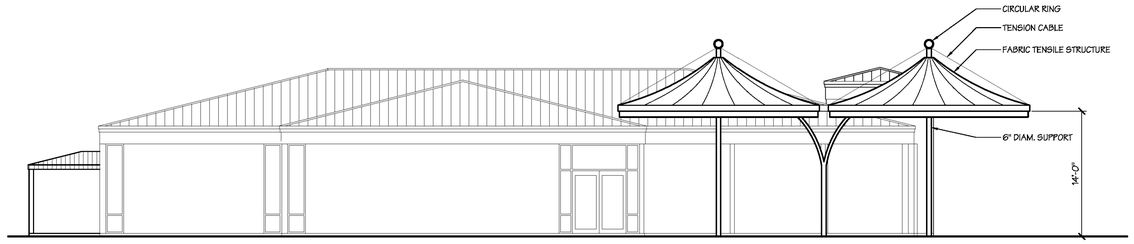
## 04 EXISTING EAST ELEVATION

SCALE: 1/8" = 1'-0"



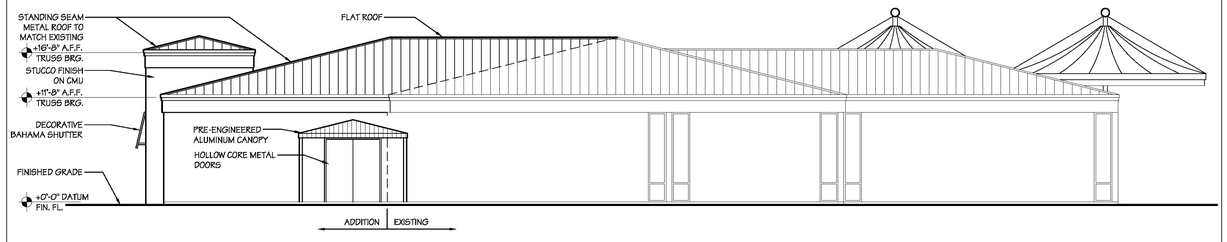

## 05 PROPOSED NORTH ELEVATION

SCALE: 1/8" = 1'-0"



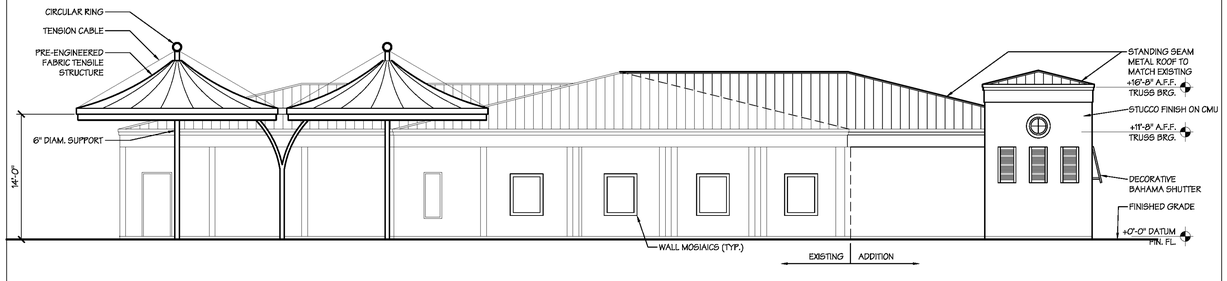

## 06 PROPOSED SOUTH ELEVATION

SCALE: 1/8" = 1'-0"




## 07 PROPOSED WEST ELEVATION

SCALE: 1/8" = 1'-0"




## 08 PROPOSED EAST ELEVATION

SCALE: 1/8" = 1'-0"

Project:

PROPOSED IMPROVEMENTS FOR:

THE
# BACKUS GALLERY

FT. PIERCE, FLORIDA

Key Plan:

Issues:

| No.: | Date: | Description: |
|---|---|---|
| A. | 09/23/14 | CLIENT REVIEW |
| B. | 05/06/15 | CLIENT REVIEW |
| C. | 05/12/15 | CLIENT REVIEW |
| D. | 05/29/15 | BLDG. PERMIT ISSUE |

Architect:

DONADIO
& Associates, Architects P.A.
609 17th Street
Vero Beach, FL 32960
Tel.772.794.2329
Fax.772.562.2600
License No. AA0003258
www.donadio-arch.com

Consultant:

Drawing Title:

ELEVATIONS

Reference North

Drn: MT
Dwg. File: .
Chd: AJD
XREF File: .
Project No.: 2014-53
Plot File: .
Sheet No.: A3.10

Cert. No.: 12,456

Date Signed:

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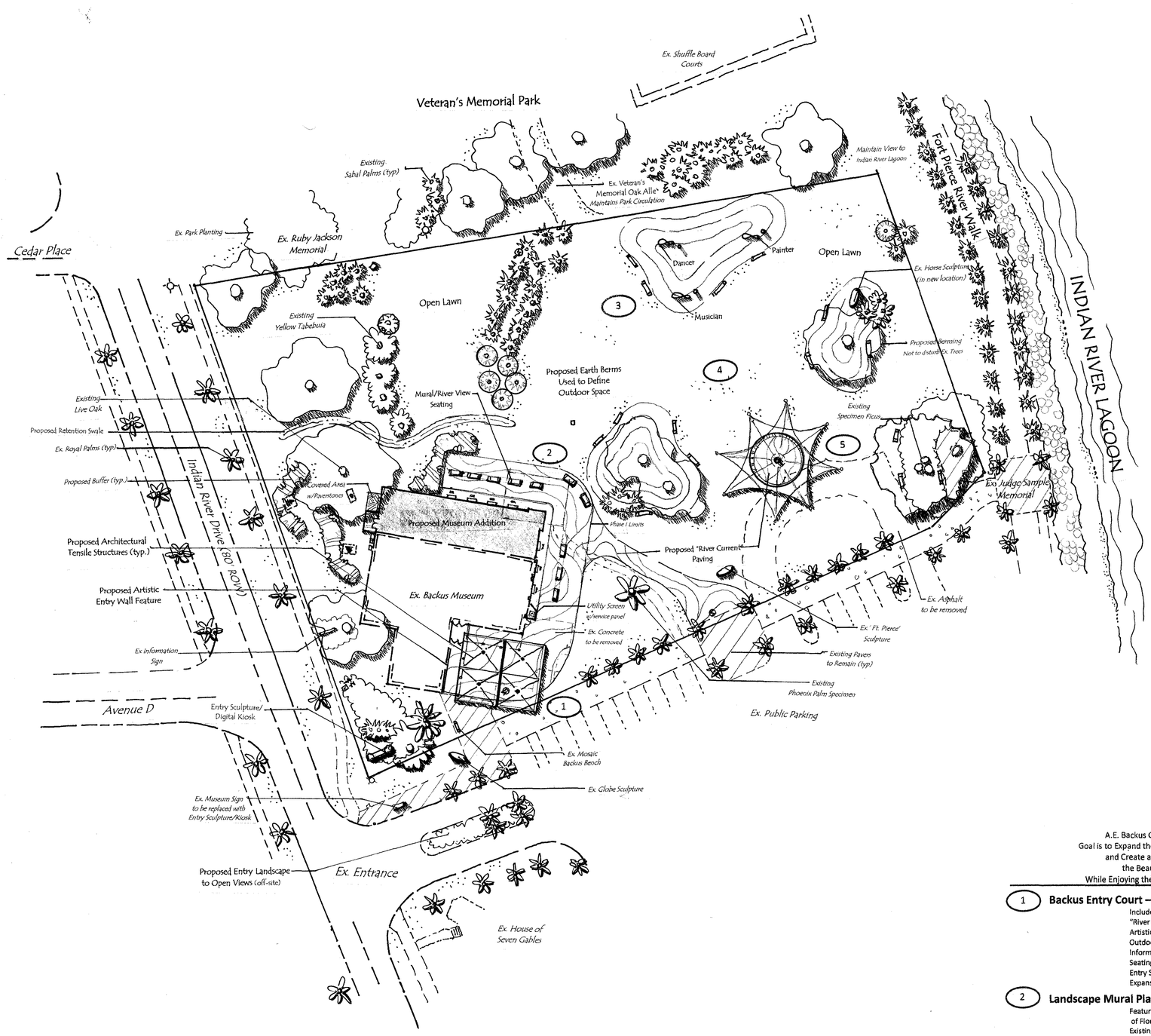
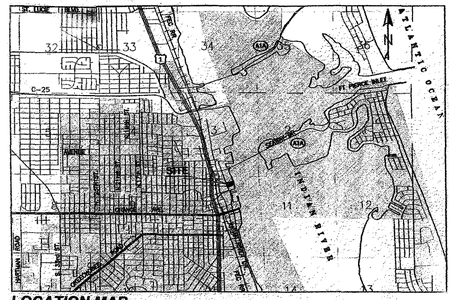



A.E. Backus
MUSEUM & GALLERY

FORT PIERCE
THE SUNRISE CITY




LOCATION MAP
N.T.S.

## SITE DATA

| | |
|---|---|
| PROJECT NAME: | A.E. BACKUS MUSEUM & GALLERY |
| TYPE OF PROJECT: | MUSEUM EXPANSION AND RENOVATION, PHASE I |
| SITE ADDRESS: | 500 N. INDIAN RIVER DRIVE<br>FORT PIERCE, FL 34950 |
| TAX ID#: | 2403-801-0026-000-0 |
| APPLICANT: | A.E. BACKUS MUSEUM & GALLERY<br>500 INDIAN RIVER DRIVE<br>FORT PIERCE, FL 34950 |
| ARCHITECT: | DONADIO & ASSOCIATES, P.A.<br>609 17TH STREET, VERO BEACH, FL 32960<br>OFFICE: 772-794-2929<br>FAX: 772-562-8600<br>License No. AA0002238<br>www.donadio-arch.com |
| LANDSCAPE ARCHITECT/SITE DESIGN | LISA R NELSON, RLA<br>5120 OLEANDER AVE, FORT. PIERCE, FL 34982<br>OFFICE: 772-370-6776 FAX: 772-465-2790<br>lisarnelson@bellsouth.net<br>GREG BOGGS, RLA (Govt. Coord.) gbplans.com<br>PB COBB BLDG., SUITE 2E FORT PIERCE, FL<br>OFFICE: 772-577-6473 |
| ENGINEER: | DANNY RETHERFORD, P.E.<br>ENGINEERING DESIGN & CONSTRUCTION, INC. (EDC)<br>1934 TUCKER COURT FORT PIERCE, FL 34950-3954<br>PHONE - 772-462-2455 FAX - 772-462-2454<br>dannyretherford@edc-inc.com |
| SURVEYOR: | ROLAND E. ROLLINS<br>PROFESSIONAL LAND SURVEYOR<br>3221 SW CRUMPACKER ST, PSL, FL 34953<br>OFFICE: 772-873-4700 |
| GENERAL CONTRACTOR: | JACQUIN & SONS, INC<br>P.O. BOX 4343 FORT PIERCE, FL 34948-4343<br>OFFICE: 772-465-2475 FAX 772-466-2806<br>www.pjsi.com |
| REQUIRED & PROVIDED PARKING: | ALL PARKING PROVIDED BY THE CITY OF FORT PIERCE |
| UTILITIES: | ALL UTILITIES INCLUDING WATER, SEWER, NATURAL GAS, SOLID WASTE AND ELECTRIC IS PROVIDED BY FPUA. |
| STORMWATER MANAGEMENT: | SITE'S EXISTING STORMWATER MANAGEMENT SYSTEM WHICH CONSISTS OF AN ONSITE DRY RETENTION & SWALE SYSTEM, WILL CONTINUE WATER QUALITY AND STORM ATTENUATION. THE STORMWATER MANAGEMENT SYSTEM COMPLIES WITH CITY OF FORT PIERCE ENGINEERING DEPARTMENT'S AND SOUTH FLORIDA WATER MANAGEMENT DISTRICT (SFWMD) STANDARDS AND SPECIFICATIONS AND ARE PROPOSED TO REMAIN IN PLACE. ANY PROPOSED ADDITIONAL DRY RETENTION NECESSARY WILL COMPLY WITH SFWMD & FPUA. |

## PROPOSED SITE FEATURES

A.E. Backus Gallery & Museum Proposed Building Expansion and Site Improvements
Goal is to Expand the Collection of Nationally Recognized American Landscape Artist 'Bean' Backus
and Create an Increase of Public Use for All Ages to Our Community by Emphasizing
the Beauty & Value of Arts to Saint Lucie County and the City of Fort Pierce
While Enjoying the Beautiful Indian River Lagoon Waterfront and Our Veteran's Memorial Park

**(1) Backus Entry Court – PHASE I**
- Includes (4) Architectural Tensile Structures
- "River Current" Concrete Paving w/Integral Color
- Artistic Entry Wall Feature Ushering Guest to Enter Museum
- Outdoor Speakers Featuring New Genre of Instrumental Music each Week
- Information Panels of Upcoming Events w/Hours of Operation
- Seating for Art Classes and Outdoor Events
- Entry Sculpture w/Digital Kiosk Sign (to replace ex. Sign)
- Expansion of Existing Museum Exhibit Building

**(2) Landscape Mural Plaza – PHASE I**
- Featuring a 2-3 yr. Revolving Exterior Exhibit of Florida Landscape Subjects Provided on 4' x 8' Vertical Mural Panels
- Existing Court Benches to be used for Mural & River Viewing
- "River Current" Concrete Paving w/Integral Color
- Free Wi-Fi Provided for Public Use
- Night Lighting for Featured Murals

**(3) Plein Air Vista – PHASE I & III**
- An Open Air Vista of Indian River Lagoon Provided on Proposed Landscape Berm - PHASE I
- Open Space for Local Artists & Public to Sketch and Design – PHASE I
- Features Silhouette Sculptures of 'Musician , Painter, & Dancer' – PHASE III
- Easel Pedestals to be used for Public Sketching, Painting or as Music Stands – PHASE III

**(4) Open 'Event Lawn' – PHASE I**
- Simply Open Space for Museum and Public Events
- Defined by Proposed Earth Berms, Drought Tolerant Lawn and Landscape Planting

**(5) Public Musical/Entertainment Venue – PHASE II & III**
- A Raised Circular Stage is Featured for Performances w/ "River Current" Paving - PHASE II
- Open Lawn and Park Benches for Seating - PHASE II
- Stage is Concrete with "River Current" Paving - PHASE II
- Stage includes Electrical Power Source - PHASE II
- (performances are weather permitting due to open space venue for Phase II)
- Architectural Tensile Structure to Provide Shade and Shelter for Stage and Seating - PHASE III

LEGAL DESCRIPTION

A PART OF PROPOSED CITY PARK, INDIAN RIVER VETERANS MEMORIAL PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 10, PAGE 36, OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA AND THE LAND LYING EAST OF PROPOSED CITY PARK AND THIS TRACT BEING MORE PARTICULARY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PROPOSED CITY PARK; THENCE NORTH 18°44'20" WEST, ALONG THE WEST LINE OF SAID PROPOSED CITY PARK AND THE EAST RIGHT OF WAY LINE OF INDIAN RIVER DRIVE, A DISTANCE OF 367.47 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT OF LAND; THENCE NORTH 18°44'20" WEST, ALONG THE WEST LINE OF SAID PROPOSED CITY PARK AND THE EAST-RIGHT-OF-WAY OF SAID INDIAN RIVER DRIVE, A DISTANCE OF 290.00 FEET TO A POINT; THENCE NORTH 82°01'57" EAST, A DISTANCE OF 387.85 FEET TO A POINT ON THE EAST LINE OF SAID PROPOSED CITY PARK; THENCE SOUTH 18°44'13" EAST, ALONG THE EAST LINE OF SAID PROPOSED CITY PARK, A DISTANCE OF 176.43 FEET TO A POINT; THENCE SOUTH 47°26'56" WEST, A DISTANCE OF 45.03 FEET TO A POINT; THENCE SOUTH 67°24'18" WEST, A DISTANCE OF 340.59 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.10 ACRES OF LAND MORE OR LESS.

FLOOD ZONE:
THIS PROPERTY LIES IN FLOOD ZONES(S) "X", "AE ELEVATION 5" AND "VE ELEVATION 8", ACCORDING TO FLOOD INSURANCE RATE MAP (FIRM) PANEL 12111C0179 G, MAP REVISED NOVEMBER 4, 1992.

ZONING: C-6

LAND USE: OSR – RECREATION OPEN SPACE

SETBACKS & DIMENSIONAL CRITERIA:
FRONT = 25'
SIDE = 10'
REAR = 15'
MAX. BLDG. HEIGHT = 45'
MAX BLDG. COVERAGE = 50%

**Site Existing (Pre-Development)** 2.10 ac. (91476 sf) Total Site Area (100%)

Bldgs = 4611 SF .11 ac 5% of site
Parking/Sidewalk/Concrete/Paver/Asphalt = 7972 SF .18 ac 9% of site
Total Impervious: 12583 SF .29 ac 14% of site
Total Pervious: 78,893 SF 1.81 ac 86% of site

**Proposed Site (Post-Development)** 2.10 ac. Total Site Area (100%)

Bldgs = 7215 SF .17 ac 7.9% of site
Parking/Sidewalk/Concrete/Paver/Asphalt = 8684 SF .20 ac 9.1% of site
Total Impervious: 15899 SF .36 ac 17% of site
Total Pervious: 75577 SF 1.74 ac 83% of site

## SITE ELEMENT LEGEND

- Proposed Light Fixture
- Proposed Artistic Sculpture/Feature
- Proposed Tensile Structures
- Proposed Outdoor Seating
- Proposed Brick Paving
- Proposed "River Current" Concrete Paving
- Proposed Museum Building Addition
- Existing Electric Transformer
- Existing Electric Service
- Existing Light Pole
- Existing Pull Box
- Existing Palm Tree
- Existing Shade Tree
- Existing Tree/Palm Relocated
- Existing Artistic Sculpture
- Existing Building

**NOTE:** All other proposed elements are noted and labeled individually on site plan. Relocation or removal of plant materials will be marked in the field clearly by LA prior to construction.

