

# REQUEST FOR PROPOSAL



## Draft of Technical Specifications

**RFP No. 2018-053**

**Property Lease at Old City Hall  
315 Avenue A, Fort Pierce, Florida**

**DUE DATE  
DUE TIME: 3:00 P.M.**

## **PURPOSE**

The City of Fort Pierce solicits proposals from responsible proposers to lease a property located at 315 Avenue A, Fort Pierce, located in the Historic Downtown Fort Pierce. The building is approximately **2,000 square feet** (including office areas on the 1<sup>st</sup> floor and event rental space on the 2<sup>nd</sup> floor) contained within **one concrete block constructed light industrial building**. The property is **zoned IL**, Light industrial and is being offered **AS IS**. The property has been appraised at an annual rental rate of \_\_\_\_\_. (See attached exhibit "B") This rental rate does not include any taxes. – **need the Market Analysis from Osteen to update the bolded/highlighted items**

The first floor of the building is currently being leased to an Accounting Firm and the second floor is being rented, by contacting the City's Public Works Department, to various groups and citizens for special events.

### **About Old City Hall**

Located at 315 Avenue A, the **Old Fort Pierce City Hall** (also known as the City Hall Annex) is a historic building in downtown Fort Pierce, Florida. Designed with both Mediterranean Revival Style and Italian Renaissance Revival elements by architect William Hatcher, the structure was built in 1925 at the peak of the Florida land boom by builder C.E. Cahow.

Old City Hall is one of the best-regarded and frequently used buildings on the Treasure Coast of Florida. Built at the height of the Florida boom in 1925, it was used as the Fort Pierce City Hall until 1983. It was restored in 1995 for \$500,000, being the first of many of Fort Pierce's successes in preservation. On December 7, 2001, it was added to the U.S. National Register of Historic Places.

Since then, historic preservation has been one of the principal successes of Fort Pierce's redevelopment efforts and many beloved landmarks have found a new life in the contemporary world.

## **LEASE OF PROPERTY**

The City anticipates entering into a lease with the proposer who submits the proposal judged by the Evaluation Committee to be most advantageous. Selection of the proposal will be based on the financial standing of the proposer, lease rate proposed, ability to construct in a timely manner (if required), and investment in upkeep and appearance of the facilities on-site or any to be constructed.

Interested proposer shall propose to enter into a lease:

- Only for the first floor of the building currently being leased for commercial use or
- For the entire building,

The proposer understands that this RFP does not constitute an agreement or a lease with the proposer. An official lease or agreement is not binding until proposals are reviewed and accepted by the City Commission and a written agreement or lease is approved by both the City and the successful proposer.

Insurance requirements will be determined based on the type of use proposed.

## **PROPERTY LEGAL DESCRIPTION**

### **315 Avenue A**

Parcel ID#2410-503-0090-000-6

AARON LEE`S MAP OF FORT PIERCE BLK I ALL BLOCK-LESS E 20 FT AND LESS US #1 AND LESS RD R/W- AND LESS ADD'L RD R/W MPDAF: FROM INT OF SE COR OF LOT 7 AND NLY RD R/W OF ORANGE AVE, TH S 71 09 48 W 2.43 FT TO POB; TH CONT S 71 09 48 W 22.29 FT TO ELY RD R/W LI OF US1, TH N 18 43 46 W ALG R/W LI 28.23 FT, TH S 57 03 58 E 35.94 FT TO POB- (MAP 24/10N) (2.55 AC - 110,836SF) (OR 652-1912: 653-1790: 655-2681: 656-2115: 669-44)

# INSTRUCTIONS FOR PREPARING PROPOSALS

## RULES FOR PROPOSALS

The proposal must name all persons or entities interested in the proposal as principals. The proposal must declare that it is made without collusion with any other person or entity submitting a proposal pursuant to this RFP.

Proposer must show proof of insurance or the ability to obtain insurance requested in this RFP package.

## SUBMITTAL REQUIREMENTS

Proposers must submit one original and one digital copy of the Application for Proposal to Lease Property completed in its entirety. The application is provided in this RFP package.

## AWARD

Award will be subject to the highest acceptable offer received that adds value to the property, adds jobs to the current market and is determined to be in the best interests of the City. Selection will be based on proposals executing the City's form of Proposed Use of Property Narrative, Business and Financial Plans and supporting documentation. The lease is subject to final approval of the City Commission. The City reserves the right to reject any or all proposals.

## EVALUATION METHOD AND CRITERIA

**A. General:** The City shall be the sole judge of its own best interests, the proposal, and the resulting negotiated agreement. The City reserves the right to investigate the financial capability, reputation, integrity, skill, business experience and quality of performance under similar operations of each proposer, including stockholders and principals before making an award. Awards, if any, will be based on both an objective and subjective comparison of Proposals and Proposers. The City's decisions will be final.

