

## LEASE AGREEMENT

THIS LEASE AGREEMENT entered into this \_\_\_\_ day of January, 2018 by and between **FORT PIERCE RESORTS, LLC, a Florida limited liability company**, ("LANDLORD"), whose address is 1211 Orange Ave., Suite 102, Winter Park, FL 32789; and **THE CITY OF FORT PIERCE, FLORIDA**, a Florida Municipal corporation, ("TENANT"), whose address is 100 North US 1, Fort Pierce, Florida, 34954.

### WITNESSETH:

LANDLORD, in consideration of the covenants and agreements hereinafter set forth to be kept and performed by both parties, does demise and lease to TENANT and TENANT rents from LANDLORD certain real property in Fort Pierce, Florida, legally described as Parcel "W" (Parcel ID # 2403-801-0023-000-9) and Parcel "X" (Parcel ID # 2403-801-0024-000-6) as shown and depicted on the attached Exhibit "A" (Proposed Lease Area), with a general description of the parking lot and improvements to be constructed thereon (Temporary Parking Area) depicted on Exhibit "B", said property hereafter referred to in this Lease as the "Demised Premises", subject to all existing zoning and building restrictions and regulations and the provisions and clauses of this Lease.

1. TERM: The term of this Lease shall be for an initial period of twenty-four (24) months (Initial Term) commencing January 1, 2018, unless extended or terminated as provided for herein. TENANT is also granted the option of extending this Lease for an additional twelve (12) months (Extension Term) provided TENANT furnishes written notice to LANDLORD at least thirty (30) days prior to the expiration of the Initial Term that TENANT is still in need of the property for temporary parking. The option of an Extension Term shall be void if LANDLORD is unable to deliver possession of the Demised Premises due to having entered a *bona fide* contract to sell the subject property prior to the Extension Term. LANDLORD and TENANT may also terminate this Lease at any time by providing thirty (30) days written notice to the other party in the manner provided in Section 9 provided TENANT shall be responsible for pro-rata rent for each month the Demised Premises are occupied during the Initial Term or Extension Term as provided below.

2. RENT: Rent for the Initial Term and Extension Term, if any, of this Lease shall be calculated as follows: TENANT shall pay rent in a sum equal to all real estate taxes assessed on the Demised Premises during the Initial Term or Extension Term, plus sale tax, if applicable. Real estate taxes shall include all taxes, items, and assessments that appear on the real estate tax bill as issued by the St. Lucie County Tax Collector. Such payments of rent shall be paid quarterly in advance on an estimated basis with adjustments made within thirty (30) days of the posting or receipt of the annual tax bill. All taxes and assessments, payable on an annual basis, are to be pro-rated monthly by the parties hereto for the year(s) comprising the Initial Term and Extension Term, if any, as well as the year in which this Lease is terminated.

3. INSURANCE: TENANT shall maintain its currently existing General Liability insurance coverages of \$200,000 each person/\$300,000 each occurrence with coverages for Bodily Injury, Property Damage, and Personal Injury, in addition to Broad Form Property Damage also provided under TENANT'S current policy. Upon request, TENANT shall furnish LANDLORD with executed Certificates of Insurance showing that such insurance is in full force and effect the earlier of

the beginning of the lease term or fifteen (15) days after the execution of this Lease Agreement and shall provide a minimum of sixty (60) days notice to LANDLORD prior to cancellation or termination of the insurance policy.

4. LATE CHARGES: The TENANT covenants and agrees to pay LANDLORD a late charge of five (5%) percent of each quarterly installment of all rents if not paid within thirty (30) days of its due date. LANDLORD expressly reserves all other rights and remedies provided under this Lease Agreement or Florida law.

5. USE OF PREMISES: TENANT will use and occupy the Demised Premises solely for the purpose of constructing a temporary parking lot for the parking of motor vehicles and for no other purpose or use whatsoever except as agreed to in writing by LANDLORD. During the term of this Lease TENANT shall maintain the property as may be required by all government authorities and collect and control trash and refuse. TENANT shall comply with all environmental rules and regulations applicable to temporary parking facilities. TENANT shall make no alterations or additions except as depicted on Exhibit "B" without prior written consent of LANDLORD. The TENANT shall permit no waste to the Demised Premises and shall return the Demised Premises to LANDLORD at the end of the term in the same condition as existed at the beginning of the term of the Lease. The TENANT shall comply with all laws, ordinances and obligations imposed by all governmental authorities during the term of the Lease, including maintaining the grass and flora on the property as may be necessary. Notwithstanding the foregoing, it is anticipated TENANT shall make certain improvements for access and parking and LANDLORD shall not unreasonably withhold written consent in connection with same. TENANT shall block-off or enclose the rear portion of the Demised Premises to discourage parking on any of LANDLORD's remaining property not part of the Demised Premises.