811 Know what's below. Call before you dig.

FINAL SURVEY REQUIREMENT:

Per SLC requirements prior to final construction documentation a final survey will be required representing the Revised Flood Plain Elevations recently adopted by SLC. Construction Documents will be revised as necessary to represent the final survey. Location of Existing and Proposed Utilities shall be clearly marked on site per most recent survey prior to any Construction.

Prior to any digging, all existing and new utilities must be Located above and underground. All utilities on site must be clearly marked and regarded upon placement of any and all site improvements during the duration of the project.

PROJECT:
PROPOSED IMPROVEMENTS FOR:

THE
# A.E. BACKUS GALLERY & MUSEUM

FORT PIERCE, FLORIDA

30 20 10 0 15 30 60
SCALE IN FEET: 1" = 30

Issues:

| No.: | Date: | Description: |
|---|---|---|
| LRN | 5/6/15 | Draft Sketch |
| LRN | 5/23/15 | Complete Site Plan for Submittal |

Architect:

DONADIO
& Associates, Architects P.A.
609 17th Street
Vero Beach, FL 32960
tel.772.794.2929
fax.772.562.8600
License No. AA0002238
www.donadio-arch.com

LANDSCAPE ARCHITECTURAL SERVICES DONATED BY:

LISA R. NELSON, RLA
DESIGNER & ON-SITE FIELD COORDINATOR
5120 OLEANDER AVE. FT. PIERCE, FL 34982
PH 772-370-6776 FAX 772-465-2790
FLORIDA LICENSE # LA0001757

GREG BOGGS, RLA
GOVERNMENT/MUNICIPALITY COORDINATOR

DRAWING TITLE:

SITE PLAN

DRAWN BY: LRN DATE: 5/22/15 30 SCALE

SP – 1.0

**LEASE AGREEMENT**

**Between**

**The City of Fort Pierce**

**And**

**The A.E. "Bean" Backus Gallery and Museum, Inc.**

This LEASE AGREEMENT ("**Agreement**") is made and entered into this 2nd day of June, 2010, by and between the **CITY OF FORT PIERCE, FLORIDA**, ("**City**" or "**Landlord**") whose address is 100 North US Highway #1, Fort Pierce, Florida, 34950; and the **AE 'BEAN' BACKUS GALLERY AND MUSEUM, INC.,** a Florida non-profit corporation, whose address is 500 North Indian River Drive, Fort Pierce, Florida, 34950 ("**Tenant**").

**RECITALS**

**WHEREAS**, Indian River Memorial Park ("**Park Property**") is owned by the City of Fort Pierce; and

**WHEREAS**, Policy 7.6.3 of the City of Fort Pierce Comprehensive Plan, adopted May, 2007, states that the City of Fort Pierce shall maintain cooperative relationships and seek to develop partnerships with both public and private agencies, groups, individuals, organizations and facilities that currently or may potentially offer recreation opportunities to City residents; and

**WHEREAS**, the City Commission has determined that the lease of an approximately 2.1 acre portion of Indian River Memorial Park to A.E. "Bean" Backus Gallery and Museum, Inc. for the expansion of the existing gallery into a museum, with the long range goal of accreditation by the American Association of Museums, constitutes a valid public purpose and will encourage utilization of Indian River Memorial Park; and

**WHEREAS**, the Tenant proposes to redevelop the Premises, hereinafter defined, with generally the same amenities as were proposed under the 2006 Veteran's Park redevelopment master plan; and

**WHEREAS**, the Tenant, a 501 C-3 non-profit corporation organized for, and dedicated to the purposes of, fostering a greater appreciation of fine arts within the community, is successor by merger to the Fort Pierce Arts League, Inc., and, as such, is currently vested with possession, custody, control and supervision of the existing museum building and grounds, generally depicted on Exhibit "A" (3

pages),for a term of fifty (50) years, pursuant to Memorandum of Agreement between City and Tenant dated November 22, 1960, and sub-lease from St. Lucie County, dated April 20, 1979, made following the blanket master lease of the Park Property from City to St. Lucie County dated December 14, 1976; and

**WHEREAS**, the St. Lucie County Master Lease of the Park Property is no longer in effect; and

**WHEREAS**, over a period exceeding 48 years, Tenant has constructed, expanded, maintained, and operated the A. E. "Bean" Backus Gallery & Museum on the portion of Park Property depicted on Exhibit "A", at no cost to City, St. Lucie County, State of Florida, or other subdivision or agency of government, and has provided a Museum of the Arts for the cultural advancement, betterment and enjoyment of local residents and area visitors, advancing to a national level appreciation of the art works of local artists and recognized groups of artists, including, but not limited to, A. E. "Bean" Backus, The Highwaymen, and The Indian River School; and

**WHEREAS**, Tenant has requested, and City has determined it fit, proper and in keeping with its dedications made of the Park Property, to support the proposed expansion of Museum by this Agreement designating and committing to the demise for a term of years to Tenant the hereinafter described parcel of Park Property, upon satisfaction of certain terms and conditions subsequent.

**NOW, THEREFORE**, for and in consideration of the premises above set forth and the covenants and agreements herein contained, it is mutually agreed by City and Tenant as follows;

## AGREEMENT

### ARTICLE 1
### DEFINITIONS

The following words and phrases, when capitalized and unless the context requires otherwise, shall have the meanings specified in this Section. The meanings specified in this Section shall apply throughout this Agreement,, including the Exhibits to this Agreement, unless an Exhibit explicitly defines the word or phrase differently, in which case the different meaning will apply throughout such Exhibit. Whenever the singular of a word is defined below, the definition shall include the plural where appropriate, and *vice versa*; and the words of any gender shall include the other gender where appropriate. The words "herein," "hereof," and "hereunder" and other words of similar import refer to the relevant document as a whole and not to any particular part or subdivision thereof.

1.1 **Agreement.** "Agreement" means this Lease Agreement, including Exhibits hereto, between Landlord and Tenant.

1.2. **Art.** "Art" means and refers to fine arts, including painting, sculpture, dance, music, and drama.

1.3 **Article.** "Article" means and refers to an article in this Agreement. Generally, an Article is the largest type of subdivision in this Agreement and is numbered with a single numeral, for example, "2".

1.4 **City.** "City" means and refers to the City of Fort Pierce, Florida, and is used interchangeably in this Agreement with "Landlord."

1.5 **Commencement of Construction.** "Commencement of Construction is defined in Section 4.6.

1.6 **Commencement Date.** "Commencement Date" means the date the Museum initially opens for business following completion of construction Phase 1 of the Museum Improvements as defined in this Agreement.

1.7 **Effective Date.** "Effective Date" means the date that this Agreement is made and entered into.

1.8 **Initial Term.** "Initial Term" is defined in Article 3.

1.9 **Landlord.** "Landlord" means and refers to the City of Fort Pierce, Florida, and is used interchangeably in this Agreement with "City."

1.10 **Material Default.** "Material Default" means a default by Tenant under this Agreement that amounts to a material and substantial failure of consideration hereunder.

1.11 **Museum.** "Museum" is defined in Article 5.

1.12 **Museum Improvements.** "Museum Improvements" is defined in Article 6.

1.13 **Open Space Improvements.** "Open Space Improvements" means that part of the Premises not covered by a structure. These improvements shall initially include improved lawn sod and landscaping, and, in time, shall include but not be limited to: sculpture garden, terrace seating,

sidewalks, green space, water features, and furnishings such as tables, chairs and benches. Such Open Space Improvements shall be open to the public at all times of normal park operation hours, unless such areas are being utilized for a special event or rental function. Open Space Improvements shall be completed as part of a future phase of construction by October 1, 2026. This definition generally relates to Section 22-59(5) of the City of Fort Pierce Code of Ordinances, Design Review: Streetscape Improvements.

1.14 **Operations Plan and Commitments.** The Operations Plan and Commitments for the Museum and Museum Improvements is best evidenced by the consistent Museum operation methods demonstrated over many years of operation. There are appended to this Agreement as Composite Exhibit "B", in five (5) pages the (i) Plan of means by which the facility will be maintained and operated; (ii) General Budget for Phase I Expansion; (iii) Timeline for the commencement of substantial construction; and (iv) Commitments for the operations of the Museum. Composite Exhibit "B" evidences the Operations Plan and Commitments which shall be amended, supplemented, or expanded from time to time during the Initial Term or Renewal Term with copies furnished to Landlord. _

1.15 **Original Condition.** "Original Condition" means the condition or state of the Premises on the Effective Date. The existing amphitheater in place as of effective date shall not be considered part of the Original Condition.

1.16 **Park Property.** "Park Property" means the Indian River Memorial Park as platted in 1954 and dedicated by the City to be enjoyed by the public as a park and pleasure ground for the purpose of public amusement and recreation. It is assigned a Parcel Identification number by the Saint Lucie County Property Appraiser of 2403-801-0026-000/0, totaling 13.49 acres.

1.17 **Party.** "Party" means Landlord or Tenant. "Parties" means both Landlord and Tenant.

1.18 **Premises.** "Premises" means all of the area generally depicted on the attached Composite Exhibit "C" and legally described in a document to be provided by Tenant within 90 calendar days of the Effective Date, which shall be deemed incorporated herein by reference. The premises may comprehend a parcel of up to 2.1 acres, located generally to the east of Indian River Drive, to the north of the Indian River Memorial Parking Lot and boat ramps, to the west of the Indian River Lagoon, roughly bounded to the north by the northern slope of the existing amphitheater. The Premises includes all real property and fixed assets currently situated thereon.

1.19 **Project.** "Project" means Tenant's proposed analysis, financing, development, construction, and operation of the Museum.

1.20 **Renewal Term.** "Renewal Term is defined in Article 3.

1.21 **Section.** "Section" means and refers to a section of this Agreement. Generally, a Section is the second largest type of subdivision in this Agreement and is numbered with a double numeral, for example, "2.2".

1.22 **Subsection.** "Subsection" means and refers to a Subsection in this Agreement. Generally, but not always, a Subsection is the most specific type of subdivision in this Agreement, and is numbered with a letter, for example "B" but referred to as a double numeral and letter, for example, 2.2.A".

1.23 **Tenant.** "Tenant" means the A.E. "Bean" Backus Gallery and Museum, Inc., a Florida non-profit corporation, formerly known as the Fort Pierce Arts League, Inc.

## ARTICLE 2

## DEVELOPMENT AGREEMENT AND AGREEMENT TO LEASE

Subject to the terms and conditions set forth herein, Landlord hereby agrees to lease the Premises defined herein to Tenant, subject to satisfaction of Conditions Precedent to Lease as specified in Article 4. Upon the Commencement Date, the present Memorandum of Agreement shall be automatically terminated and of no further force and effect.

## ARTICLE 3

## TERM

3.1 **Initial Term.** The initial term of this Lease shall be fifty (50) years commencing with the Commencement Date and ending at midnight on the last day of the calendar month in which the fiftieth ($50^{th}$) anniversary of the Commencement Date occurs (the "Initial Term"), unless sooner terminated as provided herein.

3.2 **Renewal Term.** At the beginning of the $47^{th}$ year of the Term, Landlord and Tenant will review the Museum improvements and operations and mutually agree whether to renew the term of

the Lease for an additional forty-nine (49) years(the "Renewal Term"). If renewed, the Renewal Term shall be under the same terms as were in effect during the Initial Term unless the parties otherwise agree. Tenant's renewal is subject to the agreement of both parties. In its review for renewal, Landlord shall not be unreasonable, arbitrary or capricious. Landlord shall review whether Tenant's performance under its Project Scope (as defined in 4.5) and Operations Plan and Commitments is satisfactory, and providing a public benefit consistent with Tenant's original intent to foster a greater appreciation of fine arts, including painting, music, sculpture, dance, poetry and architecture among the residents of and visitors to the Indian River area.

## ARTICLE 4

## CONDITIONS PRECEDENT TO LEASE

Notwithstanding anything to the contrary contained herein, either Party, unless otherwise indicated in this Article, shall have the unilateral right to terminate this Agreement, and thereby cause the Agreement to be null and void and of no further force and effect, if one of the following conditions precedent has not been met. A Party's decision to terminate this Agreement under the provisions of this Article shall not be effective until the non-terminating Party receives notice from the terminating Party of the terminating Party's decision to terminate the Agreement. If the condition on which the terminating Party is basing its decision to terminate the Agreement is met prior to receipt of the terminating Party's decision to terminate, it shall be of no effect and this Agreement shall continue in full effect.

4.1 **Project Feasibility.** As of the Effective Date, Tenant in good faith believes that the development of the first phase of the Museum is feasible and that sufficient funding will be available. Within 90 calendar days of the Effective Date, Tenant shall furnish a boundary survey with a new legal description of the Premises. Within the same 90 day period, Tenant shall have the opportunity to perform other due diligence to determine if any environmental or other potential hazards exist on site, at Tenant's sole expense. If, during this 90 day due diligence period, Tenant determines that the project is not feasible, the Tenant shall give notice to the Landlord of termination of this Agreement. In the event of such termination by Tenant, Tenant shall have no further obligation to construct the Museum, in which case each Party will bear the costs it has expended through the date of termination relating to this Agreement and the present lease and occupancy of tenant shall continue as before.

4.2 **Site Plan Reviews and Approvals.** Tenant shall submit on a phase by phase basis all applications required by the City of Fort Pierce Code of Ordinances for new construction of the type and size intended for Phase 1 and each future phase of construction to the City of Fort Pierce Planning Division. Applications for construction phase 1 shall be submitted within one (1) year of the Effective Date. Landlord shall waive all fees due the City for the project, including Site Plan Application fees, Design Review fees, and Impact fees due the City. Unless otherwise waived by this Section, Tenant is responsible for obtaining all permits and paying all fees required under the scope of work for Phase 1 and all future phases of this Project.

4.3 **Fundraising Goal.** Prior to commencement of construction of phase 1 and any future phase(s), Tenant shall have demonstrated to Landlord's reasonable satisfaction that eighty percent (80%) of the total costs of the project phase has been raised or pledged. The availability of the 80% of costs must be reasonably substantiated by Landlord before construction may commence,.

4.4 **Commencement of Construction.** Tenant shall have obtained all necessary site plan approvals and permits and substantially commenced construction of the Museum Improvements for Phase 1 on or before the second ($2^{nd}$) anniversary of the Effective Date. If failure to meet this condition is the basis for the termination of this Agreement, Landlord may require Tenant to restore the Premises to their Original Condition. The entire Phase 1 of the Project together with initial Open Space Improvements must be complete, open to the public and in full operation no later than three (3) years from the issuance of the building permit for construction phase 1 of the Museum. The remainder of the Open Space Improvements shall be completed as part of a following construction Phase 3.

4.5 Project Scope. In consideration of the duration of the Initial Term and Renewal Term, Tenant incorporates and adopts as its Project scope subsequent to Phase 1, the Phased Development Plan appended to this Agreement as Exhibit "D".

4.6 **Accreditation and Standards.**

A. During the Initial Term, Tenant shall pursue with reasonable diligence and seek to receive accreditation through the American Association of Museums, located in Washington, DC. This accreditation and the standards it requires that are consistent with the Operations Plan and Commitments of the Museum, shall be a matter for review prior to commencement of the Renewal Term.

B. Tenant shall seek at all times to operate the Museum at a regional level of quality for such facilities. The Operations Plan and Commitments of the Museum shall define and describe the Museum mission. This Operations Plan and Commitments, as amended from time to time, shall serve as a benchmark for Museum performance during the term of this Agreement. A material and substantial adverse deviation from the Operations Plan and Commitments shall be cause for termination of this Agreement if not corrected within a reasonable time following written notice to the Museum by City.

## ARTICLE 5

## USES

5.1 **Use of Premises by Tenant.** The Premises shall be used solely for the construction and operation of a museum and related open space amenities pursuant to the terms of this Agreement. The Tenant is granted the right to use the Museum for the following activities:

A. Permitted Uses :

- Art Exhibitions, Permanent Collections and Rotating Exhibits
- Juried Art Competitions
- Art Classes for adults and children
- Art Lectures and Meetings

B Accessory Uses, consistent with the mission and programming of Tenant:

- Administrative support and storage for Tenant
- Retail sale of memorabilia, novelties and art products
- Operation of food service
- Receptions and Dinners
- Annual Art Festival
- Occasional rental of Museum and Open Space Improvements for use by others at such times as the Museum is not being used by the Tenant. Such use by any third party shall be in conformance with all laws, codes, and regulations including those pertaining to special events.
- Tenant shall have the right to use the Museum and Open Space Improvements for any other programming and events that are consistent with the mission of Tenant, all laws, codes, and regulations including those pertaining to special events, and in conformance with this Agreement.

5.2 **Rental of Premises by Tenant to Third Parties: Rental Fees.**

A. **Fee Schedule.** Tenant shall annually set the fee schedule for use of the Premises by others, and provide the schedule to the Landlord.

B. **Operations.** Tenant shall be solely responsible for the monitoring, scheduling and control of bookings, approval of users, and related matters. Third party users shall pay the rental fee assessed for use directly to Tenant.

C. **Completion of Initial Open Space Improvements required**. Prior to using the Premises for rental to third parties, the initial construction phase of the Project must be complete, including all facilities and the initial Open Space Improvements indicated on the approved Site Plan.