### **B. Evaluation Criteria**

The proposals will be based on but not limited to the following:

- ❖ Financial standing of the proposer (which will include Financials, Bankruptcy Information and Default or Termination for cause in past Contracts)
- ❖ Lease rate proposed (**The City will give higher evaluation consideration to lease rates that are equal to or greater than the appraisal value rate per square foot but will consider lower offers if in the City's best interest**)
- ❖ Proposed investments in appearance of the existing facilities on-site or any to be constructed



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**Application for Proposal to Lease Property**  
**Old City Hall ~ City Hall Annex**

DATE RECEIVED: \_\_\_\_\_

1. Name of firm or individual (as would appear on lease): \_\_\_\_\_
2. Principal Address: \_\_\_\_\_
3. Contact Person/Title: \_\_\_\_\_
4. Telephone Number of Contact Person: \_\_\_\_\_
5. Proposed Lease Area: (SEE EXHIBIT "B" TO THIS RFP)
  - A. Location/Description: \_\_\_\_\_
  - B. Approximate Square Footage: 2,000 s.f. of existing building
  - C. Existing Improvements: 2,000 s.f. total (including office areas) contained within one concrete block constructed light industrial building
6. Type of Business Entity: \_\_\_\_\_  
Corporation, Partnership, Joint Venture, Individual
7. If a Corporation, answer the following:
  - A. Where incorporated: \_\_\_\_\_
  - B. When incorporated: \_\_\_\_\_
  - C. The corporation is held: Publicly ( ) Privately
  - D. If foreign corporation, date of registration with Florida Secretary of State, and name and address of Resident Agent: \_\_\_\_\_
  - E. Furnish the name, title, and address of each officer, director, and principal shareholder owning 10% or more of the corporation's issued stock:  
Director's Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Principal Business Affiliation Other Than Proposer's Directorship: \_\_\_\_\_  
Officers Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Position: \_\_\_\_\_  
Principal Shareholder's Name: \_\_\_\_\_  
Address: \_\_\_\_\_
8. If a Partnership, answer the following:
  - A. Date of organization: \_\_\_\_\_
  - B. General partnership ( ) Limited partnership ( )
  - C. Partnership Agreement recorded: Yes ( ) No ( )  
Date Book Page Location: \_\_\_\_\_
  - D. Name, address and partnership share of each general partner:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Share %: \_\_\_\_\_
9. If a Joint Venture, answer the following:
  - A. Date of organization: \_\_\_\_\_
  - B. General partnership ( ) Limited partnership ( )



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C. Partnership Agreement recorded: Yes ( ) No ( )

Date Book Page Location: \_\_\_\_\_

D. Name, address and partnership share of each general partner:

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

Address: \_\_\_\_\_

Share %: \_\_\_\_\_

10. Bankruptcy Information: Has the proponent or one of the individuals listed above ever declared bankruptcy?

Yes ( ) No ( )

If yes, state date, court jurisdiction, amount of liability and amount of asset:

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

11. Please list all defaults or terminations for cause in past contracts, leases, foreclosures etc in the last 5 years.

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

12. Financial References: List a minimum of four (4) individuals or firms with whom the proponent has leased commercial property or conducted significant financial transactions during the past three (3) years. If a firm is listed, state the name of the department and/or person who may be contacted.

Reference No. 1:

Name: \_\_\_\_\_ Firm: \_\_\_\_\_

Title: \_\_\_\_\_ Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Nature of Association: \_\_\_\_\_

Reference No. 2:

Name: \_\_\_\_\_ Firm: \_\_\_\_\_

Title: \_\_\_\_\_ Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Nature of Association: \_\_\_\_\_

Reference No. 3:

Name: \_\_\_\_\_ Firm: \_\_\_\_\_

Title: \_\_\_\_\_ Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Nature of Association: \_\_\_\_\_

Reference No. 4:

Name: \_\_\_\_\_ Firm: \_\_\_\_\_

Title: \_\_\_\_\_ Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Nature of Association: \_\_\_\_\_



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13. Operational References: List a minimum of four (4) individuals or firms with knowledge of the proponent's ability to operate a business. If a firm is listed, state the name of the department and/or firm to be contacted.

**Reference No. 1:**

Name: \_\_\_\_\_ Firm: \_\_\_\_\_  
Title: \_\_\_\_\_ Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Nature of Association: \_\_\_\_\_

**Reference No. 2:**

Name: \_\_\_\_\_ Firm: \_\_\_\_\_  
Title: \_\_\_\_\_ Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Nature of Association: \_\_\_\_\_

**Reference No. 3:**

Name: \_\_\_\_\_ Firm: \_\_\_\_\_  
Title: \_\_\_\_\_ Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Nature of Association: \_\_\_\_\_

**Reference No. 4:**

Name: \_\_\_\_\_ Firm: \_\_\_\_\_  
Title: \_\_\_\_\_ Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Nature of Association: \_\_\_\_\_

14. Construction Plans: (If phases planned, indicated requested information for each phase.)

- A. Estimated commencement date: \_\_\_\_\_
- B. Estimated completion date: \_\_\_\_\_
- C. Estimated total building(s) square footage planned: \_\_\_\_\_
- D. Estimated cost of construction: \_\_\_\_\_
- E. Nature of planned construction: \_\_\_\_\_

15. Additional Information: To aid in the proper evaluation of all proposals and to ensure uniformity of information submitted, each proponent must include at a minimum the following information:

- A. Projected employment levels: \_\_\_\_\_
- B. Impacts on the Community: \_\_\_\_\_
- C. Price per month: \_\_\_\_\_/per square foot  
**(The City will give higher evaluation consideration to lease rates that are equal to or greater than the appraisal value rate per square foot but will consider lower offers if in the County's best interest)**
- D. Any exceptions to the information requested: \_\_\_\_\_
- E. Any other information, which may be valuable to the County in evaluating the proposal:  
\_\_\_\_\_

**NO PROPOSAL SHALL BE ACCEPTED UNLESS SIGNED BELOW WHERE APPROPRIATE:**

Individual:

Witnesses:

Name: \_\_\_\_\_ D/B/A: \_\_\_\_\_



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Partnership or Joint Venture: (At least two (2) partners or each of the joint ventures must sign)

Name of Partnership or Joint Venture \_\_\_\_\_

Witnesses: \_\_\_\_\_

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

Partner or Joint Venture

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

Partner or Joint Venture

Corporation: The duly authorized officers must sign as follows:

The undersigned by execution of this Proposal Form, certifies that he is

\_\_\_\_\_ of the corporation named below; that he signed this Proposal Form for and on behalf of the below named corporation; and that he is authorized to execute same for and on behalf of said corporation.