TENANT shall obtain all necessary permits from any and all governmental agencies necessary for the operation of the premises as a temporary parking lot.

6. ASSIGNMENT AND SUBLETTING: TENANT shall not assign or sublet this Lease without the written consent of the LANDLORD.

7. LIABILITY: TENANT agrees to fully indemnify LANDLORD, and LANDLORD shall not be liable for any damage or injury to any person or property whether it be the person or property of the TENANT, the TENANT'S employees, agents, guests, invites, or otherwise, by reason of TENANT'S occupancy of the leased premises or because of fire, flood, windstorm, acts of God, or for any other reason. The TENANT acknowledges that it has fully inspected the property and agrees to accept it in an as-is condition and shall be responsible for all maintenance of the property during the term of the Lease and absolves the LANDLORD from any obligations in connection therewith. As between TENANT and LANDLORD, TENANT shall be responsible for all loss, damage, claim, demand, liability, or expense by reason of damage to person or property which may arise or be claimed to have arisen during the term of this Lease as a result of any act or omission of TENANT, as a result of the occupancy or use of the leased Demised Premises by the TENANT, or in any way arising on account of any injury or damage caused to any person or property on or within the Demised Premises, including any allegations of negligent maintenance of the property during the term of this Lease. Provided, however, that regardless of whether any such obligations are based on tort, contract,

statute, strict liability, negligence, product liability or otherwise, the obligations of TENANT under this indemnification provision shall be limited in the same manner that would have applied if such obligations were based on, or arose out of, an action at law to recover damages in tort and were subject to section 768.28, Florida Statutes, as that section existed at the inception of this Lease.

8. ENVIRONMENTAL COVENANTS. As used in this Lease, the term "Hazardous Materials" shall mean any hazardous or toxic substance, material or waste which is, or becomes designated as such in the future or is regulated by any agency of the United States Government or by any local governmental agency having jurisdiction, including, without limitation, any substance, material or waste that is defined or designated as a hazardous substance pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act or the Clean Water Act.

During the term of this Lease, TENANT shall not allow the presence, use, storage and/or disposal of any Hazardous Material, on or under the Leased Premises by TENANT, its agents, employees, business invitees, or contractors. TENANT shall not install or permit the installation of any underground storage tanks on the Leased Premises. As between TENANT and LANDLORD, TENANT agrees to defend and be responsible for all claims, costs, fines, judgments and liabilities, including attorney's fees and costs, arising out of or in connection with the presence, storage, use or disposal of Hazardous Materials on or under the Leased Premises directly caused by the acts, omissions or negligence of TENANT, its employees, business invitees, or contractors and specifically documented to have occurred during TENANT's occupancy under this Lease.

9. NOTICES: All notices required to be served upon the LANDLORD or TENANT shall be served by hand delivery or by registered or certified mail, return receipt requested, to the following:

**LANDLORD:**

FORT PIERCE RESORTS, LLC

1211 Orange Ave., Suite 102  
Winter Park, FL 32789

**Copy To:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TENANT:**

CITY OF FORT PIERCE  
c/o Nicholas C. Mimms, City Manager  
100 North US 1  
P.O. Box 1480  
Fort Pierce, FL 34954

**Copy To:**

James M. Messer, City Attorney  
100 North US 1  
P.O. Box 1480  
Fort Pierce, FL 34954

All such notices shall be deemed to have been duly given, delivered, or served if and when hand delivered or deposited with the U.S. Post Office, postage prepaid, whether evidence of delivery received is obtained or not obtained.

10. ATTORNEY FEES: In the event of any litigation arising out of this Agreement the prevailing party shall be entitled to recover attorney fees and costs from the losing party through appellate proceedings.

11. JOINT VENTURE: It is specifically understood and agreed that nothing in this Lease Agreement shall be construed as creating a joint venture, partnership, or other relationship between the parties to this agreement other than LANDLORD and TENANT.

12. ENTIRE AGREEMENT: This Lease contains the entire and sole agreement between the parties hereto relative to the lease of the Demised Premises and may be modified only by an agreement in writing executed by LANDLORD and TENANT with the same formalities as this Lease. The Agreement shall be binding on the parties hereto, their respective heirs, successors, and assigns as permitted.

13. TIME OF THE ESSENCE: It is specifically agreed that the timely payment of each and every installment of rent and performance of each and every one of the terms, covenants and conditions hereof is of the essence of this Lease.

14. COUNTERPARTS: This Agreement may be executed by the parties listed below in multiple original counterparts, each of which shall be deemed an original, but all of which together shall constitute a single original Agreement. Facsimile and electronic signatures shall be acceptable and deemed originals.