5.3 **Licensing for Concessions**. Tenant may license concessions for a snack bar and/or the gift shop to third parties, satisfactory to Tenant.

## ARTICLE 6

## TITLE TO MUSEUM AND MUSEUM IMPROVEMENTS

During the term of this Agreement and subject to the provisions contained herein, City shall be vested with title to the Museum and Museum Improvements. "Museum Improvements" include but shall not necessarily be limited to any and all buildings and improvements and alterations thereto, as well as all fixtures, building equipment and systems, landscaping and Open Space Improvements. Furniture, furnishings, paintings, sculptures and other objets d'art owned by Tenant are specifically excluded as Museum Improvements. Notwithstanding the ownership by City, Tenant shall have complete maintenance obligations under Article 15, for the Museum and Museum Improvements. Upon the expiration or earlier termination of this Agreement, the Museum and Museum Improvements shall remain a part of the realty that is the property of the Landlord.

## ARTICLE 7

## POSESSION AND OCCUPANCY

Upon satisfaction or waiver of all conditions precedent set forth in Article 4 hereof by both parties, Tenant shall have possession and full control of the Premises and may construct the Museum Improvements on the Premises, subject to the other terms and conditions set forth herein; provided,

that the Tenant shall be required to comply with all applicable zoning, municipal, county and state laws, ordinances and regulations governing and regulating the use of the leased Premises. During the time between the Effective Date and the date that all conditions precedent set forth in Article 4 have been satisfied or waived, (1) Tenant shall have all rights to existing museum building as it had under the 1960 Memorandum of Agreement as of the Effective date; and 2) Landlord shall permit Tenant reasonable access to the Premises to prepare for the design, construction and management of the Museum and Museum Improvements; and (2) Landlord shall not use the Premises or allow a third-party to use the Premises in a manner that increases Tenant's design and construction costs of the Museum and Museum Improvements by, for example constructing permanent structures therein that must be demolished. Landlord may use or rent to third parties all existing open space and amphitheater until commencement of construction as referenced in Section 4.4. Landlord shall insure all grounds within Lease area with the exception of the existing museum building until Commencement of Construction.

## ARTICLE 8

## CONSIDERATION

In consideration of the mutual obligations and benefits set forth herein, and as Policy 7.6.3 of the City of Fort Pierce Comprehensive Plan, adopted May, 2007, states that the City of Fort Pierce shall maintain cooperative relationships and seek to develop partnerships with both public and private agencies, groups, individuals, organizations and facilities that currently or may potentially offer recreation opportunities to City residents, the Landlord agrees to provide a location for the Museum and Museum Improvements, and the Tenant commits to provide a Museum of regional quality to be measured by the uses and standards found in Article 5 and in the Tenant's Operations Plan and Commitments. For and in consideration of the foregoing and the mutual covenants contained herein, and for annual rent payable by Tenant to Landlord equal to $1 per year during the Initial Term and Renewal Term, if any, the receipt and sufficiency of which are hereby acknowledged, the parties have entered into this Agreement.

## ARTICLE 9

## CONSTRUCTION OF IMPROVEMENTS ON THE PREMISES

9.1 **Duty to Construct**. Tenant shall construct, or cause to be constructed, the Museum and related Open Space Improvements for Phase 1 as contemplated by Tenant and as indicated on the Site Plan for the Premises subject to the provisions of Article 4. The construction shall be at Tenant's sole cost and expense, except as otherwise provided in this Article. As part of Tenant's construction obligations, Tenant shall be required, at its sole cost, to demolish any and all existing improvements on the Premises, except to the extent that the same are reused or incorporated into the proposed new Museum Improvements. Provided, however, that the Museum shall contribute to the City the sum of Thirty Thousand Dollars ($30,000.00), being one-half of the estimated cost of demolition of the Amphitheater as per the demolition estimate appended hereto as Exhibit "E", and the City shall immediately undertake the demolition and removal of such Amphitheater at its cost.

9.2 **Museum Design**. Prior to construction of the Museum and Museum Improvements, Tenant shall submit an application for site plan review to the City of Fort Pierce Planning Division and obtain Site Plan approval as specified in Section 4.2. The Site plan shall include an expanded museum, and initial Open Space Improvements open to the public, and shall be of a design that reflects the intent of the City to further superior architectural and urban design. This design shall be substantially in keeping with the Site Diagram of the Backus Gallery Expansion, as submitted to the City of Fort Pierce Planning Department on October 6, 2009, by its consulting architects, Springboard Design, appended to this agreement as Exhibit "C".

9.3 **Compliance with Law and Quality of Work**. Tenant, at Tenant's sole cost and expense, shall cause all construction to be performed by or on behalf of Tenant under this Agreement to be approved by all appropriate governmental agencies and all applicable permits and authorizations shall be obtained by Tenant as and when required. The Museum Improvements shall be constructed and all work performed shall be in accordance with all valid laws, ordinances, regulations, and orders of all federal, state, county or local governmental agencies or entities having jurisdiction over the Premises. All work performed or authorized by this Agreement, shall be done in a good workmanlike manner and only with new or recycled materials of good quality.

9.4 **Liens: Indemnification of Landlord**. Tenant shall keep the Premises and the Museum free and clear from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant. If Tenant, in Tenant's good faith, determines that any such lien should

be contested, Tenant shall, at Tenant's sole cost and expense, procure and record a lien release bond, in an amount equal to one and one-half (1.5) times the amount of the claim of the lien, issued by an insurance company acceptable to Landlord who is authorized to do business in the State of Florida. The bond shall provide for the payment of any sum that the claimant may recover on the claim (together with costs of suit, if any recovered in the action.) Tenant's failure to procure and record such lien release bond within thirty (30) calendar days after demand of the Landlord shall be deemed a default by Tenant under the terms of this Agreement. Tenant agrees to hold Landlord, the Premises, and the Museum Improvements free and harmless of, and to indemnify Landlord against, all liability from any and all such liens, claims or demands, together with costs and expenses, including but not limited to reasonable attorney's fees, and other costs incurred by Landlord in connection therewith or arising out of Tenant's failure to comply with the requirements of this Section, which indemnity obligation shall survive the termination of this Agreement in accordance with Subsection 14.2 hereof. Tenant shall pay to Landlord within thirty (30) calendar days after written demand, all such costs and expenses incurred by Landlord.

9.5 **Ownership of Plans and Specifications**. All plans and specifications for the Museum shall be the sole property of the Tenant, subject to any rights of the architect, except that the same shall become the property of the Landlord upon the expiration or earlier termination of the Initial Term or the Renewal Term, as applicable.

9.6 **Easements and Dedications**. The parties hereto acknowledge that in order to provide for the orderly development of the Premises, it may be necessary, desired, or required that street, water, sewer, drainage, gas, power line, and other easements and dedications, and similar rights be granted or dedicated over or within portions of the Premises or other portions of Landlord's property. Landlord shall, upon request of Tenant, join with Tenant in executing and delivering such documents, from time to time, and throughout the Lease term, as may be appropriate, convenient, necessary or required by the governmental agencies, public utilities, and companies for the purpose of granting such easements and dedications; provided that such documents must be acceptable to Landlord in its reasonable discretion, that such documents comply with all applicable portions of the City of Fort Pierce Code of Ordinances. Any expenses associated with this paragraph shall be borne exclusively by Tenant.

9.7 **Alterations.** From and after completion of the Phase 1 construction of the Museum and Museum Improvements, any future phase(s) or alterations shall be subject to the prior approval of

Landlord in accordance with all applicable Codes in the City of Fort Pierce Code of Ordinances, as well any and all local, state and federal permitting agencies.

## ARTICLE 10

## PROJECT MANAGEMENT AND COORDINATION

10.1 **Designation of Project Manager.** Immediately after Tenant employs a project manager, Tenant shall notify Landlord, in writing, of the name and business and home telephone numbers of the individual who shall serve as Tenant's project manager for the purpose of liaison between Landlord and Tenant regarding any and all matters related to the construction of the Museum, and Landlord shall so notify Tenant of the identity of Landlord's project manager. In the event either such person is replaced, then not later than the effective date of such replacement the Party making such change in personnel shall notify the other of the change, indicating the effective date of the replacement, and the name and business and home telephone numbers of the replacement.

10.2 **Coordination Meetings.** Tenant's project manager shall meet from time to time with Landlord's project manager, and shall keep Landlord's project manager informed about the status of the construction.

## ARTICLE 11

## GENERAL REQUIREMENTS FOR CONSTRUCTION ACTIVITY

11.1 **Indemnification from Claims for Unpaid Wages.** Tenant shall indemnify, defend, and hold Landlord harmless from and against any and all claims for unpaid wages due to any laborer who has worked on the Museum Improvements, together with any claims for interest and penalties associated with such unpaid wages. The indemnification provided hereunder shall survive the termination of this Agreement. Tenant shall also comply, at its sole cost and expense, with all prevailing wage or public contracting requirements, to the extent the same are applicable to the construction of the Museum Improvements by Tenant.

## ARTICLE 12

## TAXES, UTILITIES AND SERVICES

12.1 **Taxes.** To the extent required by law, Tenant shall pay, before delinquency, all taxes, levies and assessments arising from its activities or any improvements on, or its occupancy of the Premises.

## ARTICLE 13

## INSURANCE

13.1 **Insurance to be Procured by Tenant.** Tenant and Landlord, to the extent their respective interests may require, shall procure and maintain for the duration of this Agreement insurance against claims for injuries to person or damages to property which may arise from or in connection with Tenant's operation and use of the Premises. The cost of Tenant's insurance shall be borne by Tenant, and Landlord shall be named as an additional insured party.

Tenant shall be responsible for all damage to persons or property resulting from its negligent acts, reckless or intentional misconduct, errors or omissions or those of their subcontractors, agents or employees in connection with such services and shall be responsible for all parts of its work, both temporary and permanent. Tenant shall likewise procure and maintain insurance upon the contents of the Museum owned by Tenant in amounts satisfactory to Tenant.

TENANT'S Insurance Primary The insurance provided by the Tenant pursuant to this Agreement shall apply on a primary basis and any other insurance or self-insurance maintained by the Landlord or any of the Landlord's members, officials, officers or employees shall be in excess of and not contributing with the insurance provided by or on behalf of the Tenant.

Deductible or Self-Insured Retention Provisions Except as otherwise specifically authorized herein, no deductible or self-insured retention for any required insurance provided by the Tenant pursuant to this Agreement will be allowed unless and until the Tenant has received prior written approval from the Landlord to use such deductible or self-insured retention in connection with the required insurance. The extent to which, if any, the Landlord agrees to allow deductibles or self-insured retentions for any required coverage is subject to the sole discretion of the Landlord. The Tenant shall be responsible for paying any losses, including losses and defense costs with respect to claims against the Landlord, and the Landlord's

members, officials, officers or employees, within the amount of any deductible or self-insured retention allowed under this section.

13.2 **Generally.** Tenant shall, at its own expense, procure and maintain throughout the term of this Agreement, with insurers acceptable to Landlord, the types and amounts of insurance required by law. Tenant shall not commence work until the required insurance is in force and evidence of insurance acceptable to Landlord has been provided to, and approved by, Landlord. An appropriate Certificate of Insurance shall be satisfactory evidence of insurance. Until such insurance is no longer required by construction, Tenant shall provide Landlord with renewal or replacement evidence of insurance at least thirty (30) calendar days prior to the expiration or termination of such insurance.

13.3 **Workers' Compensation/Employer's Liability Insurance.** Such insurance shall be no more restrictive than that provided by the Standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. The minimum amount of coverage (inclusive of any amount provided by an umbrella or excess policy) shall be:

| | | |
|---|---|---|
| Part One: | "Statutory" | |
| Part Two: | $1,000,000 | Each Accident |
| | $1,000,000 | Disease - Policy Limit |
| | $1,000,000 | Disease - Each Employee |

13.4 **General Liability Insurance.** Such insurance shall be no more restrictive than that provided by the most recent version of standard Commercial General Liability Form (ISO Form CG 00 01) without any restrictive endorsements. Landlord shall be included as an "Additional Insured" on a form no more restrictive than ISO Form CG 20 10 (Additional Insured - Owners, Lessees, or Contractors). The minimum limits (inclusive of amounts provided by an umbrella or excess policy) shall be:

| | |
|---|---|
| $1,000,000 | General Aggregate |
| $1,000,000 | Products/Completed Operations Aggregate |
| $1,000,000 | Personal and Advertising Injury |
| $1,000,000 | Each Occurrence |

13.5 **Automobile Liability Insurance.** Such insurance shall be no more restrictive than that provided by Section II (Liability Coverage) of the most recent version of standard Business Auto Policy (ISO Form CA 00 01) without any restrictive endorsements, including coverage for liability contractually assumed, and shall cover all owned, non-owned, and hired autos used in connection with

the performance of the work. The minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be:

$1,000,000 Each Occurrence - Bodily Injury and Property Damage Combined

13.6 **Liability of Tenant.** Compliance with these insurance requirements shall not limit the liability of Tenant. Any remedy provided to Landlord by the insurance provided by Landlord shall be in addition to and not in lieu of any other remedy (including, but not limited to, as an indemnitee of Tenant) available to the Landlord under this Agreement or otherwise.

13.7 **Tenant's failure to obtain, pay for, or maintain Insurance**. Tenant's failure to obtain, pay for, or maintain any required insurance shall constitute a material breach upon which LANDLORD may immediately terminate or suspend this Agreement.

13.8 **Changes in Insurance.** The Tenant shall furnish to the Landlord Certificates of Insurance. Tenant shall provide the Landlord with copies of the actual endorsements to each insurance policy provided in accordance with this Agreement showing that the insurer will provide the Landlord with thirty (30) days notice for any change, cancellation or non-renewal of the policy. If the insurance policies expire during the terms of the Contract, a renewal certificate or binder shall be filed with the Landlord fifteen (15) calendar days prior to the renewal date.

13.9 **Waiver.** The Landlord and Tenant waive all rights against (1) each other and any of their subcontractors, subcontractors, agents and employees each of the other, and (2) the separate contractors if any, and any of their subcontractors, subcontractors, agents and employees, for damages caused by fire or other causes of loss to the event covered by property insurance obtained pursuant hereto applicable to the Work, provided such waiver does not compromise coverage under such insurance coverage. The Landlord or Tenant, as appropriate, shall require separate contractors, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, to extend similar waivers each in favor of other parties enumerated herein. The required Builder's Risk policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

13.10 **Property Insurance.**

A. At all times during this Agreement when construction and/or renovation of the Museum is taking place, the Tenant shall furnish and maintain, and the Tenant shall bear the cost of, all-risk builder's risk property insurance, satisfactory to the Landlord, upon the entire Work at the site to the full replacement cost of the completed project. This coverage shall name Landlord as an additional insured, must include the interests of the Landlord, Tenant, subcontractors and sub-subcontractors in the Work. At a minimum, the policy must insure against perils including, but not limited to, earthquake, fire, extended coverages, windstorm, lightning, flood, and physical loss or damage, including theft, vandalism and malicious mischief.

B. At all times during this Agreement when construction and/or renovation of the Museum is not taking place, the Landlord shall furnish and maintain, all-risk commercial property insurance insuring all buildings and structures on the Premises for full replacement cost of such buildings and structures provided such insurance is reasonably available to Landlord at commercially reasonable premiums and subject to City of Fort Pierce appropriations of such funds for each budget year of the Lease. At a minimum, the policy must insure against perils including, but not limited to, earthquake, fire, extended coverages, windstorm, lightning, flood, and physical loss or damage, including theft, vandalism and malicious mischief.

C. The Landlord shall not, at any time, be responsible for insuring any Museum contents or any other personal property of Tenant.

13.11 **Future Modifications - Changes In Circumstances**

A. Increases in Required Limits of Insurance.

The Tenant acknowledges that the minimum limits of insurance required by this Agreement are based on circumstances, including the limits of insurance typically maintained by, or required of, organizations such as the Tenant, at the inception of this Agreement. The Tenant agrees that, if, in the opinion of the Landlord, changed circumstances merit an increase in such minimum limits of insurance required by this Agreement, the Landlord may increase the minimum limits of insurance required, and that the Tenant shall, within 60 days of receipt of written notice of a change in the minimum limits required, comply with such increased minimum limits and provide evidence of such compliance in the manner required by the Agreement. Provided, however, that no increase in the minimum limits of insurance required with respect to a given insurance coverage shall be made by the Landlord until at least three years after inception of this Agreement. Subsequent increases in the

minimum limits of insurance with respect to any given coverage shall not be made by the Landlord until at least three years after any prior increase by the Landlord.

B. Changes in Description of Coverages

In order to accurately describe the scope and nature of the insurance required by this Agreement, reference is made to certain standard insurance industry forms in general use at the inception of this Agreement. If, during the term of this Agreement, the standard insurance forms referenced in this Agreement are discontinued, replaced, or substantially modified, the Landlord may, at the Landlord's sole discretion, periodically modify the insurance requirements in this Agreement to require that the insurance maintained by the Tenant, with respect to one or more of the coverages, be no more restrictive than a specified standard insurance industry form or forms then in general use for the same type of insurance coverage.