Name of Corporation \_\_\_\_\_

Attest: \_\_\_\_\_

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

President

## **EXHIBITS**

**Exhibit "A" – Sample Commercial Agreement,**

**Exhibit "B" – Summary Appraisal Report**



## EXHIBIT "A"

### **SAMPLE AGREEMENT**

current term rent for the year by an amount equal to (100%) of the Annual ~~Δ~~Unadjusted Percent Change<sup>@</sup> in the Consumer Price Index (CPI), for Miami-Fort Lauderdale, Florida region as published by the Bureau of Labor Statistics, for the month in which the second year of the lease term begins. For each change of one (1) index point in the CPI, rent shall be adjusted by a factor of 1.0% The covenant of TENANT to pay rent is separate and distinct from other covenants and TENANT shall have no right of set off or reduction in the payment of rent for any reason. Payments required hereunder shall be in United States currency.

Any adjustments shall take affect at the end of the twelfth month following the commencement date of this Lease and will be further adjusted each twelve (12) months thereafter. Said adjustment will be based on the most recent CPI indices available immediately prior to the adjustment date. Notwithstanding the foregoing, adjusted rent shall not be less than a three percent (3%) increase nor more than a ten percent (10%) increase from the previous lease year.

LANDLORD shall notify TENANT of the adjusted rent due based on the preceding method of adjustment, and TENANT shall promptly pay the same. If LANDLORD shall notify TENANT of such adjusted rent subsequent to the payment of any rent for such lease year, upon the first day of the month immediately following the receipt of such notice, TENANT shall pay the amount due for the months during such lease year as to which rent without such adjustment had previously been paid. Such adjusted rent shall not, under any circumstances, result in a reduction of the previous year's rent.

**4. TAXES.** In addition to rent specified herein, and other sums of money provided in and by this Lease to be paid by TENANT, TENANT shall pay in advance the full amount of its pro rata share of all sales, use, excise, and rental taxes levied, assessed or payable for or on account of this Lease, or the rent payments contemplated by this Lease, or the rents and other sums of money payable under or by virtue of this Lease. TENANT shall also be responsible for and pay its pro rata share of, any ad valorem taxes which are assessed upon the property leased by TENANT, assessed by the taxing authority during TENANT's usage and lease of the property.

**5. LATE CHARGES.** In the event any rent payments due hereunder shall not be paid within ten (10) days from the due date, TENANT shall pay LANDLORD a late charge of five percent (5%) of such late payment.

**6. PERSONAL PROPERTY TAXES.** TENANT shall pay prior to delinquency all taxes assessed and levied upon the trade fixtures, furnishings, equipment, inventory and all other personal property of TENANT contained in the leased premises or elsewhere.

**7. COMMON AREA.** The term "Common Area" shall mean that part of the entire marina property of LANDLORD located at One Avenue "A", Fort Pierce, Florida 34950 designated by LANDLORD from time to time for the common use of all occupants of the Harbor Master Building, including, among other facilities,

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parking area, walkways, landscaping, and loading areas, all of which shall be subject to LANDLORD's sole management and control. TENANT and its employees, customers, subtenants, licensees and concessionaires shall have the nonexclusive right and license to the use the Common Area as constituted from time to time, such use to be in common with LANDLORD, other tenants and occupants of the property, and all other persons permitted by LANDLORD to use the same and subject to such reasonable rules and regulations governing the use thereof as LANDLORD may from time to time prescribe, including the designation of specific areas within the property or in reasonable proximity thereto in which automobiles and vehicles owned or operated by TENANT, its employees, business invitees, and licensees shall travel or be parked. LANDLORD shall operate, maintain and repair the Common Area in such a manner as LANDLORD shall in its sole discretion determine.

**8. INSURANCE.** TENANT agrees to carry liability insurance coverage on the leased premises, listing the LANDLORD on said policy, in the amounts and as provided as follows:

**9. GENERAL LIABILITY INSURANCE.** Such insurance shall be no more restrictive than that provided by Coverage A (Bodily Injury and Property Damage) and Coverage B (Personal and Advertising Injury) of the latest edition of the standard occurrence Commercial General Liability Form (Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office (ISO), without any restrictive endorsements other than any endorsements specifically required by ISO or the State of Florida. TENANT shall require that its insurer name the LANDLORD, City of Fort Pierce, as an Additional Insured, on a form no more restrictive than ISO Form CG 20 11, Additional Insured B Managers or Lessors of Premises on the TENANT=s Commercial General Liability policy, and (and, where required limits are also provided by an umbrella or excess policy, such umbrella or excess policy shall also include the LESSOR as an additional insured). The policy must be endorsed to provide LESSOR with 30 days' notice of cancellation. 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

Prior to occupying the Leased Premises, TENANT shall furnish satisfactory evidence of insurance to the City Clerk of the City of Fort Pierce. An appropriate Certificate of Insurance signed by an authorized representative of the insurer, and copies of the actual additional insured and notice of cancellation endorsements as issued on the policy(ies), shall be satisfactory evidence of such insurance. Until such insurance is no longer required by this Lease Agreement, TENANT shall provide LANDLORD with renewal or replacement evidence of insurance at least thirty (30) days prior to the expiration or termination of such insurance. Neither approval nor failure to disapprove insurance furnished by TENANT shall relieve TENANT from responsibility to provide insurances required by this Lease Agreement.