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

**WITNESSES AS TO LANDLORD:**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

**WITNESSES AS TO TENANT:**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_

**LANDLORD:**

**FORT PIERCE RESORTS, LLC, a Florida limited liability company**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

**TENANT:**

**CITY OF FORT PIERCE, FLORIDA**

By: \_\_\_\_\_

**Linda Hudson, Mayor**

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

**ATTEST:**

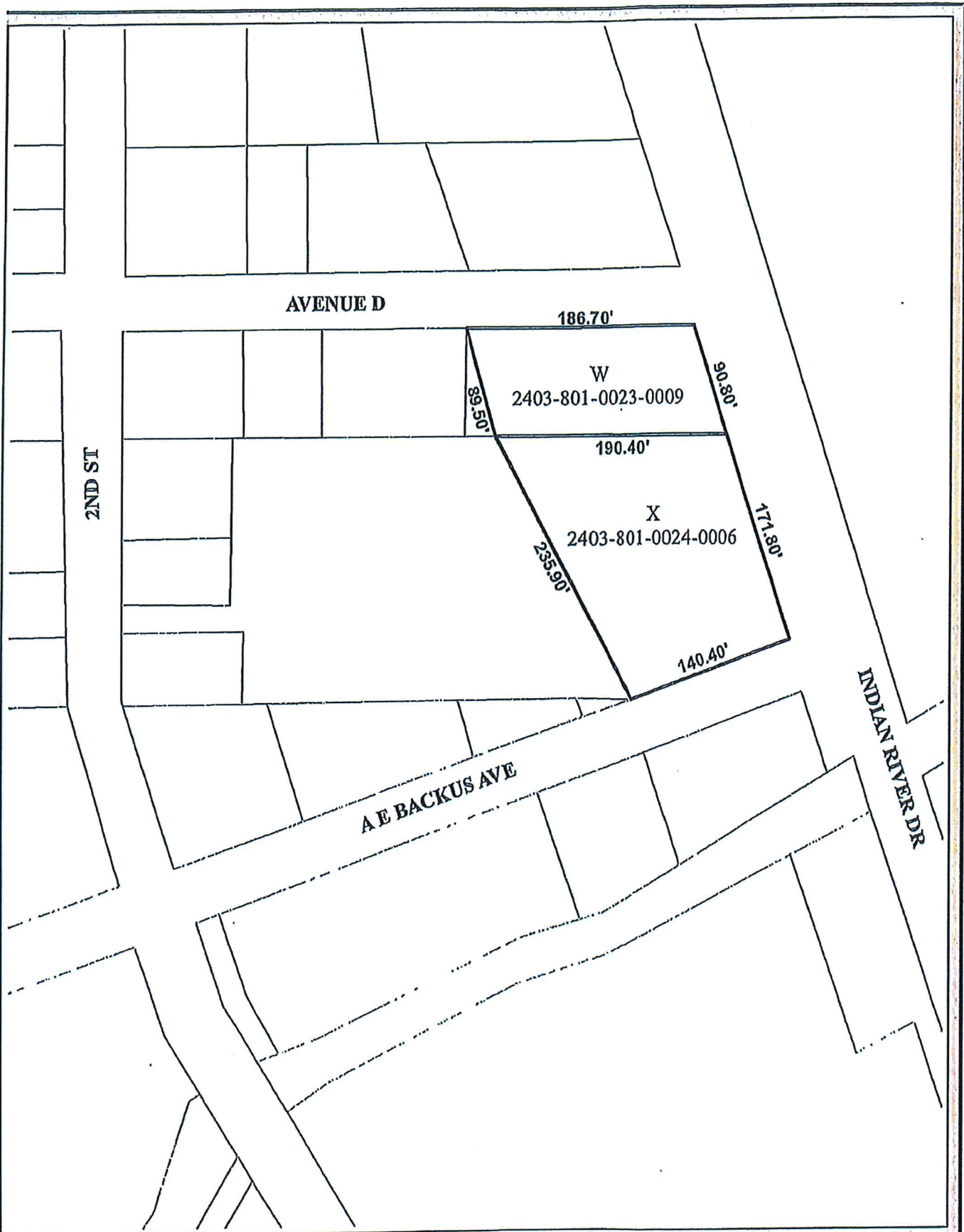
**Linda Cox, City Clerk**

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**APPROVED AS TO FORM AND CORRECTNESS**

**James M. Messer, Esq.**

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AVENUE D

2ND ST

A E BACKUS AVE

INDIAN RIVER DR

186.70'

89.50'

90.80'

W  
2403-801-0023-0009

190.40'

235.90'

X  
2403-801-0024-0006

171.80'

140.40'