## ARTICLE 14

## LEGAL LIABILITY

14.1 **Limits on Liability.**

A. **Disclaimer by Landlord.** This Agreement is made upon the express condition that, except as specifically set forth herein, Landlord is to be free from, and Tenant assumes the risk of, all liability and claims for damage, loss, cost, or expense by reason of any injury to any person or persons, including Tenant, or to any property of any kind whatsoever and to whomsoever belonging, including Tenant, from any cause or any causes whatsoever, in, upon or in any manner connected with the Premises or the Museum Improvements, during the term of this Agreement or any extension or renewal thereof or any occupancy hereunder. Without limiting the generality of the foregoing, Landlord and Landlord's agents and employees shall not be liable except to the extent of available insurance for any such loss or damage to persons or property resulting from fire, electricity, gas, water, wind or rain or from the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any cause (except to the extent such liability arises out of any sublease by Landlord of any portion of the Museum Improvements from Tenant.)

B. **Obligation of Tenant Limited to Corporation.** Any and all obligations of the Tenant under this Agreement are enforceable only against the Tenant, and are not enforceable against

nor do they impose any formal liability upon Tenant's officers, directors, trustees or employees or any other individual or entity, public or private.

14.2 **Indemnification.**

A. **Tenant Indemnification.** Tenant shall indemnify, defend and hold Landlord, its officers, employees and agents, harmless against and from any and all losses, claims, actions, damages, costs and expenses (including reasonable attorney's fees) arising out of or relating to any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Agreement, arising out of or relating to any breach of any representation or warranty made by Landlord under this Agreement, or arising out of or relating to any actual or alleged negligent act, intentional wrongful act, or omission or any willful misconduct of Tenant or any of its officers, employees or agents.

B. **Survival of Indemnification Obligations**. Any liability of Tenant for acts or omissions occurring during the term of this Agreement, or arising under any indemnity provision of this Agreement shall survive termination and surrender (whether or not any claim giving rise to such liability shall have accrued.)

## ARTICLE 15

## REPAIRS, MAINTENANCE AND OPERATIONS

15.1 **Museum and Museum Improvements excepting Landscaping.** Tenant shall, at Tenant's sole cost and expense, keep and maintain the Museum, Museum Improvements, and any and all other facilities, now or hereafter appurtenant to the Premises, including but not limited to, Open Space Improvements, all exterior walls, roofs, interiors, windows, doors, glass, plumbing, heating, air conditioning, ventilation, electrical and lighting facilities, and equipment in good order and repair and in a safe and clean condition, ordinary wear and tear excepted.

15.2 **Maintenance of Grounds prior to Commencement of Construction.** Landlord shall maintain the Premises, with the exception of the existing museum building, until the Commencement of Construction.

15.3 **Operations.** Tenant shall be solely responsible for all costs associated with the annual operating budget. Landlord is not required to expend public funds to support either the capital or operating expenses of the Project.

## ARTICLE 16

## COMPLIANCE WITH LAW

16.1 **General Requirements.** This Agreement shall be construed under and governed by, and the Tenant, at its sole cost and expense, shall comply with, all laws, ordinances, rules, regulations, environmental permits and all other obligations imposed by applicable provisions of building, housing, health and environmental codes of any State or Federal law, regulation or agency, including current land use plans, as now or hereafter enacted or promulgated. Whenever Tenant is informed of any violation of any such law, ordinance, rule, regulation license, permit or authorization committed by it or any of its officers, employees, contractors, agents or invitees, or any of its contractor's subcontractors, Tenant shall desist as soon as reasonably possible from and/or prevent or correct such violation.

16.2 **Licenses and Similar Authorizations.** Tenant, at no cost to Landlord, shall secure and maintain in full force and effect during the term of this Agreement, all necessary licenses, permits, regulatory approvals and similar legal authorizations required for the operation, use and development of the Premises and shall comply with all requirements thereof. Nothing herein shall be construed as assurance that any such legal authorization required from Landlord will be granted, or that the Landlord will grant consents, approvals or modifications hereunder for the purpose of compliance with the conditions of any permit, approval or license sought or obtained by Tenant.

16.3 **Americans with Disabilities Act Compliance.** Tenant, at no cost to Landlord, shall comply with all requirements of the Americans with Disabilities Act, as now or hereafter amended, and all rules and regulations implementing the same.

16.4 **Safety.** Tenant shall contractually require its contractors, subtenants and licensees to comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction over the safety of persons or property, or over protection of same from damage, injury or loss, and to erect and maintain all necessary safeguards for such safety and precaution, Nothing contained in this Agreement shall be construed as imposing any duty upon

Landlord with regard to, or as constituting any express or implied assumption by Landlord of control or responsibility over, safety at or on the Premises or the Museum Improvements.

16.5 **Hazardous Substances.** Museum shall not cause or permit any hazardous substances (as defined in federal, state or local law) to be brought on, discharged from, or stored or used at or in connection with the premises, by Museum, its agents, employees, contractors, licensees, or invitees. For purposes hereof, the term "Hazardous Substances" shall be as defined in applicable federal, state and local laws, and shall include any pollutant or contaminant as defined in 42 U.S.C. Sec. 9601(33), toxic pollutant as defined in 33 U.S.C. Sec. 1362(13), hazardous substance as defined in 42 U.S.C. Sec. 9601(14), hazardous chemical as defined in 29 CFR Sec. 1910.1200(e), or hazardous waste as defined in 42 U.S.C. Sec. 6903(5).

## ARTICLE 17

## ACCEPTANCE OF THE PREMISES

Except as otherwise provided herein in Section 4.1 and Section 9.1 (amphitheater demolition) and otherwise, by entry thereunder, Tenant accepts the Premises in the condition existing as of the Effective Date of this Agreement and acknowledges Tenant has examined the Premises, has had a reasonable opportunity to obtain inspections and reports of professionals regarding the same, and has determined, after such examination, the Premises are suitable for the construction and completion of the Museum Improvements contemplated herein and for its subsequent use and occupancy by Tenant.

## ARTICLE 18

## DAMAGE AND DESTRUCTION DURING THE TERM OF THE LEASE

18.1 **Repairs, Alterations and Further Improvements.** In the event of damage to or destruction of any or all of the Museum Improvements (excluding therefrom ordinary wear and tear requiring maintenance and routine repairs) during the term of this Agreement, this Article shall apply.

18.2 **Museum Damage or Destruction.** If the cost of repair or reconstruction of the Museum Improvements following damage or partial destruction is available to Tenant from the property hazard insurance carried by Landlord or from other sources available to Tenant, Tenant and Landlord agree that Tenant may repair or reconstruct the Museum substantially to its condition prior to the occurrence using such insurance proceeds, up to the exhaustion thereof. If, however, Tenant determines that the damage or destruction is too extensive to merit repair or restoration of the

museum on the Premises, Tenant shall receive the proceeds of property hazard insurance carried by Landlord and shall restore the Premises to its Original Condition. This Agreement shall terminate and any remaining balance of insurance proceeds may be used by Tenant to relocate the Museum. Any repairs or reconstruction shall be in conformity with the construction approvals and requirements of this Agreement.

## ARTICLE 19

## CONDEMNATION

19.1 **Definitions.**

A. "Eminent domain" is the right of the people or government to take private property for public use. As used in this Article the words "condemned" and "condemnation" are coextensive with such right, and a voluntary conveyance by Landlord to the condemn or under threat of a taking under the power of eminent domain in lieu or after commencement of formal proceedings shall be deemed a taking within the meaning of this Article.

B. "Total condemnation" and "total taking" mean the taking of the entire Premises under the power of eminent domain or a taking of so much of the Premises under such power as to prevent or substantially impair the conduct of Tenant's business thereon.

C. "Partial condemnation" and "partial taking" mean any condemnation of the Premises other than a total taking as defined above.

19.2 **Effect of Total Condemnation.** In the event that there shall be a total taking of the Premises during the term of this Agreement, or any renewal or extension thereof, under the power of eminent domain as defined in this Article, the leasehold estate hereby created in the Premises shall cease and terminate as of the date title to the Premises is taken by the condemnor. On termination of this Agreement by a total taking of the Premises under the power of eminent domain, all other charges payable by either Party to or on behalf of the other under the provisions of this Agreement shall be paid up to the date on which actual physical possession of the Premises shall be taken by the condemnor, and the parties hereto shall thereafter be released from all further liability in relation thereto arising from and after the date of such termination.

19.3 **Effect of Partial Condemnation.** In the event that there shall be a partial taking of the Premises during the term of this Agreement, or any renewal or extension thereof, under the

power of eminent domain as defined in this Article, this Agreement shall terminate as to the portion of the Premises so taken on the date title is taken by the condemnor or at the time the condemnor is authorized to take possession of said real property as stated in the order for possession, whichever is earlier. This Agreement shall also terminate on such date as to the balance of the Premises once more than ten percent (10%) of the ground area (including the common area) or five percent (5%) of the floor area of the Museum Improvements have been taken and Tenant gives written notice of termination to Landlord within thirty (30) calendar days after Landlord shall have given Tenant written notice of said taking, or in the absence of said notice, within ten (10) calendar days after the condemnor is authorized to take possession as stated in the order for possession. If less than such percentage of ground area or floor area is taken or Tenant fails to timely elect to terminate, this Agreements shall continue in full force and effect as to the remainder of the Premises not so taken.

19.4 **Award.** Any compensation or damages awarded or payable because of the taking of all or any portion of the Premises by eminent domain (the "Just Compensation") shall be allocated between Landlord and Tenant as follows:

A. Out of the total Just Compensation, Landlord shall receive the present value of the reversion (assuming expiration at the end of the Renewal Term) as of the time of taking; the remainder shall be payable to the Tenant. The foregoing allocation_shall be established by the same court of law or other trier of fact that establishes the Just Compensation, using a qualified commercial real estate appraiser acceptable to the parties and who is experienced in the valuation of ground leasehold estates (the "Appraiser"), but if there is no court of law available, able, or willing to make such allocation, then Landlord and Tenant shall attempt to agree themselves on one Appraiser who shall determine the then-present value of the Landlord's reversion and make the appropriate allocation of the total Just Compensation. If the aforementioned court or trier of fact cannot or will not make the allocation, and if the parties cannot thereafter agree on one Appraiser who will be able to make such allocation within sixty (60) calendar days after the amount of Just Compensation has been determined, the allocation shall be determined in accordance with the procedures set forth in Article 33. The foregoing shall not limit Tenant's right to separately pursue compensation or damages for lost revenues, business interruption, and moving expenses, provided that such awards do not reduce any award to Landlord, and Tenant shall be solely entitled to any such compensation or damages free and clear of any claim by Landlord.

B. Any severance damages awarded or payable because only a portion of the Premises is taken by eminent domain shall be allocated in the same manner as in Section 19.4(A) above.

C. The term "time of taking" as used in this subsection shall mean 12:01 a.m. of whichever shall occur first, the date title or the date physical possession of the Premises or any portion thereof is taken by the agency or entity exercising the eminent domain power.

19.5 **Temporary Taking.** If the whole or any part of the Premises or of the Tenant's interest under this Agreement be taken or condemned by any competent authority for its temporary use or occupancy, then this Agreement shall continue and, except only to the extent that Tenant may be prevented from so doing pursuant to the terms of the order of the condemning authority, Tenant shall perform and observe all of the other terms, covenants, conditions and obligations hereof upon the part of Tenant to be performed and observed, as though such taking or condemnation had not occurred. In the event of any such temporary taking, or condemnation Tenant shall be entitled to receive the entire amount of any Just Compensation made for such taking, whether paid by way of damages or otherwise, unless such period of temporary use or occupancy shall extend to or beyond the expiration date of the then-effective term of this Agreement, in which case such Just Compensation shall be apportioned between Landlord and Tenant as of such date of expiration of the then-effective term of this Agreement.

## ARTICLE 20

## BANKRUPTCY OR INSOLVENCY

In the event Tenant voluntarily or involuntarily files for an order for relief under the bankruptcy code, or similar provisions of succeeding law or makes an assignment for the benefit of creditors, or if a receiver is appointed over all or any portion of Tenant's assets located upon the Premises, and such receivership continues for a period of 120 calendar days, or if an attachment or execution or process of court issuing upon or against all or any portion of Tenant's property located upon the Premises remains unreleased for a period of 120 calendar days, such event shall constitute, at the option of Landlord, an Event of Default (as defined in Article 21 below) and Landlord shall thereafter have all of the remedies for such Event of Default set forth in Article 21 below (including the right to terminate this Agreement).

## ARTICLE 21

## TENANT DEFAULT

21.1 **Tenant Default/Cure Periods.** The following shall constitute Events of Tenant Default:

A. Subject to Force Majeure Events, as provided in Article 44 below, Tenant's failure to comply with any term or provisions of this Agreement if such default shall continue, after written notice from Landlord specifically identifying the nature of the default, for a period of sixty (60) calendar days, or such longer or shorter period as may be (1) specified by another applicable Section of this Agreement; or (2) may be reasonably required to cure the default, provided Tenant commences the cure within said sixty (60) calendar days after Landlord's written notice of default, and covenants to diligently complete the cure within such reasonable period; or

B. There shall have been three (3) or more discrete and distinct defaults within the previous two-year period, of which notice shall have been given to Tenant (whether or not such defaults shall have been cured); or

C. The insolvency or bankruptcy of Tenant, as described in Article 20 above; or

D. Tenant abandons the Premises in violation of Article 28.

21.2 **Landlord's Remedies upon an Event of Tenant Default.** Upon the occurrence of an Event of Tenant Default, Landlord may exercise anyone or more of the following remedies as Landlord in its sole discretion shall determine:

A. Terminate this Agreement upon at least ninety (90) calendar days' advance written notice and further subject to and in accordance with Section 21.3.

B. Seek specific performance or other injunctive relief.

C. Recover monetary damages (but specifically excluding consequential or special damages).

D. Undertake payment and performance of Tenant's obligations under this Agreement and, in such case Tenant shall reimburse Landlord on demand for all sums Landlord pays pursuant to this Subsection and for all costs and expenses Landlord incurs in connection with the performance of any act authorized by this Subsection. together with interest on the foregoing amounts accruing from the date of such expenditures by the Landlord at the rate of twelve percent (12%) per annum.

E. Exercise any other rights and remedies, now or hereafter, available to Landlord under this Agreement and the laws and judicial decisions of the State of Florida, subject, however, to the limitation on the right to terminate set forth in Section 21.3 below.

21.3 **Termination upon an Event of Tenant Default.** The parties recognize and agree that, except for termination in accordance with Article 4, termination of this Agreement is a drastic and severe remedy. Accordingly, Landlord shall only have the right to exercise its right to terminate this Agreement for an Event of Tenant Default, if:

A. The Event of Tenant Default is of the nature described in Subsections 21.1.C. or 21.1.D. above; or

B. The Event of Tenant Default is of the nature described in Subsections 21.1.A or 21.1.B, the underlying default(s) are Material Defaults, and Landlord is not likely to be made whole through pursuit of any other commercially-reasonable remedies available to Landlord under this Agreement for such a Tenant Event of Default.

On the date that the termination of this Agreement pursuant to this Article takes effect, all rights and interests of Tenant in, to, and under this Agreement shall terminate, except to the extent otherwise directed by Landlord in its sole discretion. In addition, on the date of such termination, Tenant shall immediately surrender to Landlord the Premises and the Museum, as more fully set forth in Article 24

21.4 Remedies Cumulative Each right and remedy of Landlord hereunder shall be cumulative and shall be in addition to every other right or remedy provided herein or now or hereafter existing at law or in equity or by statute; subject, however, to the limitation on the right to terminate set forth in Section 21.3 above. The exercise or beginning of the exercise by Landlord of anyone or more of any of such rights or remedies shall not preclude the simultaneous or later exercise by Landlord of any or all other such rights or remedies.

## ARTICLE 22

## SUBLEASES AND ASSIGNMENTS

22.1 **No Assignment or Sublease of Lease.** Except as otherwise provided in Article 22, Tenant shall not voluntarily, involuntarily, or by operation of law, assign or in any manner transfer

this Agreement, any interest in this Agreement, any option that may be contained in this Agreement, or any title to all or any portion of Tenant's interest in the Museum to a third party without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld, delayed, or conditioned. Except as otherwise provided in this Agreement, any assignment, license, mortgage, sublease, hypothecation, transfer, or occupancy of the Premises or the Museum in violation of this Subsection shall be null and void and of no force and effect and shall further constitute a breach of this Agreement by Tenant.

## ARTICLE 23

## ENCUMBRANCE OF LEASEHOLD ESTATE

Landlord and Tenant acknowledge that Tenant's sole interest in the Premises is as a Tenant and that Landlord owns the Museum and underlying land. Landlord and Tenant further acknowledge that Landlord has no legal authority to transfer to Tenant any interest greater than a leasehold interest without a vote of the public and that no such vote has been held. Tenant may enter into a loan to construct the Museum Improvements,, provided that Tenant shall have no authority, express or implied, to create or place any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind, the interest of Landlord in the Premises (including without limitation Landlord's interest in the Premises, its interest in this Agreement, and/or its interest in the Museum Improvements following whether before or after expiration or earlier termination of this Agreement (collectively, "Landlord's Interests"), and provided further that, in connection with financing, Tenant may, if necessary to effect financing, (i) grant to a lender a lien on Tenant's interest in the Lease and the Museum Improvements (including without limitation a leasehold mortgage or other commercially reasonable form of security instrument acceptable to a lender, but expressly excluding the Landlord's Interests); (ii) grant to a lender reasonable rights, upon a loan default, to assume the Lease (i.e., stepping into the "shoes" of the Tenant without the same constituting a default under the Lease), and assign it to a new tenant (subject, however, to all of the use restrictions and other terms and conditions herein); and (iii) simply as a mechanism to effect financing, assign the Lease to a new nonprofit corporation to operate the Museum during the term of the financing and/or for the new nonprofit corporation to sublease the Museum Improvements back, to the Tenant, so long as Tenant shall remain no less liable for the performance of the Lease, either through a Lease guarantee or other similar mechanism in effect.