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Except as otherwise specifically authorized in this Lease Agreement, or for which prior written approval has been obtained hereunder, the insurance maintained by TENANT shall apply on a first dollar basis without application of a deductible or self-insured retention. Under limited circumstances, LANDLORD may permit the application of a deductible. TENANT shall pay on behalf Of LANDLORD or LANDLORD=s officer or employee any deductible applicable to a claim against LANDLORD or LANDLORD=s officer or employee.

The insurance provided by TENANT shall apply on a primary basis. Any insurance or self insurance maintained by LANDLORD shall be in excess of, and shall not contribute with, the insurance provided by TENANT. TENANT shall furnish proof of insurance on a yearly basis to the City Clerk of the City of Fort Pierce. Neither approval nor failure to disapprove insurance furnished by TENANT shall relieve TENANT from responsibility to provide insurances required by this LEASE Agreement.

Compliance with these insurance requirements shall not limit the liability of TENANT, its sub-tenants, employees or agents. Any remedy provided to the LANDLORD or LANDLORD's members, officials, officers or employees by the insurance provided by TENANT or 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 LANDLORD under this LEASE or otherwise.

Neither approval nor failure to disapprove insurance furnished by TENANT shall relieve TENANT from the responsibility to provide insurance as required by this LEASE.

Except as provided for herein, to the extent any loss, liability, damage or cost is covered by applicable insurance, LESSOR and TENANT waive all rights against each other, provided such waiver does not compromise coverage under such insurance coverage.

**10. INDEMNIFICATION REQUIRED.** TENANT hereby agrees to defend, indemnify and hold harmless the LANDLORD and its officers and employees, from liability, damages, losses and costs, including but not limited to, reasonable attorney=s fees and costs, both at the trial and appellate levels, by reason of damage to persons or property , to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of TENANT and persons employed by TENANT in the performance of this Lease Agreement, or TENANT=s use of the Leased premises, or in any way arising on account of, or be claimed to have arisen from, any injury or damage caused to any person or property on or in the leased premises as a result of the TENANT=s negligence, recklessness, or intentional wrongful misconduct.

LANDLORD shall not be liable for any damage or injury to any person or property whether it

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### **SAMPLE AGREEMENT**

be to the person or property of the TENANT, TENANT=s employees, agent, guest, invitees, or otherwise, by reason of TENANT=s occupancy of the leased premises.

**11. USE OF PREMISES.** TENANT will use and occupy the premises as a business office for [TYPE IN SPECIFIC PURPOSE] purposes. TENANT specifically agrees not to conduct its business in a manner to disturb the quiet enjoyment of other tenants and occupants of the property and agrees to conduct its business in compliance with all applicable laws. TENANT further agrees to keep the premises in a clean and sanitary condition; to 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; to make no alterations or additions to the leased premises without the prior written consent of LANDLORD; to commit no waste of the premises; to remove all garbage and other debris which results from the operation of TENANT's business in a clean and sanitary manner and to remove the garbage and debris in conformity with all laws and regulations; to keep all plumbing fixtures used by TENANT clean and sanitary and in repair; to use and operate in a reasonable manner all electrical, plumbing, heating, ventilating, air conditioning and other facilities and appliances; not to destroy, deface, damage, impair or remove any part of the leased premises, or property therein belonging to LANDLORD; to direct persons on the premises with TENANT's consent to conduct themselves in a manner that does not unreasonably disturb other tenants or occupants or constitute a breach of the peace; and to surrender the leased premises at the termination of this LEASE in as good state and condition as reasonable use and wear will have permitted.

**12. MAINTENANCE AND REPAIR.** LANDLORD shall keep the foundation, the exterior walls and roof of the leased premises in good repair, except that LANDLORD shall not be required to make any repairs occasioned by the act of negligence of TENANT, its agents, employees, business invitees and concessionaires, which repairs shall be made by TENANT, subject to LANDLORD's supervision. In the event that the leased premises should become in need of repairs required to be made by LANDLORD hereunder, TENANT shall give immediate written notice thereof to LANDLORD, and LANDLORD shall not be responsible in any way for the failure to make any repairs until a reasonable time shall have elapsed after delivery of such written notice. Other than as herein provided, LANDLORD shall not be responsible to maintain or to make any improvements or repairs of any kind in or upon the leased premises. TENANT shall keep and maintain in good order, condition and repair (which repair shall mean replacement if necessary) the exterior and interior portions of all doors, windows, glass, plumbing and sewage facilities within the leased premises, fixtures, heating, air conditioning within the leased premises, interior electrical equipment serving the leased premises, interior walls, floors and ceilings. If any repairs required to be made by TENANT hereunder are not made within ten (10) days after written notice delivered to TENANT by LANDLORD (or within such shorter period as LANDLORD should require in the event of an emergency, with or without notice), LANDLORD may, at its

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option, make such repairs without liability to TENANT for any loss or damage which may result to its stock or business by reason of such repairs, and TENANT shall pay to LANDLORD immediately upon demand as additional rent hereunder, the costs of such repairs plus ten percent (10%) of the amount thereof (for LANDLORD's service and overhead costs).

**13. ALTERATIONS.** TENANT shall not make any alterations, additions or improvements to the leased premises without the prior written consent of LANDLORD, except for the installation of unattached, movable trade fixtures which may be installed without defacing the leased premises. All alterations, additions, improvements and fixtures (other than movable trade fixtures) which may be made or installed upon the leased premises shall become the property of LANDLORD upon installation and shall remain upon and be surrendered with the leased premises at the termination of the Lease unless LANDLORD requests their removal, in which event TENANT shall remove the same and restore the leased premises to the original condition at TENANT's expense. Any linoleum, carpeting or other floor covering which may be cemented or otherwise affixed to the floor of the leased premises shall be a permanent fixture and shall become the property of LANDLORD without credit or compensation to TENANT.