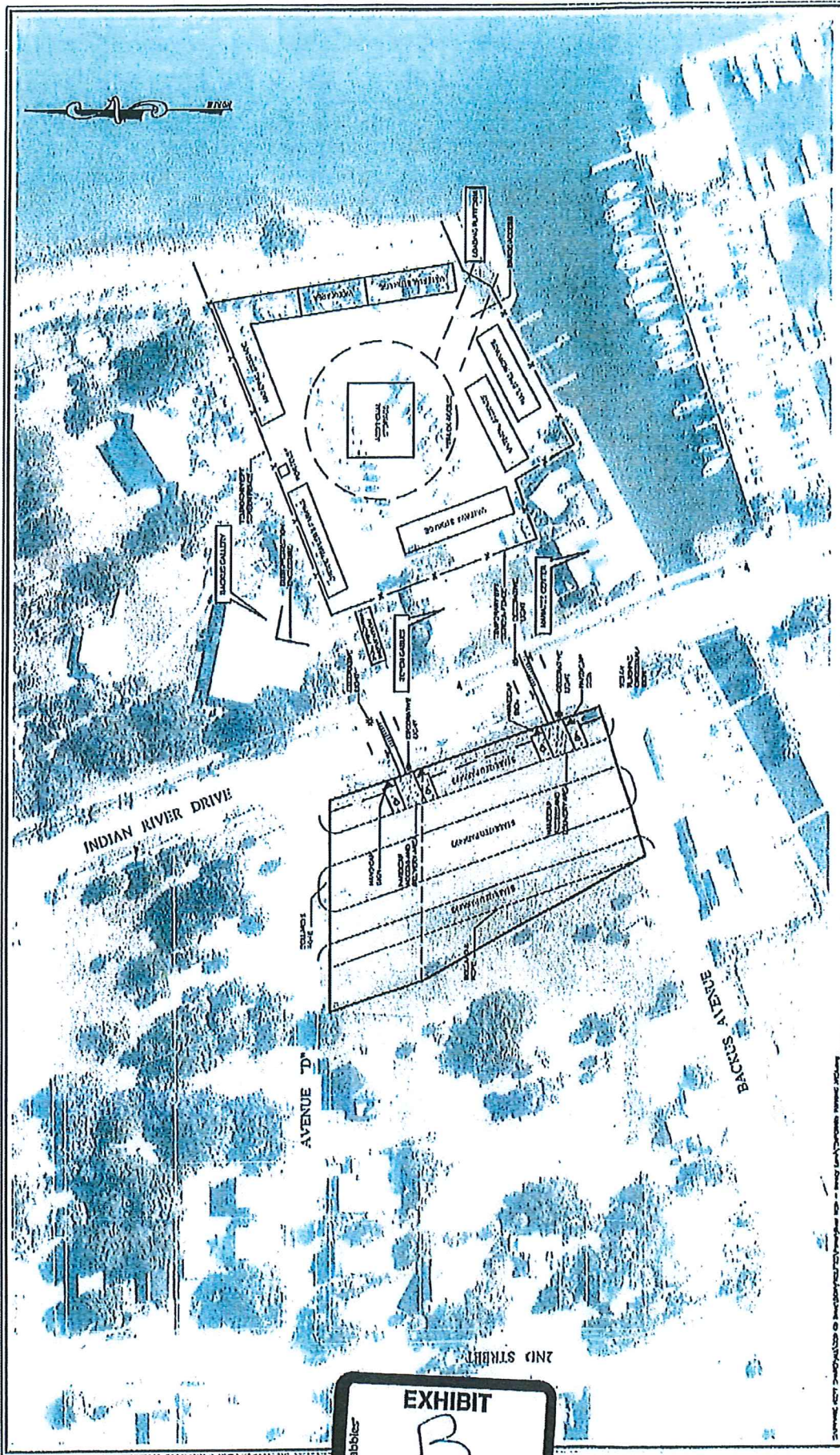


This map is a conceptual tool utilized for project development only. Though the information provided by this map is accepted to be accurate for the City's Administrative purposes, it is not to be used for technical purposes. Any information, including but not limited to software and data, received from City of Ft. Pierce in fulfillment of a public records request is provided "AS IS" without warranty of any kind. Any information provided by this map to be used for purposes other than reference must be confirmed by field survey. Aerial photo

# EXHIBIT A

Printed: Feb 2012





	CITY OF FORT PIERCE DEPARTMENT OF ENGINEERING	DATE: 12/24/12 SCALE: 1" = 20' DRAWN: DMS/PLANNING	SHEET NO. 1 OF 1
	<b>TEMPORARY PARKING AREA DURING MARINA RECONSTRUCTION PROJECT</b>		

EXHIBIT  
B