## ARTICLE 24

## SURRENDER

Tenant agrees that on the last day of the Term or the sooner termination of this Agreement, Tenant will surrender the Premises and the Museum to Landlord in good condition, reasonable use and wear and tear of the Museum excepted. Upon termination of this Agreement, Tenant shall have no further interest in the Museum or the Premises. If so requested by Landlord, Tenant shall convey to Landlord by special warranty deed and/or by bill of sale, all Museum facilities and Improvements, subject only to such encumbrances and leases as shall have been specifically approved in writing by Landlord. On or before such termination date Tenant shall deliver to Landlord (a) all keys to any structures, fixtures, or personal property on the Premises; and (b) all plans, blueprints, surveys, diagrams, leases, contracts, and documents relating to the Premises or the Museum. Upon the termination or expiration of this Agreement, Tenant shall have the right and shall be given a reasonable opportunity not to exceed 90 calendar days, provided Tenant is not then in default, to remove from the Premises any furnishings, equipment, and other personal property not constituting Museum Improvements as defined in Article 6. Tenant shall, at Tenant's sole cost and expense, immediately repair all damage done or occasioned by reason of the removal of any such furnishings, equipment, and personal property. All property not removed by the Tenant within 90 calendar days of termination shall be deemed to have been abandoned by Tenant and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord without notice to the Tenant and without obligation to account therefor. If the Agreement shall be terminated as to a portion of the Premises, then this Article shall apply to such portion and all improvements thereon, together with all related personal property.

## ARTICLE 25

## HOLDING OVER

If Tenant shall, with the acknowledgment and consent of Landlord, continue to remain in possession of the Premises after the expiration of the term of this Agreement or any extension or renewal hereof, such holding over shall be on a month-to-month basis and shall not constitute a reletting or releasing of the Premises unless the Parties agree otherwise. Said tenancy from month-to-month shall be upon the same terms and conditions herein specified and shall continue to be such until 30 calendar days after Tenant shall have given to Landlord or the City shall have given to Tenant a written notice of termination of such monthly tenancy. Nothing contained herein shall be construed as

a consent by Landlord to the occupancy or possession of the Premises by Tenant after the expiration of the term hereof.

## ARTICLE 26

## WARRANTIES BY LANDLORD

Landlord, represents, warrants, and covenants that:

A. The title to the Premises is vested in Landlord, subject to no defects or encumbrances other than restrictions, reservations, and easements of record.

B. Landlord shall not, after the date hereof, agree to or create any liens or encumbrances on the Premises, except for any encumbrances agreed to by Tenant, and Landlord shall, at or prior to the commencement of the Term, cause the Premises to be free of all liens and encumbrances.

C. Landlord has the authority to enter into this Agreement and its execution and delivery by Landlord has been duly authorized.

D. Landlord shall not voluntarily, assign, license, mortgage, hypothecate, sublet, sell, or in any manner transfer this Agreement, any interest herein, any option that may be contained herein to all or any portion of the Premises, or any title or interest in all or any portion of Landlord's interest in the Premises without first obtaining the written consent of Tenant, such consent to not be unreasonably withheld. Any assignment, license, mortgage, sublease, hypothecation, transfer, or sale of the Premises in violation of this Subsection shall be null and void and of no force and effect and shall further constitute a breach of this Agreement by Landlord.

E. Landlord covenants and agrees that Tenant shall peacefully and quietly hold and enjoy the Premises during the term hereof or any extension or renewal hereof, without interference or hindrance from Landlord or any person or persons holding or claiming under Landlord in any manner whatsoever.

## ARTICLE 27

## DEFAULT BY LANDLORD

27.1 **Landlord Default/Cure Periods.** The following shall constitute Events of Landlord Default:

A. Subject to Force Majeure Events, as provided in Article 44 below, Landlord's failure to comply with any term or provisions of this Agreement, if such default shall continue, after written notice from Tenant specifically identifying the nature of the default, for a period of sixty (60) calendar days, or such longer period as may be (1) specified by another applicable Section of this Agreement or (2) may be reasonably required to cure the default, provided Landlord commences the cure within said sixty (60) calendar days after Tenant's written notice of default and covenants to diligently complete the cure within such reasonable period;

B. There shall have been three (3) or more discrete and distinct defaults of a similar nature within the previous one-year period, of which notice shall have been given to Landlord (whether or not such defaults shall have been cured).

27.2 **Tenant Remedies upon an Event of Landlord Default.** Upon the occurrence of an Event of Landlord Default, Tenant may exercise anyone or more of the following remedies as Tenant in its sole discretion shall determine:

A. Terminate this Agreement upon at least ninety (90) calendar days' advance written notice.

B. Seek specific performance or other injunctive relief.

C. Recover monetary damages (but specifically excluding consequential or special damages).

D. Exercise any other rights and remedies available to Tenant under this Agreement.

27.3 **Remedies Cumulative.** Each right and remedy of Tenant hereunder shall be cumulative and shall be in addition to every other right or remedy provided herein or now or hereafter existing at law or in equity or by statute. The exercise or beginning of the exercise by Tenant of any one or more of any of such rights or remedies shall not preclude the simultaneous or later exercise by Tenant of any or all other such rights or remedies.

## ARTICLE 28

## ABANDONMENT OF PREMISES

Tenant shall not abandon the Premises at any time during the term of this Agreement, or any extension or renewal thereof. If Tenant abandons the Premises in violation of this Article or be dispossessed by process of law, any personal property belonging to Tenant and left on the Premises shall be deemed abandoned at the option of Landlord and shall be disposed of in the manner provided in Article 24. The absence of Tenant from the Premises for a period of ninety (90) consecutive days shall be considered an abandonment thereof, unless such absence is due to damage or destruction governed by Article 18 above or due to a Force Majeure Event governed by Article 44 below. If Tenant ceases operation of the Museum for a period of greater than ninety (90) consecutive days, Tenant shall be considered to have abandoned the Premises under this Article, unless such cessation is due to damage or destruction governed by Article 18 above or due to a Force Majeure Event governed by Article 44 below.

## ARTICLE 29

## SIGNS

Tenant shall have the right to design and install permanent exterior signage on the Premises subject, however, to any consent or approval required from the City's Planning and Building Departments and compliance with any applicable City ordinances regarding signs and design review. Permanent and temporary signage shall be of a cohesive, professional design, with all signage reflecting a cohesive design, font, color scheme, scale and proportion. Tenant shall further have the right to design and install temporary, exterior, event signage subject to the following criteria:

A. All signs must correctly identify any facilities referenced in the Tenant signage;

B. Signs must be reasonably relevant to activities taking place at the Museum; and

C. Signs shall be consistent with the Tenant mission and programs and programming.

## ARTICLE 30

## SECURITY

Tenant, at Tenant's sole expense, shall provide or cause to be provided all security services on the Premises and for the Museum as are customary and appropriate for a facility of this type.

## ARTICLE 31

## RIGHTS CONFERRED UPON TENANT

31.1 **Tenant Control over Programming.** Subject to Tenant's compliance with all ordinances, laws, and regulations governing the same, Tenant shall have the unrestricted right to program Museum facilities for regular and special events that are consistent with the Tenant mission and programs. This includes, but shall not be limited to, special exhibits, performances, concerts, and presentations.

## ARTICLE 32

## CITY'S CONSENT OR APPROVAL

Whenever the consent of Landlord to any act to be performed by the Tenant is required under this Agreement (a) the Tenant must obtain the consent or approval in writing expressly for purposes of this Agreement, regardless whether a consent or approval shall have been granted by Landlord in its regulatory, public utility, or other capacity; and (b) unless otherwise expressly stated herein, such consent or approval may be withheld in Landlord's sole discretion.

## ARTICLE 33

## MEDIATION OF DISPUTES

The parties shall make their best efforts to resolve disputes as expeditiously as possible through negotiations at the lowest possible decision-making level, and in the event such negotiations are unsuccessful, to participate in good faith in the mediation process described below.

33.1 **Involvement of Mediator & Mediator's Consultants.** In the event an issue cannot be resolved by negotiations between subordinate staff of Tenant and the Landlord, the matter shall be referred to the City Manager and Tenant's President. If those officials are unable to resolve the dispute within a period of 15 calendar days after the matter has been formally referred to them for resolution, they shall meet during the immediately succeeding seven calendar days to select a mediator to assist in the resolution of such dispute. If Landlord and Tenant cannot agree upon a mediator within such seven day period, either Party may apply to the American Arbitration Association or the Judicial Arbitration & Mediation Service for the appointment of a mediator according to the process that is established by such entity for such action. Tenant and Landlord shall share equally the cost charged for the mediation

of any dispute. The mediator shall have the authority to engage one or more expert consultants with knowledge in the field(s) or area(s) involved in the matter(s) that are in dispute to assist the mediator and the parties to evaluate their respective claims and resolve their dispute.

33.2 **Continuation of Efforts in Event of Dispute No Litigation without Mediation.** Notwithstanding the existence of any dispute between them, the parties shall continue to carry out; without unreasonable delay, all of their respective responsibilities under this Agreement which are not affected by the dispute. Neither Party to this Agreement shall commence any litigation against the other with respect to any claim or dispute arising hereunder without first participating, in good faith, in mediation as contemplated in this Article.

## ARTICLE 34

## RELATIONSHIP OF PARTIES

Nothing contained herein shall be construed as to make the Parties hereto partners, associates, joint venturers, or participants in any legal relationship other than that of lessor and lessee. Neither Party hereto shall have the power to contract or incur any obligation or liability in the name of the other Party.

## ARTICLE 35

## AMENDMENTS

The Parties hereto expressly reserve the right to renegotiate and change the provisions of this Agreement from time to time as may be necessary. No alteration or modification of the terms or conditions of this Agreement shall be valid and binding unless made in writing and signed by the authorized representatives of the Parties.

## ARTICLE 36

## NO WAIVER OF DEFAULT

No waiver of default by either Party of any of the terms, covenants, and conditions hereof to be performed, kept, and observed by the other Party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants, and conditions of this Agreement to be performed, kept, and observed by the other Party.

**ARTICLE 37**

**BINDING EFFECT**

This Agreement shall be binding upon the successors and assigns of the parties hereto.

**ARTICLE 38**

**NEGOTIATED AGREEMENT**

The Parties hereto acknowledge that both Parties participated equally in the drafting of this Agreement and that in the event of a dispute neither Party shall be ascribed as the author of this Agreement nor have any ambiguity resolved against such Party on account thereof.

**ARTICLE 39**

**NOTICES**

All notices required to be given hereunder shall be given in writing and shall be personally delivered or deemed delivered if dispatched by certified or registered mail, return receipt requested, postage prepaid, addressed to the parties as set forth opposite their respective names below:

| | | | |
|---|---|---|---|
| If to Landlord: | City of Fort Pierce<br>c/o City Manager<br>100 North US Highway 1<br>Fort Pierce, FL 34950 | Copy to: | City Attorney<br>100 North US Highway 1<br>Fort Pierce, FL 34950 |
| If to Tenant: | AE "Bean" Backus Gallery and Museum, Inc<br>500 North Indian River Drive<br>Fort Pierce, FL 34950 | | |

The Parties, by notice given, may designate any further or different addresses to which subsequent notices or other communications shall be sent.

**ARTICLE 40**

**TIME**

Time is of the essence of this Agreement.

## ARTICLE 41

## ESTOPPEL

41.1 **Landlord's Estoppel.** Landlord, within twenty (20) calendar days after written request to Landlord from Tenant or any Lender, will furnish a written statement, duly acknowledged, as to the following items:

A. Whether or not this Agreement is unmodified and in full force and effect (or, if there have been modifications, whether or not the same are in full force and effect as modified and identifying the modifications);

B. Whether or not to Landlord's actual knowledge, Tenant is in default and specifying the nature of any such default; and

C. Such other matters as Tenant or the Lender may reasonably request and which relate to the actual knowledge of Landlord.

41.2 **Tenant's Statement.** Tenant, within twenty (20) calendar days after written request of Landlord, will furnish a written statement, duly acknowledged, as to:

A. Whether this Agreement is unmodified and in full force and effect (or, if there have been modifications, whether or not the same are in full force and effect as modified and identifying the modifications);

B. Whether there are any defaults thereunder on the part of Landlord to the actual knowledge of Tenant and specifying the nature of such defaults, if any; and

C. Such other matters as Landlord may reasonably request and which relate to the actual knowledge of Tenant.

41.3 **Failure to Furnish.** Upon the failure of Landlord or Tenant, as the case may be, to furnish such statements within the said twenty (20) day period, it shall be conclusively presumed that this Agreement is in full force and effect and that there are no defaults thereunder by the other Party, except to the extent of facts actually known by the Party to whom such statement was to be directed.

**ARTICLE 42**

**CAPTIONS**

The table of contents and the headings to the Subsections of this Agreement are not a part hereof and shall have no effect on the construction or interpretation of any of the terms and provisions contained herein.

**ARTICLE 43**

**INVALIDITY OF PROVISIONS**

Should any term, provision, condition, or other portion of this Agreement be held to be inoperative, invalid, or void, the same shall not affect any other term, provision, condition, or other portion of this Agreement, and the remainder of this Agreements shall be effective as if such term, provision, condition, or portion were not a part hereof.

**ARTICLE 44**

**FORCE MAJEURE**

44.1 **Definition of Force Majeure Event.** "Force Majeure Event" shall mean any circumstance or act beyond the control of a Party, that such Party could not have reasonably anticipated or prevented and that has, or may reasonably be expected to have, a material adverse effect on the rights or obligations of such Party. Examples of Force Majeure Events shall include without limitation, an intervening act of God or public enemy, fire, storm, flood, hurricane, tidal wave, earthquake, epidemic, explosion, volcanic eruption, lightning, nuclear radiation, earth slides, earth movement, quarantine restriction, freight embargo, riot or public discord, civil disturbance, work stoppages and labor strikes, terrorist act, or changes in law. Another example of a Force Majeure Event is a lawsuit filed challenging the validity of one or more permits, licenses, or other governmental approvals related to the development or operation of the Museum, until such time as any such lawsuit is finally and ultimately resolved.

44.2 Effect of Force Majeure Event If either Party is rendered wholly or partly unable to perform its material obligations (excluding, however, any monetary obligations) under this Agreement within two (2) years from the first occurrence of a Force Majeure Event, then the Party whose performance is not so effected may elect to terminate this Agreement and such termination shall take effect ninety (90) calendar days following notice thereof. If either Party is rendered wholly or partly

unable to perform its material obligations hereunder or to meet any deadline or milestone dates set forth in this Agreement because of a Force Majeure Event for a period of less than three (3) years from the first occurrence of a Force Majeure Event, such Party's time to perform any obligation hereunder (excluding, however, any monetary obligations) affected by such Force Majeure Event, shall be equitably adjusted and the applicable deadline or milestone dates shall be revised accordingly.

**ARTICLE 45**

**APPLICABLE LAW**

This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Florida. Venue for any legal action under the Lease shall be in Saint Lucie County, Florida.

**ARTICLE 46**

**AGREEMENT CONTENTS**

This Agreement, including all exhibits and attachments hereto, embody the entire agreement and understanding between the Parties with respect to the lease of the Premises and supersede all other understandings or agreements, written or oral, between the Parties relating to the subject matter of this Agreement. No representations, promises, conditions, or warranties with reference to the execution of this Agreement have been made or entered into between the Parties other than as expressly provided in the aforementioned documents.

S IN WITNESS WHEREOF, the parties hereto have signed, sealed and delivered this Agreement as of the day and year first above written.

**WITNESS AS TO CITY:**

**ATTEST:**

Print Name: CASSANDRA STEELE

Title: CITY CLERK

**CITY OF FORT PIERCE, FLORIDA**

**By:** _____

Robert J. Benton, Mayor

Date: June 2, 2010.