**14. UTILITIES.** TENANT shall pay LANDLORD the sum of \$ \_\_\_\_\_ **per month** for utility services rendered or furnished to the leased premises, including heat, water, gas (if available), sewer and electricity. LANDLORD will at its option provide trash removal as part of the rent for the undivided portion of the Harbor Master Building, at no cost to TENANT.

**15. DAMAGE AND OBLIGATION TO RESTORE.** TENANT shall give immediate written notice to LANDLORD of any damage caused to the leased premises by fire or other casualty. If the leased premises should be: **(1)** damaged by any uninsured casualty or; **(2)** be damaged to an extent in excess of fifty percent (50%) of the cost of replacement thereof, LANDLORD may elect either to terminate the Lease or to proceed to rebuild and repair the leased premises. Should LANDLORD elect to terminate the Lease due to such damage or destruction, it shall give written notice of such election to TENANT within ninety (90) days after the occurrence of such casualty. Except as otherwise provided herein, in the event the leased premises should be damaged by fire or other casualty insurable under standard fire and extended insurance coverage, LANDLORD shall proceed with reasonable diligence to rebuild and repair the leased premises. LANDLORD's obligation to rebuild and repair shall be limited to restoring the leased premises to substantially return to the condition in which same existed prior to the casualty, shall be limited to the extent of the insurance proceeds available to LANDLORD for such restoration and, further, shall exclude any obligation with regard to the personal property and trade fixtures of TENANT. In the event LANDLORD should elect to restore the leased premises and TENANT should be deprived of the occupancy and use of a portion of the leased premises, rent shall be equitably apportioned according to the area of the leased premises which is unusable by TENANT, until such time as LANDLORD shall have completed its restoration as provided herein. In the event of total

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destruction, TENANT's rent shall completely abate from the date of such destruction. In the event any portion of the business property should be damaged to such an extent that LANDLORD, in its sole discretion, should elect to discontinue operation of the Harbor Master Building, LANDLORD may cancel this Lease by giving written notice to TENANT, and the Lease shall terminate and become null and void.

**16. LIABILITY.** LANDLORD shall not be liable for any damage or injury to any person or property whether it be to the person or property of TENANT, TENANT's employees, agents, guests, invitees, or otherwise, by reason of TENANT's occupancy of the leased premises or because of fire, flood, wind storm, acts of God, or for any other reason, except such damage or injury arising or occurring as a result of LANDLORD's positive acts, negligence, acts or omissions. This paragraph shall apply also to damage caused as previously stated or by frost, steam, excessive heat or cold, falling objects, broken glass, sewage, gas, odors, or noise, or the bursting or leaking of pipes of plumbing fixtures and shall apply equally whether any such damage results from the acts or omissions of other tenants, occupants or of any other person, whether such damage be caused by or result from any other thing or circumstances above mentioned, or any other thing or circumstances, whether of a like or wholly different nature.

**17. EMINENT DOMAIN.** If the leased premises or any part thereof should be permanently taken, condemned or transferred by agreement in lieu of condemnation for any public or quasi-public use or purpose by any competent authority, whether or not the Lease shall be terminated, the entire compensation aware therefore, both leasehold and reversion, shall be the property of LANDLORD without any deduction therefrom for any present or future estate of TENANT, and TENANT hereby assigns to LANDLORD all its right, title and interest to any such award. TENANT shall execute all documents required to evidence such result. TENANT shall, however, be entitled to claim, prove and receive in such condemnation proceedings such award as may be allowed for fixtures and other equipment installed by it, but only if or to the extent such award shall be in addition to the award for the land and the building and other improvements (or portions thereof) containing the leased premises.

If the entire leased premises should be taken, condemned, or transferred as aforesaid, the Lease shall terminate as of the time possession thereof is required for public use. If a portion of the leased premises should be taken, condemned or transferred as aforesaid, LANDLORD may elect to terminate the Lease or, at its own expense, to repair and restore the portion not affected by the said taking, in which latter event the minimum rent shall be reduced in proportion to the area taken, effective at the time possession is required for public use.

In the event any portion of the Common Area should be taken to such extent that LANDLORD, in its sole discretion, should elect to discontinue operation of the business, LANDLORD may cancel the Lease by giving written notice to TENANT, and the Lease shall terminate and become null and void ninety (90) days after said notice.

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**18. ASSIGNMENT AND SUBLETTING.** The identity and financial standing of TENANT is a material consideration of LANDLORD in entering into the Lease. TENANT shall not voluntarily, involuntarily, or by operation of law assign, sell, mortgage, pledge, or in any manner transfer the Lease or any estate or interest therein or sublet the leased premises or any part thereof, or grant any license, concession, or other right to occupy any portion of the leased premises without the prior written consent of LANDLORD.

In the event of the transfer and assignment by LANDLORD of its interest in the Lease and in the building containing the leased premises, LANDLORD shall thereby be released from any further obligations and TENANT agrees to look solely to such successor in interest for performance of such obligations.

**19. DEFAULT AND REMEDIES.** The occurrence of any one or more of the following events shall constitute a material default and breach of the Lease by TENANT:

(a) The vacating or abandonment of the leased premises by TENANT.

(b) The failure by TENANT to make payment of rent or any other payment required to be made by TENANT hereunder, as and when due, where such failure shall continue for a period of three (3) days after written notice thereof from LANDLORD to TENANT.

(c) The failure by TENANT to observe or perform any of the covenants, conditions or provisions to be observed or performed by TENANT, other than described in Paragraphs (a) and (b) above, where such failure shall continue for a period of ten (10) days after written notice thereof from LANDLORD to TENANT; provided, however, that if the nature of TENANT's default is such that more than ten (10) days are reasonably required for its cure, TENANT shall not be deemed to be in default if TENANT commences such cure within said ten day period and thereafter diligently pursues such cure to completion.

(d) If TENANT or any guarantor should commence, in any court pursuant to any statute either of the United States or of any state, an insolvency or bankruptcy proceeding (including, without limitation, a proceeding for liquidation, reorganization or for adjustment of debts of an individual with regular income), or if such a proceeding is commenced against TENANT or any said guarantor and either an order of relief is entered against such party or such party fails to secure a discharge of the proceeding within thirty (30) days of the filing thereof, or if TENANT or any said guarantor becomes insolvent or is unable or admits in writing its inability to pay its debts as they become due, or makes an assignment for the benefit of creditors or petitions for or enters into an arrangement with its creditors or a custodian is appointed or takes possession of TENANT's or any said guarantor's property whether or not a judicial proceeding is instituted in connection with such arrangement or in connection with the appointment of such custodian.

(e) The discovery by LANDLORD that any financial statement given to LANDLORD by TENANT, any assignee of TENANT, any subtenant of TENANT, any successor in interest of TENANT or any guarantor of TENANT's obligations, and any of them, is materially false.

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In the event of any default or breach by TENANT, LANDLORD may at any time thereafter, without notice or demand and without limiting LANDLORD in the exercise of any right or remedy which LANDLORD may have by reason of such default or breach:

(a) Declare the entire rent for the balance of the Lease term, or any part thereof, due and payable forthwith, and bring an action for the recovery thereof.

(b) Terminate TENANT's right to possession of the leased premises by any lawful means and retake possession thereof for the account of LANDLORD, in which event TENANT shall immediately surrender possession of the leased premises to LANDLORD and all further liability under the Lease on the part of the TENANT and LANDLORD shall terminate.

(c) Maintain TENANT's right to possession, in which event the Lease shall continue in effect whether or not LANDLORD shall have abandoned the leased premises. In such event, LANDLORD shall be entitled to relet the leased premises and to enforce all of LANDLORD's rights and remedies under the Lease, including the right to recover its rent as it becomes due.

(d) Pursue any other remedy now or hereafter available to LANDLORD under the laws and judicial decisions of the State of Florida.

If the LANDLORD should exercise any of its remedies hereunder, TENANT shall be liable for and shall pay to LANDLORD the costs of removing and storing TENANT's property; the costs of repairing, altering, remodeling or otherwise putting the leased premises into condition acceptable to a new tenant or tenants; and all reasonable expenses incurred by LANDLORD, including attorney's fees.

**20. TERMINATION.** Either party may terminate this Lease Agreement without cause upon sixty (60) days written notice.

In an event of any default or breach by tenant, LANDLORD may any time thereafter, without notice or demand and without limiting LANDLORD in the exercise of any right or remedy which LANDLORD may have by reason of such default or breach; terminate the TENANT's right to possession of the lease premises by any lawful means and take possession thereof in which event, TENANT shall immediately surrender possession of the leased premises to LANDLORD and all further liability under the lease on the part of the tenant and landlord shall terminate or LANDLORD may pursue any other remedy now and hereafter available to LANDLORD under the laws and judicial decisions of the State of Florida. Upon termination and expiration of the lease term LANDLORD shall have the immediate right thereafter to reenter the lease premises and remove all persons and

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property there from.

The rights and remedies granted herein to LANDLORD are distinct, separate remedies, and the exercise of any of them shall not be deemed to exclude LANDLORD's right to exercise any or all of the others.

If the Lease should be terminated, or the Lease term should expire, LANDLORD shall have the immediate right thereafter to re-enter the leased premises and to remove all persons and property therefrom. Such property may be stored in a public warehouse or elsewhere at the cost of, and for the account of TENANT. In such event, LANDLORD shall not be deemed guilty of trespass or become liable for any loss or damage which may be occasioned thereby.

The rights and remedies granted herein to LANDLORD are distinct, separate and cumulative remedies, and the exercise of any of them shall not be deemed to exclude LANDLORD's right to exercise any or all of the others. All charges payable by TENANT under the terms of the Lease shall be deemed rent for the purpose of LANDLORD exercising its remedies.

No waiver of any covenant or condition or of the breach of any covenant or condition of the Lease shall be taken to constitute a waiver of any subsequent breach of such covenant or condition nor to justify or authorize the nonobservance of any other occasion of the same or of any other covenant or condition hereof, nor shall the acceptance of rent by LANDLORD at any time when TENANT is in default under any covenant or condition hereof be construed as a waiver of such default or of LANDLORD's right to terminate the Lease on account of such default, nor shall any waiver or indulgence granted by LANDLORD to TENANT be taken as an estoppel against LANDLORD, it being expressly understood that if any time TENANT should be in default in any of its covenants or conditions hereunder, an acceptance by LANDLORD of rent during the continuance of such default or the failure on the part of LANDLORD promptly to avail itself of such other rights or remedies as LANDLORD may have shall not be construed as a waiver of such default, but LANDLORD may at any time thereafter, if such default continues, terminate the Lease on account of such default.