**APPROVED AS TO FORM AND CORRECTNESS:**

By: _____

Robert V. Schwerer, City Attorney

**WITNESS AS TO MUSEUM:**

Print Name: LESLIE OLSON

Print Name: Jeanette Conlon

**A. E. "BEAN" BACKUS GALLERY & MUSEUM, INC.**

By: _____

Print Name: Kathleen P. Fredrick

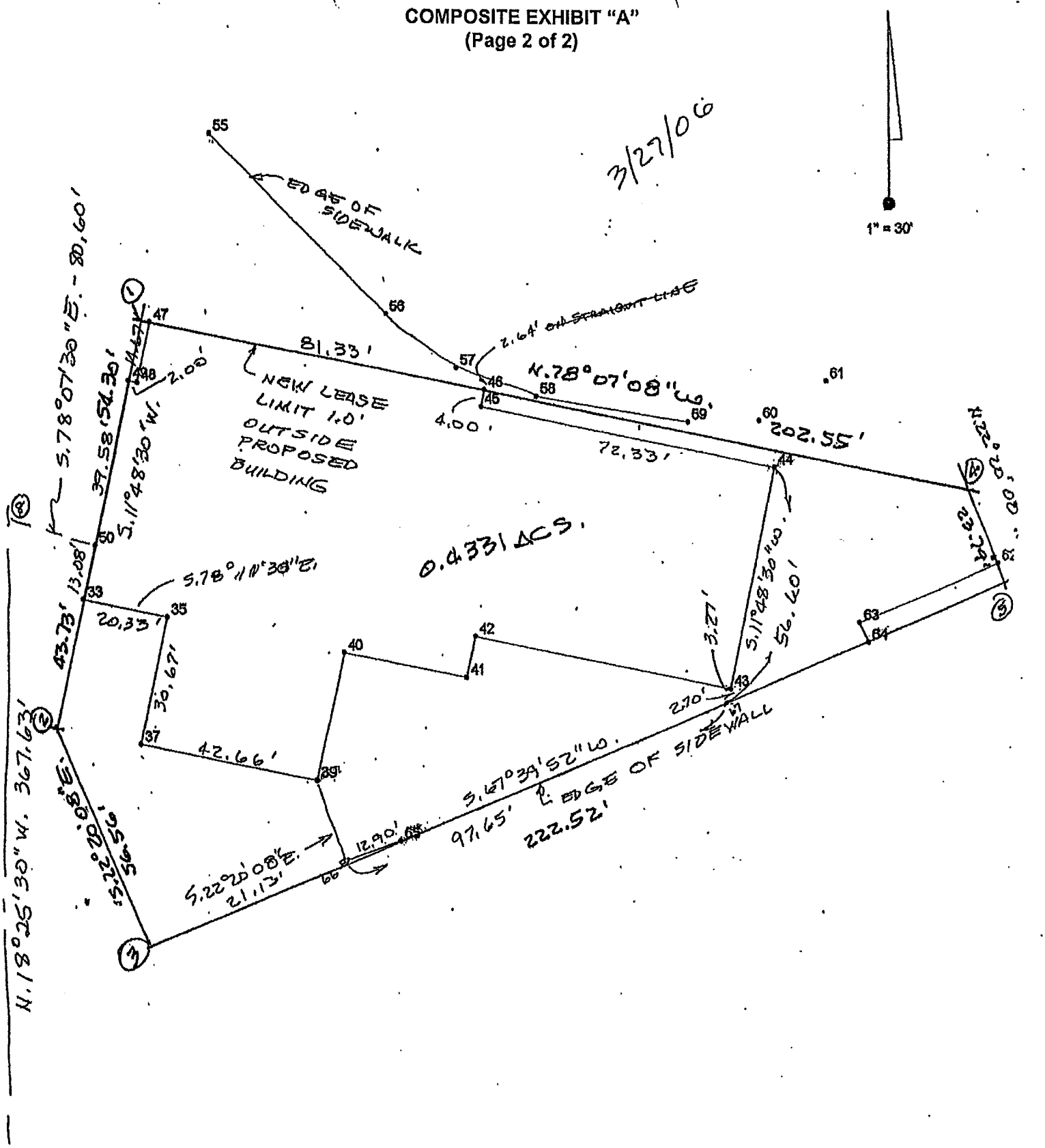
Title: Executive Director

Date: June 2, 2010.

# Backus Gallery Description

Commence at the intersection of the centerlines of Avenue C (now Backus Drive) and Indian River Drive as shown in Plat Book 10, page 36 of the Public Records of St. Lucie County, Florida, run North 18°25'30" West, along said centerline of Indian River Drive, 367.63 feet; the South 78°07'30" East, 80.60 feet to the Point of Beginning. From the Point of Beginning run South 11°48'30" West, 43.73 feet; thence South 22°20'08" East 56.56 feet; thence North 67°39'52" East, 222.52 feet; thence North 22°20'08" West, 23.79 feet; thence North 78°07'08" West, 202.55 feet; thence South 11°48'30" West, 54.30 feet to the Point of Beginning.

# COMPOSITE EXHIBIT "A"
(Page 2 of 2)



Clear plan of the means by which the facility will be maintained and operated

1) Who will operate and maintain facility

As we have done for the past half-century, the facility will be governed by a volunteer board of directors comprised of professionals representing many disciplines from across St. Lucie County. The addition of exhibition areas will not necessitate a significant increase in staffing. The current staff structure will remain unchanged. At present staff includes a full-time Executive Director, part-time Administrative Director, part-time Marketing and Development Director, part-time bookkeeper and three part-time reception and clerical staff. We will hire one additional part-time reception and clerical staff person once the expansion is completed.

2) Anticipated first year full operation and maintenance costs

Our current annual operating cost is $607,941. Once the expansion is completed, we anticipate our utility and cleaning costs to increase. Basic staffing will remain the same, as the expansion of exhibition space will not necessitate an increase in staffing. The cost for utilities and cleaning for the previous fiscal year was $11,748. We anticipate a 50% increase in these expenses, adding a total of $5,874 to the operating budget. (Insurance for the structure itself is paid for by the City of Ft. Pierce which owns the land the building sits upon and technically owns the building itself.)

3) The operations plan and hours of operation to the public

The expansion is an augmentation of our existing facility. As with our current operations, the expanded facility will be open to the public from September – July, Wednesday through Sunday from 11:00 a.m. until 4:00 p.m. In addition to regular operating hours the building will be open for special events that are held during the evening hours. Special events held over weekends often necessitate expanded hours of operation.

Over the past 50 years the facilities hours have been adjusted to reflect visitor trends and the economic climate. The museum's board of directors and staff will continue to evaluate these factors and adjust hours accordingly.

4). Source for the funds

Additional museum revenue will be generated by increased sales from the gift shop as well as increased membership and donations resulting from the enhanced programming of the Backus' space and exhibition areas. Interest in the work of A. E. Backus and other significant Indian River School artists

continues to grow. The development of a more appropriate state-of-the-art facility will increase our recognition as a visual arts facility throughout the region and will assist in attracting a broader base of donors as we pursue our mission of perpetuating the artistic and humanitarian legacy of A. E. Backus.

## COMPOSITE EXHIBIT "B"
## (Page 3 of 6)
## "Time Line and Phases of Development"

**Total Time Frame for Plan Implementation 15 Years with a 10 Year Extension, which may be granted by the City Commission**

**General Budget for Phase I Expansion of A.E. Backus Museum**

**Projected completion date: October 1, 2011**

| Line Item And Brief Description | Total Cost | Applicant Match | County Match |
|---|---|---|---|
| Exhibit Hall (2,000 Square Feet) | $300,000 | | $300,000 |
| Exhibit Hall (500 Square Feet) | $75,000 | | |
| Vestibule (65 Square Feet) | $9,750 | | |
| Entry Lobby (200 Square Feet) | $30,000 | | |
| Reception (300 Square Feet) | $45,000 | | |
| Washroom (Female - 175 Square Feet) | $26,250 | | |
| Washroom (Male - 175 Square Feet) | $26,250 | | |
| Hurricane Vault (150 Square Feet) | $22,500 | | |
| Janitor's Closet (30 Square Feet) | $4,500 | | |
| Hallways – Misc. Space (866 Square Feet) | $129,900 | | |
| Removal of Amphitheater hill and site improvements | $ 30,000 | | |
| Professional Fees | $ 80,850 | | |
| **Total Estimated Cost** | **$753,750.00** | | |

**Phase I - $750,000 FUNDS CURRENTLY PLEDGED AND IN HAND**

## Phase II - 2 Story Addition

## Estimated Completion Date October 1, 2021

Expanded Gallery Space (3,000 Square Feet)

Elevator

Secure Curatorial Space (750 Square Feet)

Collection Storage (750 Square Feet)

Kitchen Expansion (1,000 Square Feet)

Educational/ Classroom/ Meeting Space (1,000 Square Feet)

2nd Story Terrace Overlooking River

Dedicated, Secure Loading Dock with Direct Access and Easement to North Indian River Drive

**Phase III**

**Estimated Completion Date October 1, 2026**
***Amphitheater structure to be removed by City***

Multi-functional space for events, café and public gathering (3,000 Square Feet)

Landscaped Terrace with Water Feature

Public Drinking Fountains for Humans and Dogs

Shaded Public Seating

Bicycle Racks

Landscaped paths and Sculpture Garden Leading to Waterfront
*(Sculpture selected and purchased with input from County's Art in Public Places Committee and Funding)*

COMPOSITE EXHIBIT "B"
(Page 5 of 6)

**May, 2010**

- Receive Tourism Development Council Grant Funds
- Go before City Commission to complete lease negotiations, first meeting in May
- Perform site analysis to determining environmental issues, if any.
- Perform survey to define boundaries of projected foot print of building and patios.
- Sign lease with City following site analysis and survey

**June – August, 2010**

- Design and Development of plans and site
- Work with City Planning Department to coordinate plans and vision for park's open space aesthetic as phased development takes place.
- Create additional Capital Campaign documents to begin formal solicitation for funds for additional phases of development.

**September – October, 2010**

- Permitting and Construction Documents as required
- Begin serious fundraising for Phase II (hope to build Phase II once Phase I is completed)

**November – December, 2010**

- Bidding and Permitting
- Hire Project Manager
- Removal of Amphitheater, bathrooms and hill (by City)
- Continue Fundraising

**January, 2011 – August 2011**

- Construction Administration of Phase I
- Close Backus Museum for the 2010 – 2011 Season on June 1st to allow for construction and connection of spaces

**September, 2011**

Restore park lands to usable space with sod and appropriate landscaping
Open expanded Museum to the public in late September

## COMPOSITE EXHIBIT "B"
## (Page 6 of 6)
### MUSEUM COMMITMENTS

The A.E. Backus Gallery & Museum, Inc., d.b.a. The A.E. Backus Museum & Gallery, Inc., shall continue to operate a public, visual arts facility which enhances the quality of life in the City of Ft. Pierce, St. Lucie County and the Treasure Coast, whose mission is "To promote the arts in the community and to perpetuate the artistic and humanitarian legacy of A.E. Backus."

With the goal of becoming the first accredited art museum in St. Lucie County, the Museum commits to adhere to the following principals and directives of operation which are true to our stated mission and are based upon the *Criteria for Accreditation* by the American Association of Museums.

The Museum will:

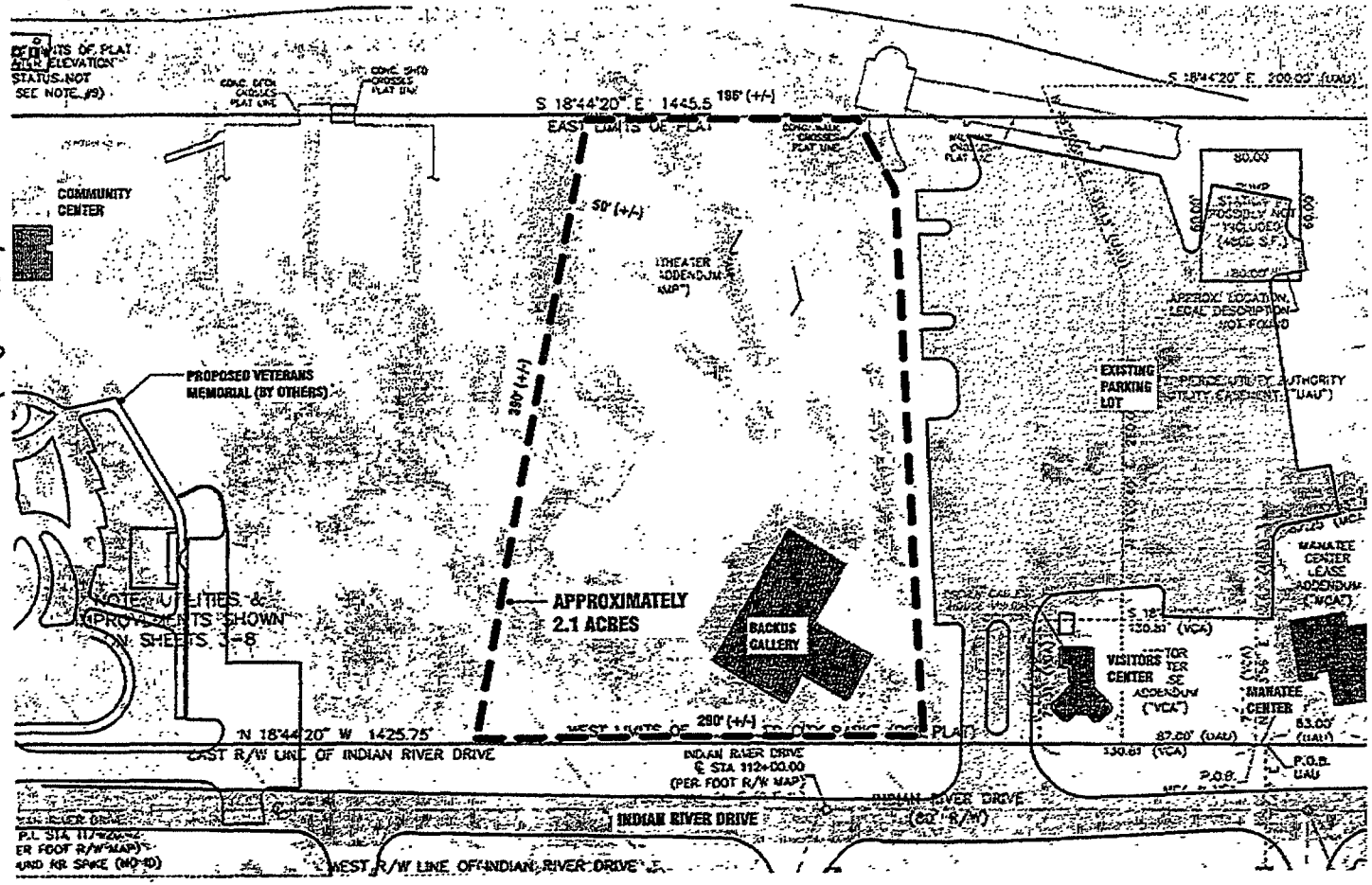
- Exhibit to the public the nation's most significant collection of A.E. Backus paintings and Indian River School paintings which includes the work of the Florida Highwaymen.

- Provide educational resources to enhance the public's understanding of the importance of the work of A.E. Backus, the Indian River School of painting and enhance the profile of Ft. Pierce, FL as the birthplace of Florida landscape painting.

- Be a legally organized nonprofit institution
- Be essentially educational in nature
- Have a formally stated and approved mission and remain true to that mission
- Use and interpret objects and/or a site for the public presentation of regularly scheduled programs, exhibits and events
- Have a formal and appropriate program of documentation, care, and use of collections and/or objects
- Carry out the above functions primarily at its physical facility in Veteran's Memorial Park
- Be open to the public at least 1,000 hours a year
- Have a full-time executive director to whom authority is delegated for day-to-day operations
- Have the financial resources sufficient to operate effectively
- Be sensitive to the standards of the community which supports it
- Comply with local, state, and federal laws, codes, and regulations applicable to its facilities, operations, and administration.

# COMPOSITE EXHIBIT "C"
(Page 1 of 2)

COMPOSITE EXHIBIT "C"
(Page 2 of 2)




NOTE:
WITH PERMISSION FROM NORTHSTAR GEOMATICS ("THE SURVEYOR"), SPRINGBOARD ADDED TEXT AND GRAPHIC NOTATION OVERLAID ONTO THE PROPERTY SURVEY PREPARED BY THE SURVEYOR, DATED JULY 1, 2007. SPRINGBOARD IS RESPONSIBLE FOR SITE WORK REPRESENTED HERE ONLY; DEPICTION OF ALL OTHER PROPERTY, UTILITY, SURVEY INFORMATION, ETC. REMAINS THE RESPONSIBILITY OF THE SURVEYOR.

SCALE: 1" = 60'

A.E. BACKUS MUSEUM
A.E. Backus Museum & Gallery
Fort Pierce, FL
S80258

SPRINGBOARD
architecture communication + design

3 NOVEMBER 2009

EXHIBIT "D"

PROJECT SCOPE

## Phase II - 2 Story Addition

## Estimated Completion Date October 1, 2021

Expanded Gallery Space (3,000 Square Feet)

Elevator

Secure Curatorial Space (750 Square Feet)

Collection Storage (750 Square Feet)

Kitchen Expansion (1,000 Square Feet)

Educational/ Classroom/ Meeting Space (1,000 Square Feet)

2nd Story Terrace Overlooking River

Dedicated, Secure Loading Dock with Direct Access and Easement to North Indian River Drive

**Phase III**

**Estimated Completion Date October 1, 2026**
***Amphitheater structure to be removed by City***

Multi-functional space for events, café and public gathering (3,000 Square Feet)

Landscaped Terrace with Water Feature

Public Drinking Fountains for Humans and Dogs

Shaded Public Seating

Bicycle Racks

Landscaped paths and Sculpture Garden Leading to Waterfront
*(Sculpture selected and purchased with input from County's Art in Public Places Committee and Funding)*

EXHIBIT "E"

# INTEROFFICE MEMORANDUM
## PUBLIC WORKS DEPARTMENT

RECEIVED
APR 01 2010
CITY OF FT. PIERCE
COMMUNITY DEVELOPMENT

TO: Leslie Olson, Historic Preservation Officer

FROM: Nick Mimms, P.E., Director of Public Works

RE: **BACKUS GALLERY LEASE - DEMOLITION ESTIMATE**

DATE: March 31, 2010

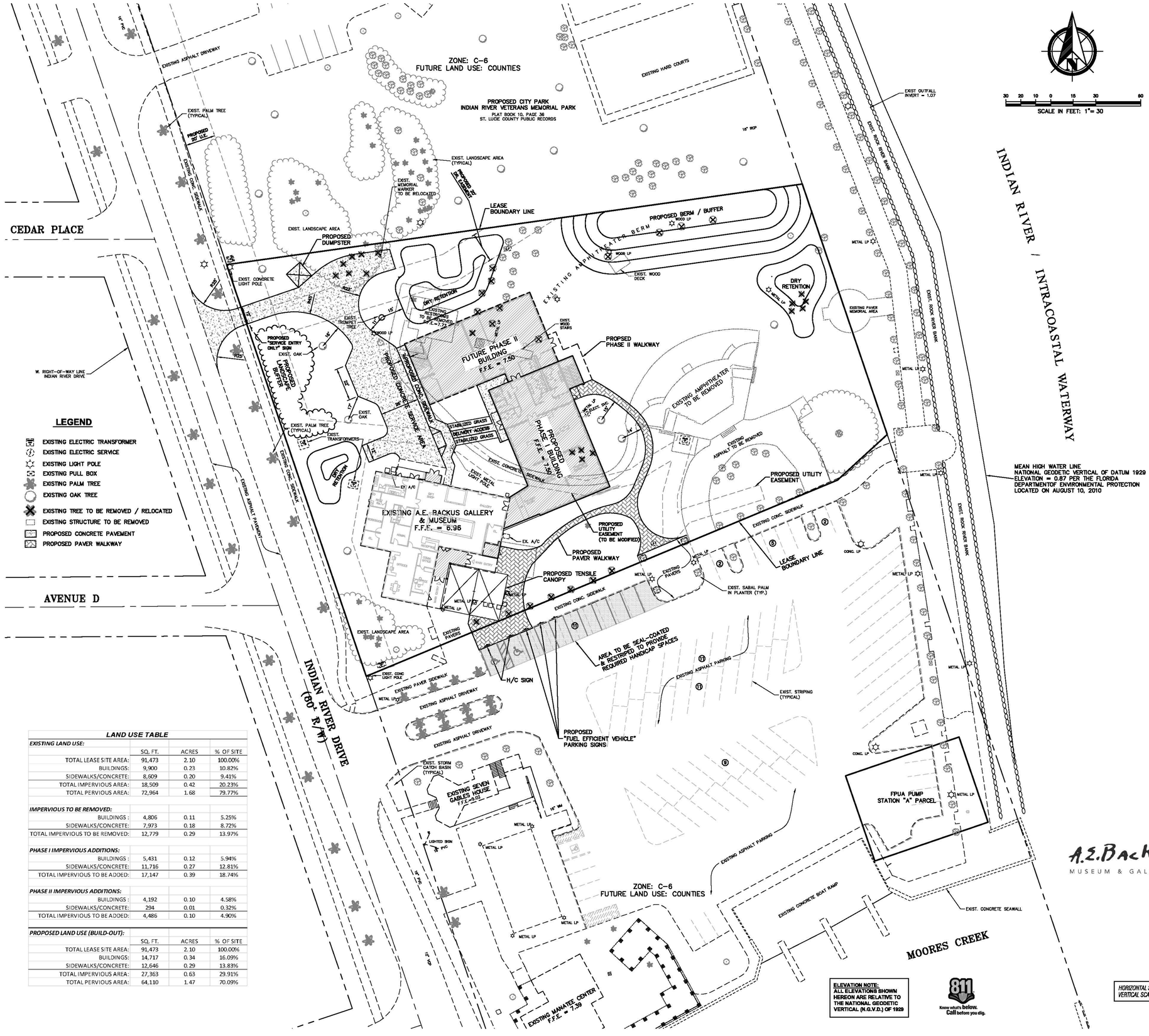
Please see below an estimate for the demolition of the structures included in the prospective lease agreement with The A.E. "Bean" Backus Gallery and Museum.

| Item | Unit | Qty. | Unit Price | Estimated Amount |
|---|---|---|---|---|
| Demolition of Amphitheater & Stage | SF | 4,000 | $3.50 | $14,000.00 |
| Demolition of Wood Deck & Steps | LS | 1 | $1,500 | $1,500.00 |
| Demolition of Restroom Structure | SF | 1,000 | $3.50 | $3,500.00 |
| Excavation of Mound | CY | 4,800 | $4.00 | $19,200.00 |
| Removal of Vegetation *(8 Oaks, 8 Palms)* | LS | 1 | $2,500.00 | $2,500.00 |
| Irrigation Reconfiguration | LS | 1 | $500.00 | $ 500.00 |
| Electrical Distribution Reconfiguration | LS | 1 | $5,000.00 | $5,000.00 |
| Site Grading | SY | 3,000 | $2.00 | $6,000.00 |
| **Subtotal** | | | | **$52,200.00** |
| **Contingencies @ 15%** | | | | **$7,830.00** |
| **ESTIMATED TOTAL** | | | | **$60,030.00** |

Please review this information and contact this office if you have any questions.

cc: Director of Planning
Streets & Drainage Division Manager

Backus Gallery Lease Demolition Estimate to Planning 3-31-10.doc




## LEGEND

- EXISTING ELECTRIC TRANSFORMER
- EXISTING ELECTRIC SERVICE
- EXISTING LIGHT POLE
- EXISTING PULL BOX
- EXISTING PALM TREE
- EXISTING OAK TREE
- EXISTING TREE TO BE REMOVED / RELOCATED
- EXISTING STRUCTURE TO BE REMOVED
- PROPOSED CONCRETE PAVEMENT
- PROPOSED PAVER WALKWAY

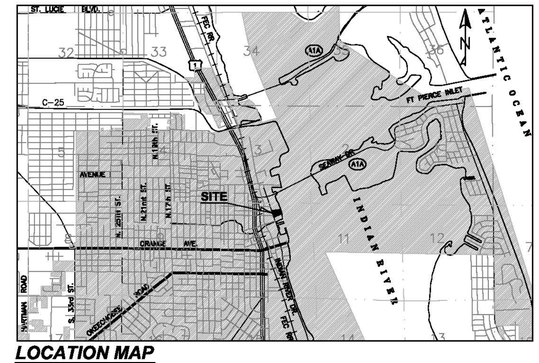
## LAND USE TABLE

| *EXISTING LAND USE:* | SQ. FT. | ACRES | % OF SITE |
|---|---|---|---|
| TOTAL LEASE SITE AREA: | 91,473 | 2.10 | 100.00% |
| BUILDINGS: | 9,900 | 0.23 | 10.82% |
| SIDEWALKS/CONCRETE: | 8,609 | 0.20 | 9.41% |
| TOTAL IMPERVIOUS AREA: | 18,509 | 0.42 | 20.23% |
| TOTAL PERVIOUS AREA: | 72,964 | 1.68 | 79.77% |
| ***IMPERVIOUS TO BE REMOVED:*** | | | |
| BUILDINGS : | 4,806 | 0.11 | 5.25% |
| SIDEWALKS/CONCRETE: | 7,973 | 0.18 | 8.72% |
| TOTAL IMPERVIOUS TO BE REMOVED: | 12,779 | 0.29 | 13.97% |
| ***PHASE I IMPERVIOUS ADDITIONS:*** | | | |
| BUILDINGS : | 5,431 | 0.12 | 5.94% |
| SIDEWALKS/CONCRETE: | 11,716 | 0.27 | 12.81% |
| TOTAL IMPERVIOUS TO BE ADDED: | 17,147 | 0.39 | 18.74% |
| ***PHASE II IMPERVIOUS ADDITIONS:*** | | | |
| BUILDINGS : | 4,192 | 0.10 | 4.58% |
| SIDEWALKS/CONCRETE: | 294 | 0.01 | 0.32% |
| TOTAL IMPERVIOUS TO BE ADDED: | 4,486 | 0.10 | 4.90% |
| ***PROPOSED LAND USE (BUILD-OUT):*** | | | |
| | SQ. FT. | ACRES | % OF SITE |
| TOTAL LEASE SITE AREA: | 91,473 | 2.10 | 100.00% |
| BUILDINGS: | 14,717 | 0.34 | 16.09% |
| SIDEWALKS/CONCRETE: | 12,646 | 0.29 | 13.83% |
| TOTAL IMPERVIOUS AREA: | 27,363 | 0.63 | 29.91% |
| TOTAL PERVIOUS AREA: | 64,110 | 1.47 | 70.09% |

**ELEVATION NOTE:**
**ALL ELEVATIONS SHOWN HEREON ARE RELATIVE TO THE NATIONAL GEODETIC VERTICAL (N.G.V.D.) OF 1929**

811 Know what's below. Call before you dig.

*HORIZONTAL SCALE: 1" = 30'*
*VERTICAL SCALE: AS NOTED*




## *LOCATION MAP*
N.T.S.

## *SITE DATA*

PROJECT NAME: A.E. BACKUS MUSEUM & GALLERY

TYPE OF PROJECT: MUSEUM EXPANSION AND RENOVATION, PHASE I

SITE ADDRESS: 500 N. INDIAN RIVER DRIVE
FORT PIERCE, FL 34950

TAX ID#: 2403-801-0026-000-0

APPLICANT: A.E. BACKUS MUSEUM & GALLERY
500 N. INDIAN RIVER DRIVE
FORT PIERCE, FL 34950

ARCHITECT: SPRINGBOARD DESIGN
BILL SZUSTAK, R.A.
24 TERMINAL WAY
PITTSBURGH, PA 15219
OFFICE: (412) 390-4040
FAX: (412) 390-0240
bill@springboarddesign.net

LANDSCAPE ARCHITECT:
LISA NELSON, L.A.
5008 OLEANDER AVENUE
FORT PIERCE, FL 34982
OFFICE: (772) 370-6776
FAX: (772) 465-2790
lisanelson@bellsouth.net

ENGINEER: SUSTAINABLE ENGINEERING & DESIGN, LLC (SED)
DAVID L. PHILLIPS, P.E., LEED AP
P.O. BOX 2247
VERO BEACH, FL 32961-2247
OFFICE: (772) 257-3032
FAX: (772) 257-3033
EMAIL: dp@sed-eng.com

SURVEYOR: ROLAND E. ROLLINS
PROFESSIONAL LAND SURVEYOR
3221 SW CRUMPACKER ST.
PORT ST. LUCIE, FL 34953
OFFICE: (772) 873-4700

GENERAL CONTRACTOR:
PROCTOR CONSTRUCTION
1401 S.R. A1A
VERO BEACH, FL 32963
OFFICE: (772) 234-8164
FAX: (772) 234-8188

REQUIRED PARKING, MUSEUMS AND LIBRARIES:
1 SPACE / 300 S.F.
14,717 SF FLOOR SPACE (ULTIMATE BUILD-OUT)
14,717 SF / 300 = 49 SPACES

PROVIDED PARKING:
FACILITY SHALL UTILITIZE EXISTING PARKING PROVIDED FOR THE VETERAN'S MEMORIAL PARK.
52 SPACES PROVIDED
HANDICAP: 2 REQUIRED, 2 PROVIDED

UTILITIES:
1) WATER SERVICE: FORT PIERCE UTILITIES AUTHORITY (FPUA)
2) SEWER SERVICE: (FPUA)
2) NATURAL GAS SERVICE: (FPUA)
3) SOLID WASTE: WASTE MANAGEMENT
4) ELECTRIC: (FPUA)

LEGAL DESCRIPTION:
A PART OF PROPOSED CITY PARK, INDIAN RIVER VETERANS MEMORIAL PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 10, PAGE 36, OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA AND THE LAND LYING EAST OF PROPOSED CITY PARK AND THIS TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PROPOSED CITY PARK; THENCE NORTH 18°44'20" WEST, ALONG THE WEST LINE OF SAID PROPOSED CITY PARK AND THE EAST RIGHT-OF-WAY LINE OF INDIAN RIVER DRIVE, A DISTANCE OF 367.47 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT OF LAND; THENCE NORTH 18°44'20" WEST, ALONG THE WEST LINE OF SAID PROPOSED CITY PARK AND THE EAST RIGHT-OF-WAY LINE OF SAID INDIAN RIVER DRIVE, A DISTANCE OF 290.00 FEET TO A POINT; THENCE NORTH 82°01'57" EAST, A DISTANCE OF 387.85 FEET TO A POINT ON THE EAST LINE OF SAID PROPOSED CITY PARK; THENCE SOUTH 18°44'13" EAST, ALONG THE EAST LINE OF SAID PROPOSED CITY PARK, A DISTANCE OF 175.43 FEET TO A POINT; THENCE SOUTH 47°26'56" WEST, A DISTANCE OF 45.03 FEET TO A POINT; THENCE SOUTH 67°24'18" WEST, A DISTANCE OF 340.59 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.100 ACRES OF LAND MORE OR LESS.

FLOOD ZONE:
THIS PROPERTY LIES IN FLOOD ZONE(S) "X", "AE ELEVATION 5" AND "VE ELEVATION 8", ACCORDING TO FLOOD INSURANCE RATE MAP (FIRM) PANEL 1211C0179 G, MAP REVISED NOVEMBER 4, 1992.

ZONING: C-6

LAND USE: OSR - RECREATION OPEN SPACE

SETBACKS & DIMENSIONAL CRITERIA:
FRONT = 25'
SIDE = 10'
REAR = 15'
MAX. BLDG. HEIGHT = 45'
MAX. BLDG. COVERAGE = 50%

STORMWATER MANAGEMENT:
SITE'S EXISTING STORMWATER MANAGEMENT SYSTEM WHICH CONSISTS OF AN ONSITE DRY RETENTION & SWALE SYSTEM, WILL CONTINUE TO PROVIDE WATER QUALITY AND STORM ATTENUATION. THE STORMWATER MANAGEMENT SYSTEM COMPLIES WITH CITY OF FORT PIERCE ENGINEERING DEPARTMENT'S AND SOUTH FLORIDA WATER MANAGEMENT DISTRICT'S (SFWMD) STANDARDS AND SPECIFICATIONS AND IS PROPOSED TO REMAIN IN PLACE.

| REVISION DATE | DESCRIPTION |
|---|---|
| | |
| | |
| | |
| | |
| | |

**SITE PLAN SUBMITTAL**
ISSUE DATE: DECEMBER 15, 2010


SPRINGBOARD
architecture • communication • design
24 Terminal Way, Pittsburgh, PA 15219
Tel: 412.390.4040 Fax: 412.390.0240
www.springboarddesign.net

**Sustainable Engineering & Design, LLC**
*Consulting Civil Engineers*
PO Box 2247, Vero Beach, FL 32961-2247
O: (772) 257-3032 F: (772) 257-3033
Florida Board of Professional Engineers Authorization # 28157
www.SED-eng.com
David L. Phillips, P.E.
Florida Reg. No. 58732



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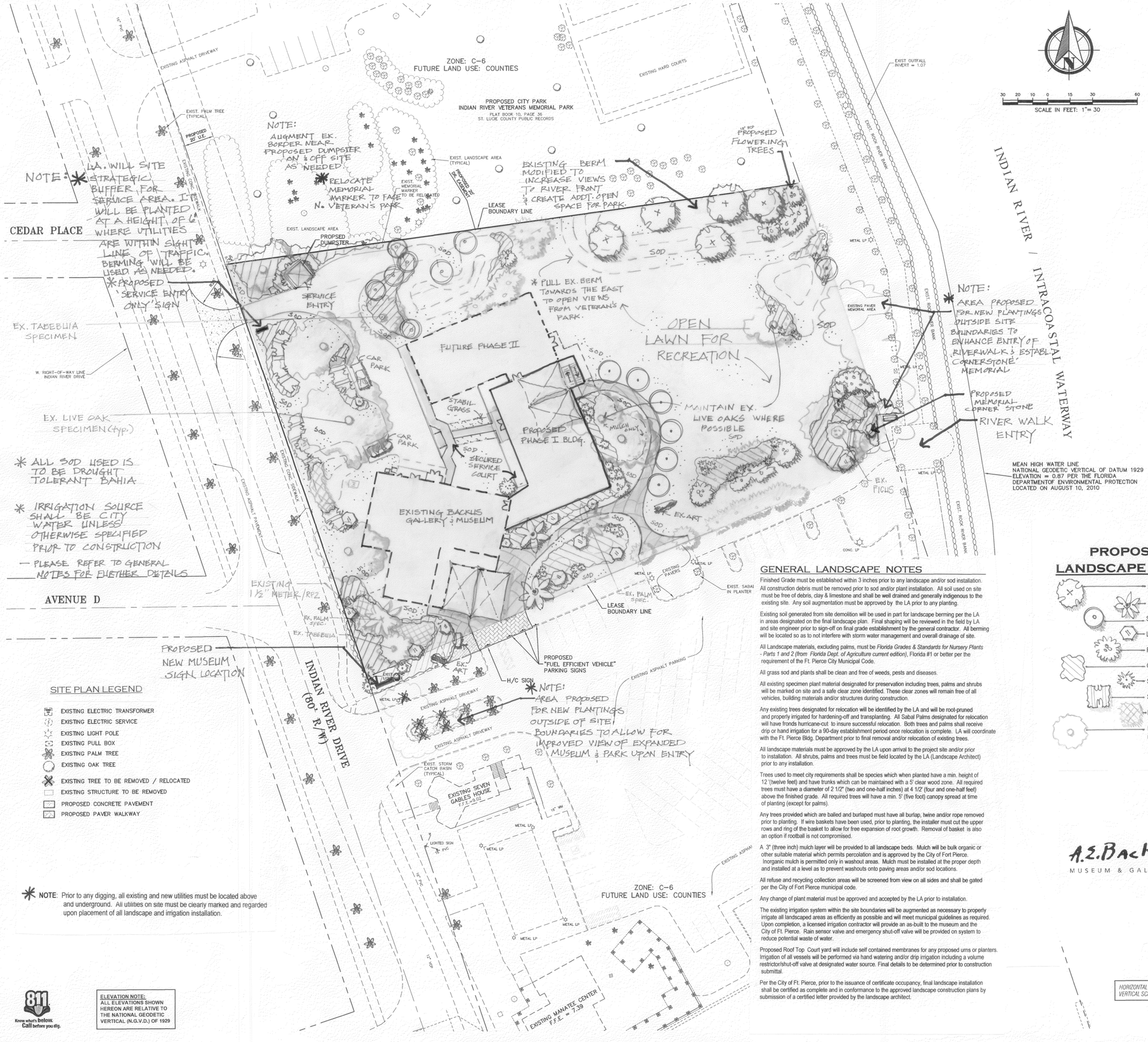
PROJECT NO: S80256 DRAWN BY: TJW

PROJECT TITLE
**BACKUS MUSEUM EXPANSION AND RENOVATION PHASE I**
500 North Indian River Drive
Fort Pierce, FL, 34950
for A.E. Backus Museum & Gallery

SHEET TITLE
SITE PLAN

**C.1**



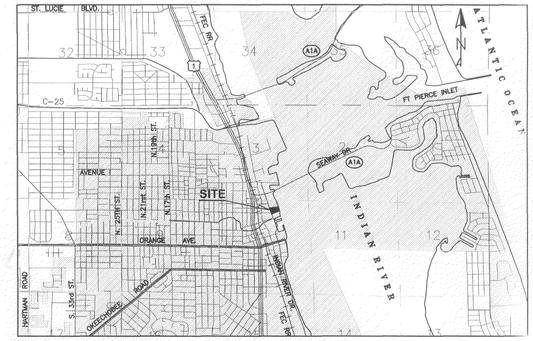

## SITE PLAN LEGEND

- EXISTING ELECTRIC TRANSFORMER
- EXISTING ELECTRIC SERVICE
- EXISTING LIGHT POLE
- EXISTING PULL BOX
- EXISTING PALM TREE
- EXISTING OAK TREE
- EXISTING TREE TO BE REMOVED / RELOCATED
- EXISTING STRUCTURE TO BE REMOVED
- PROPOSED CONCRETE PAVEMENT
- PROPOSED PAVER WALKWAY

* NOTE: Prior to any digging, all existing and new utilities must be located above and underground. All utilities on site must be clearly marked and regarded upon placement of all landscape and irrigation installation.