TENANT hereby acknowledges that late payment by TENANT to LANDLORD of rent and other sums due hereunder will cause LANDLORD to incur costs not contemplated by the Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed on LANDLORD by the terms of any mortgage covering the leased premises. Accordingly, if any installment of rent or any other sum due from TENANT shall not be received by LANDLORD or LANDLORD's designee within ten (10) days after such amount shall be due, TENANT shall pay to LANDLORD a late charge equal to six percent (6%) of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs LANDLORD

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will incur by reason of late payment of TENANT. Acceptance of such late charge by LANDLORD shall in no event constitute a waiver of TENANT's default with respect to such overdue amount, nor prevent LANDLORD from exercising any of the other rights and remedies granted hereunder.

**21. LANDLORD SECURITY.** To secure the payment of all rent and other sums of money due and to become due and the faithful performance of the Lease by TENANT, TENANT hereby grants to LANDLORD an express first and prior lien and security interest on all property (including fixtures, equipment, chattels and merchandise) which may be placed in the leased premises, and also upon all proceeds of any insurance which may accrue to TENANT by reason of destruction of or damage to any such property. Such property shall not be removed therefrom without the written consent of LANDLORD until all arrearage in rent and other sums of money then due to LANDLORD hereunder shall first have been paid. This lien and security interest is given in addition to the LANDLORD's statutory lien and shall be cumulative thereto. Consequently with the execution of the Lease (or later if requested by LANDLORD at its discretion), TENANT shall execute and deliver to LANDLORD Uniform Commercial Code financing statements in sufficient form so that when properly filed, the security interest hereby given shall be perfected. The lien and security interest created hereby shall be terminated when all of the rent and other sums of money becoming due during the Lease term shall have been paid in full.

**22. TENANT ESTOPPEL CERTIFICATE.** TENANT shall at any time upon not less than ten (10) days prior written notice from LANDLORD execute, acknowledge and deliver to LANDLORD a statement in writing: (1) certifying that the Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that the Lease, as so modified is in full force and effect) and the date to which the rent and other charges are paid in advance, if any; (2) acknowledging that there are not, to TENANT's knowledge, any uncured defaults on the part of LANDLORD, or specifying such defaults if any are claimed; and (3) otherwise be in a form reasonably acceptable to LANDLORD. Any such statements may be conclusively relied upon by any prospective purchaser or existing or prospective encumbrancer of the leased premises.

If LANDLORD desires to finance, refinance, or sell the leased premises, or any part thereof, TENANT hereby agrees to deliver to any lender or purchaser designed by LANDLORD such financial statements of TENANT as may be reasonably required by such lender or purchaser. All such financial statements shall be received by LANDLORD and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

**23. NOTICES.** All notices required to be served upon LANDLORD shall be served by registered or certified mail, return receipt requested, to: CITY OF FORT PIERCE, Attn: City Manager, P. O. Box 1480, Fort Pierce, Florida 34954, with a copy to the Office of the City Attorney, P. O. Box 1480, Fort Pierce, Florida

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### **SAMPLE AGREEMENT**

34954, or such other place as LANDLORD may designate in writing. All notices required to be served upon TENANT shall be served by hand delivery or registered or certified mail, return receipt requested to: \_\_\_\_\_, Attn..\_\_\_\_\_, President, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, CITY STATE AND ZIP, or such other place as TENANT may designate in writing. All such notices shall be deemed to have been duly given, delivered, or served if and when hand delivered or deposited in the U.S. Post Office, postage prepaid, whether evidence of delivery received is obtained or not obtained.

**24. LESSOR'S RIGHTS.** LANDLORD and LANDLORD's agents shall have the right to enter the leased premises at reasonable times for the purpose of inspecting same, showing the same to prospective purchasers, lenders, or lessees, and making such alterations, repairs, improvements or additions to the leased premises or to the building of which they are a part as LANDLORD may deem necessary and desirable.

**25. GENERAL PROVISIONS.** The following general provisions shall be an integral part of this Lease:

(a) TENANT shall not record the lease without LANDLORD's prior written consent, and any such recordation shall, at the option of LANDLORD, constitute a non-curable default of TENANT.

(b) Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating a relationship of principal and agent or of partnership or of joint venture between the parties hereof. Neither the method of computation of rent, nor any other provisions contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of LANDLORD and TENANT.

(c) The invalidity of any provision of the Lease as determined by a court of competent jurisdiction shall in no way affect the validity of any other provisions hereof.

(d) Time is of the essence.

(e) The captions used herein are for convenience only and do not limit or amplify the provisions hereof.

(f) Whenever a period of time is prescribed for action to be taken by LANDLORD, LANDLORD shall not be liable or responsible for and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes of any kind whatsoever which are beyond the reasonable control of LANDLORD.

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(g) Upon TENANT paying the rent reserved hereunder and observing and performing all the covenants, conditions and provisions on TENANT's part to be observed and performed hereunder, TENANT shall have quiet possession of the leased premises, for the entire Lease term, subject to all the provisions of the Lease.

(h) Each provision performable by TENANT shall be deemed both a covenant and a condition. The Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. The Lease may be modified in writing only, signed by the parties in interest at the time of modification.

(i) Subject to the provisions hereof restricting assignment or subletting by TENANT and regarding LANDLORD's liability, this Lease shall bind the parties, their personal representatives, successors and assigns. The Lease shall be governed by the laws of the State of Florida.

(j) The terms "LANDLORD" and "TENANT", as used herein, denote both singular and plural and all genders. Where "TENANT" consists of more than one person, whether natural or artificial, all the persons constituting "TENANT" shall be jointly and severally liable for all obligations to be performed by TENANT herein.