811 Know what's below. Call before you dig.

ELEVATION NOTE:
ALL ELEVATIONS SHOWN HEREON ARE RELATIVE TO THE NATIONAL GEODETIC VERTICAL (N.G.V.D.) OF 1929




**LOCATION MAP**
N.T.S.

## PRELIMINARY PLANT PALETTE

### TREES

| | | | |
|---|---|---|---|
| **Live Oak** | *Quercus virginiana* | **Frangipani** | *Plumeria spp.* |
| **Yellow Tabebuia** | *Tabebuia argentea* | **Winter Cassia** | *Senna bicapsularis* |
| **Royal Poinciana** | *Delonix regia* | **Sweet Acacia** | *Acacia farnesiana* |
| **Glaucous Cassia** | Senna surattensis | **Silver Buttonwood** | *Conocarpus erectus* |

### PALMS

| | | | |
|---|---|---|---|
| **Sabal Palm** | *Sabal palmetto* | **Medjool Palm** | *Phoenix dactylifera* |
| **Silver Thatch Palm** | Coccothrinax argentea | **African Oil Palm** | Elaeis guineensis |
| **Saw Palmetto** | *Serenoa repens* | **European Fan Palm** | Chamaerops humilis |
| **Lady Palm** | Rhapis excelsa | **Bismarck Palm** | *Bismarckia nobilis* |
| **Sylvester Palm** | *Phoenix sylvestris* | | |

### GROUND COVER/SHRUBS

| | | | |
|---|---|---|---|
| **Dwarf Fakahatchee** | *Tripsacum floridanum* | **Muhly Grass** | *muhlenbergia capillaris* |
| **Cocoplum** | *Chrysobalanus icaco* | **Dwarf Jatropha** | *Jatropha integerrima 'compacta'* |
| **Saw Palmetto** | *Serenoa repens* | **Wax Myrtle** | *Myrica cerifera* |
| **Adam's Needle** | Yucca smalliana | **Silver Buttonwood** | *Conocarpus erectus var. sericeus* |
| **Pittosporum** | *Pittosporum tobira* | **Dwarf Firebush** | Hamelia patens 'compacta' |
| **Aloe** | *Aloe 'Cynthis Giddy'* | **Century Plant** | *Furcraea gigantea spp.* |
| **Bromeliad** | *Bromeliad spp.* | **African Bulbine** | *Bulbine frutescens -Orange and Yellow* |
| **Red Flapjack Plant** | *Kalanchoe luciae* | **Ficus Green Island** | *Ficus microcarpa 'Green Island'* |
| **Sand Cordgrass** | *Spartina bakeri* | **Dwarf Carissa** | *Carissa microcarpa 'Emerald Blanket'* |

## GENERAL LANDSCAPE NOTES

Finished Grade must be established within 3 inches prior to any landscape and/or sod installation. All construction debris must be removed prior to sod and/or plant installation. All soil used on site must be free of debris, clay & limestone and shall be well drained and generally indigenous to the existing site. Any soil augmentation must be approved by the LA prior to any planting.

Existing soil generated from site demolition will be used in part for landscape berming per the LA in areas designated on the final landscape plan. Final shaping will be reviewed in the field by LA and site engineer prior to sign-off on final grade establishment by the general contractor. All berming will be located so as to not interfere with storm water management and overall drainage of site.

All Landscape materials, excluding palms, must be *Florida Grades & Standards for Nursery Plants - Parts 1 and 2 (from Florida Dept. of Agriculture current edition)*, Florida #1 or better per the requirement of the Ft. Pierce City Municipal Code.

All grass sod and plants shall be clean and free of weeds, pests and diseases.

All existing specimen plant material designated for preservation including trees, palms and shrubs will be marked on site and a safe clear zone identified. These clear zones will remain free of all vehicles, building materials and/or structures during construction.

Any existing trees designated for relocation will be identified by the LA and will be root-pruned and properly irrigated for hardening-off and transplanting. All Sabal Palms designated for relocation will have fronds hurricane-cut to insure successful relocation. Both trees and palms shall receive drip or hand irrigation for a 90-day establishment period once relocation is complete. LA will coordinate with the Ft. Pierce Bldg. Department prior to final removal and/or relocation of existing trees.

All landscape materials must be approved by the LA upon arrival to the project site and/or prior to installation. All shrubs, palms and trees must be field located by the LA (Landscape Architect) prior to any installation.

Trees used to meet city requirements shall be species which when planted have a min. height of 12 '(twelve feet) and have trunks which can be maintained with a 5' clear wood zone. All required trees must have a diameter of 2 1/2" (two and one-half inches) at 4 1/2' (four and one-half feet) above the finished grade. All required trees will have a min. 5' (five foot) canopy spread at time of planting (except for palms).

Any trees provided which are balled and burlaped must have all burlap, twine and/or rope removed prior to planting. If wire baskets have been used, prior to planting, the installer must cut the upper rows and ring of the basket to allow for free expansion of root growth. Removal of basket is also an option if rootball is not compromised.

A 3" (three inch) mulch layer will be provided to all landscape beds. Mulch will be bulk organic or other suitable material which permits percolation and is approved by the City of Fort Pierce. Inorganic mulch is permitted only in washout areas. Mulch must be installed at the proper depth and installed at a level as to prevent washouts onto paving areas and/or sod locations.

All refuse and recycling collection areas will be screened from view on all sides and shall be gated per the City of Fort Pierce municipal code.

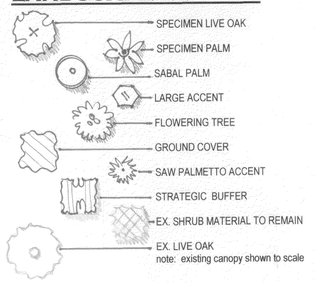
Any change of plant material must be approved and accepted by the LA prior to installation.

The existing irrigation system within the site boundaries will be augmented as necessary to properly irrigate all landscaped areas as efficiently as possible and will meet municipal guidelines as required. Upon completion, a licensed irrigation contractor will provide an as-built to the museum and the City of Ft. Pierce. Rain sensor valve and emergency shut-off valve will be provided on system to reduce potential waste of water.

Proposed Roof Top Court yard will include self contained membranes for any proposed urns or planters. Irrigation of all vessels will be performed via hand watering and/or drip irrigation including a volume restrictor/shut-off valve at designated water source. Final details to be determined prior to construction submittal.

Per the City of Ft. Pierce, prior to the issuance of certificate occupancy, final landscape installation shall be certified as complete and in conformance to the approved landscape construction plans by submission of a certified letter provided by the landscape architect.

## PROPOSED LANDSCAPE LEGEND




HORIZONTAL SCALE: 1" = 30'
VERTICAL SCALE: AS NOTED

**SITE PLAN SUBMITTAL**
ISSUE DATE: OCTOBER 29, 2010

| REVISION DATE | DESCRIPTION |
|---|---|
| | |

SPRINGBOARD
architecture • communication • design
24 Terminal Way, Pittsburgh, PA 15219
Tel: 412.390.4040 Fax: 412.390.0240
www.springboarddesign.net

LANDSCAPE ARCHITECTURAL SERVICES DONATED BY:
LISA R. NELSON
REGISTERED LANDSCAPE ARCHITECT
5120 Oleander Ave, Ft. Pierce, FL 34982
772-461-5503 HM 772-465-2790 FX
Lisa R. Nelson, RLA
Florida License # LA0001757

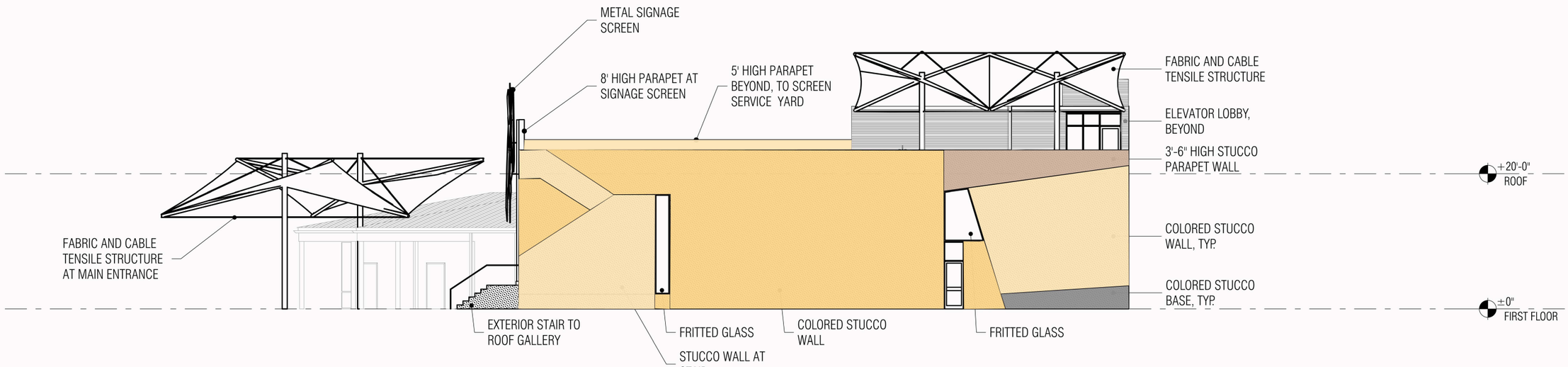
A.E. Backus MUSEUM & GALLERY

COPYRIGHT: 2010 SPRINGBOARD ARCHITECTURE
Date: 12/10/2010 30 SCALE Drawn by: LRN

PROJECT TITLE
**BACKUS MUSEUM EXPANSION AND RENOVATION PHASE I**
500 North Indian River Drive
Fort Pierce, FL, 34950
for A.E. Backus Museum & Gallery

SHEET TITLE
Conceptual Landscape Plan

S:\Civil Design Projects\BID-10-031 A.E. Backus Museum\Dwg\BID-10-036MASE_A1.8_SM.dwg, 11/30/2010 8:08:16 AM




## EAST ELEVATION

SCALE: 1/16" = 1'-0"

0 8' 16' 32'

**EAST ELEVATION**

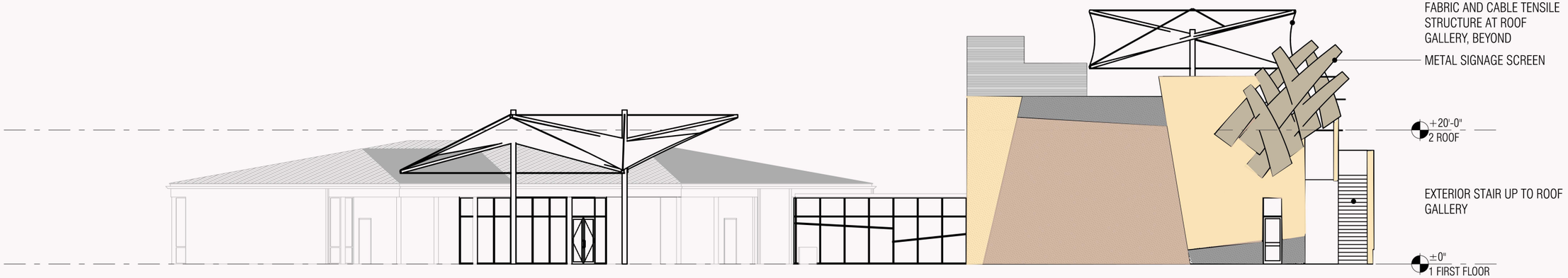
**BACKUS MUSEUM EXPANSION AND RENOVATION PHASE I**

A.E. Backus Museum & Gallery
Fort Pierce, FL 34950
SB0258

**SD.20**

SPRINGBOARD
architecture • communication • design

15 OCTOBER 2010




SOUTH ELEVATION

SCALE: 1/16" = 1'-0"

0 8' 16' 32'

**SOUTH ELEVATION**

**BACKUS MUSEUM EXPANSION AND RENOVATION PHASE I**

A.E. Backus Museum & Gallery
Fort Pierce, FL 34950
SB0258

**SD.19**

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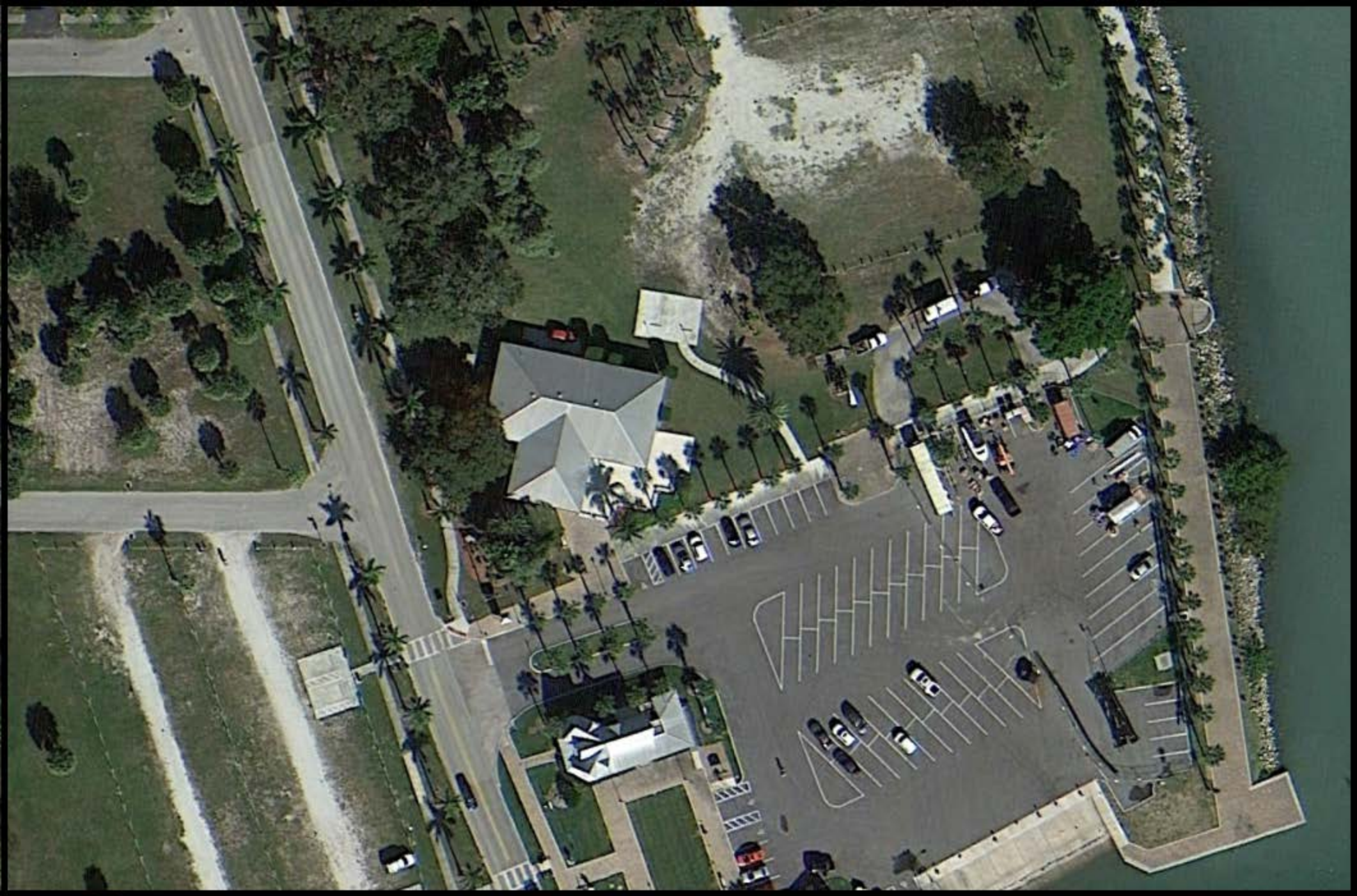
15 OCTOBER 2010



# Backus Museum

## Site Aerial

# Backus Museum

## Expansion Overview