(k) The Effective Date of the Lease shall be the date last executed by the parties without amendment or deletion to the Lease and its Exhibits.

(l) All terms, covenants, and conditions herein contained, to be performed by TENANT, shall be performed at its sole cost and expense, and if LANDLORD shall pay any sum of money or do any act which requires the payment of money, by reason of the failure, neglect or refusal of TENANT to perform such term, covenant, or condition, the sum of money so paid by LANDLORD shall be deemed additional rent and shall be payable by TENANT with the next succeeding installment of rent together with such interest as may have accrued thereon.

(m) Any amount due to LANDLORD not paid when due shall bear interest at the maximum rate allowable by law accruing from the due date. Payment of such interest shall not excuse or cure any default by TENANT under the Lease.

(n) Notwithstanding anything to the contrary provided in the Lease, it is specifically understood and agreed by LANDLORD and TENANT that there shall be absolutely no personal liability on the part of LANDLORD, or its successors, or any partners or corporate shareholders of LANDLORD, or its successors, with respect to any of the terms, conditions and covenants of the Lease, and that TENANT shall

**EXHIBIT "A"**

**SAMPLE AGREEMENT**

look solely to the interest of LANDLORD in the business for the satisfaction of each and every remedy of TENANT in the event of any breach by LANDLORD of any terms, conditions and covenants of the Lease to be observed or performed by LANDLORD.

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

**27. ATTORNEY'S FEES AND COSTS.** The prevailing party shall be entitled to an award of all costs, charges, and expenses, including the fees of counsel, agents, and others retained by such party and incurred in enforcing either party's obligations hereunder or in any litigation or appellate proceedings.

**28. PAYMENT.** No payment by TENANT or receipt of payment by LANDLORD of an amount less than the full amount then due LANDLORD under this Lease shall be construed as anything other than a partial payment of the sum then due and owing. No endorsement or statement on any check or letter or any form of payment or accompanying documents shall be deemed to be an accord and satisfaction or other form of settlement, and LANDLORD may accept any such payment without prejudice to its rights to recover the balance of any sums due and owing under this Lease or to pursue any other remedy permitted under this Lease or Florida law.

**29. RADON GAS.** Pursuant to Fla. Stat. Sec. 404.056(8), Radon is a naturally occurring radioactive gas that when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the St. Lucie County Public Health Unit.

**30. ENTIRE AGREEMENT.** This Lease contains the entire and sole agreement between the parties hereto relative to the rental of the leased premises and it may be modified only by an agreement in writing executed by LANDLORD and TENANT with the same formalities as this Lease. No surrender of the lease premises or of the remainder of the term of this Lease shall be valid unless accepted by LANDLORD in writing. This agreement shall be interpreted and enforced under the laws of the State of Florida. It is agreed and understood that this agreement has been negotiated and drafted jointly and is not to be construed against any party.

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

**WITNESS AS TO LANDLORD:**

**LANDLORD:**

**ATTEST:**

**CITY OF FORT PIERCE, FLORIDA**

**EXHIBIT "A"**

**SAMPLE AGREEMENT**

BY: \_\_\_\_\_  
Linda Cox, City Clerk

BY: \_\_\_\_\_  
Linda Hudson, Mayor

DATE: \_\_\_\_\_

**APPROVED AS TO FORM AND CORRECTNESS:**

BY: \_\_\_\_\_  
City Attorney

**WITNESSES AS TO TENANT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name

**TENANT:  
[TYPE TENANT'S NAME]**

BY: \_\_\_\_\_  
[TYPE OFFICERS NAME], President

DATE: \_\_\_\_\_

**WITNESSES AS TO GUARANTOR:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name

**GUARANTOR:  
[TYPE GUARANTOR'S NAME]**

\_\_\_\_\_  
TYPE NAME

DATE: \_\_\_\_\_

**EXHIBIT "A"**

**SAMPLE AGREEMENT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name

**EXHIBIT "A"**

**SAMPLE AGREEMENT**

**GUARANTEE**

THE UNDERSIGNED, as Guarantor, guarantees all of the obligations of the TENANT under that certain Lease dated the \_\_\_\_\_ day of \_\_\_\_\_, 2018, between CITY OF FORT PIERCE, FLORIDA, a Florida municipal corporation, as LANDLORD, and \_\_\_\_\_, a \_\_\_\_\_ corporation, as TENANT, for the leased premises identified therein and located at One Avenue "A",, Fort Pierce, Florida 34950.

The undersigned, jointly and severally, further confirm and acknowledge the following:

1. The liability of the undersigned is absolute and unconditional irrespective of (i) any lack of validity or enforceability of the Lease; (ii) the existence of any property given as security for, or other guarantee of the Lease; or (iii) any other circumstance which might otherwise constitute a defense available to, or a discharge of, the TENANT in respect of the Lease or the undersigned in respect of this Guarantee.
2. The undersigned has a monetary interest (direct or indirect) in TENANT, and/or in the conduct of the business to the leased premises.
3. The undersigned has executed this Guarantee to induce LANDLORD to lease the leased premises to TENANT.
4. With regard to obligations of TENANT to pay money, this Guarantee imposes on the undersigned a guarantee of payment and not of collection.
5. LANDLORD has the right to take action against one or more of the undersigned guarantors, if more than one, without affecting the obligations of any other of the undersigned guarantors not being proceeded against.

**WITNESS** our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**WITNESSES:**

**GUARANTORS:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
[TYPE GUARANTOR'S NAME]

\_\_\_\_\_  
Print name

DATE: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name

**EXHIBIT "B"**

**Insert Market Analysis Report  
performed by Osteen Appraisal Services, Inc.**