

LANDSCAPE MAINTENANCE AGREEMENT

Parcel Number(s):

Project Name:

Project Address:

THIS agreement ("Agreement"), made this _____ by and between _____, hereinafter referred to as the "Owner" of the following property and the City of Fort Pierce, hereinafter referred to as the "Agency."

WHEREAS, the Owner is the owner of the following real property ("Property"), described in the attached Exhibit "A" (Legal Description and Location Map) and is vested with full authority to execute deeds, mortgages, and other covenants, such as this Agreement, and does hereby covenant with the Agency and agree as follows:

1. The owner shall provide for adequate long-term maintenance of all landscape facilities and landscaping located on the Property and shown in the drawing attached hereto as Exhibit "B" ("Landscape Plans"). The owner shall ensure that all approved landscaping per the Landscape Plan is installed, irrigated, and maintained in accordance with approved design standards, rules and regulations and applicable laws. The owner shall perform all landscape maintenance activities at the Property in perpetuity in accordance with section 123-7 of the City Code of Ordinances ("Applicable Code"), in order that it continues to present a healthy, neat, and orderly appearance to the public free of refuse and debris, in conformity with the following requirements:
 - a. Vegetation required by this article shall be replaced with equivalent or better vegetation if it is not living. All trees for which credit is awarded and which subsequently die shall be replaced by the same or greater number of living trees according to the standards established in the Applicable Code.
 - b. Maintenance shall include sufficient weeding, watering, fertilizing, pruning, mowing, edging, mulching and other horticultural practices to ensure that the landscaping continues to maintain a healthy, neat, and orderly appearance.

2. If, upon inspection, the Agency finds that the owner has failed to perform the preventative maintenance activities at the Property in accordance with the Applicable Code, the Agency may order the work performed within 30 days by written notice sent to the Owner's mailing address at _____. In the event the work is not performed within the specified time, the Owner agrees to allow the Agency, upon reasonable notice, to enter the Property to perform the preventative maintenance activities on the landscaping in accordance with the Applicable Code, this Agreement and in a manner so as to minimize interference with the use and enjoyment of the Property by the Owner and its occupants, guests, licensees and invitees. This provision shall not be construed to: (a) allow the Agency to modify existing structures or erect any structure of a permanent nature on the Property without first obtaining written approval of the Owner; (b) to control how the Owner may use the Property so long as the landscaping is being maintained in accordance with the Applicable Code; or (c) to enter upon the Property without first providing notice to the Owner. Any work performed by the Agency for the benefit of the landscaping on the Property of Owner which disturbs or damages the Property of Owner shall require Agency to repair or replace the Property to the condition it was in prior to the disturbance or damage.

3. The Agency is under no obligation to maintain, or repair said landscaping or landscape facilities, and in no event shall this Agreement be construed to impose any such obligation on the Agency. The Owner shall reimburse the Agency upon demand the reasonable costs incurred by the Agency pursuant to paragraph two (2) above.
4. The Owner shall grant to the Agency or its agent(s) or contractor(s) the right of entry on the Property at reasonable times and in a reasonable manner for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining or repairing the landscaping or landscaping facilities at the Property, provided the same is undertaken in a manner to minimize interference with the use and enjoyment of the Property by Owner and its occupants, guests, licensees and invitees and otherwise in compliance with this Agreement.
5. If the Owner fails to pay the Agency for the expenses incurred pursuant to paragraph two (2) above, then, after forty-five (45) days following Owner's receipt of Agency's invoice (including all supporting documentation), the Agency may exercise any legal remedies it has to collect said expenses from the Owner, including through appropriate legal action and, in the event Agency is successful in such legal action, the Owner shall be liable for the reasonable expenses of collection, court costs, and attorney fees.
6. The Owner and the Owner's heirs, administrators, executors, assigns and any other successor in interest shall indemnify and hold harmless the Agency and its officers, agents and employees for any and all damages, accidents, casualties, occurrences, claims or attorney's fees which might arise or be asserted, in whole or in part, against the Agency from the Owner's failure to perform the landscape maintenance activities of at the Property in accordance with the Applicable Code. In the event a claim is asserted against the Agency, its officers, agents, or employees as a result of such failure, the Agency shall notify the Owner and the Owner shall defend at Owner's expense any suit based on such claim. If any action is brought against the Agency, its officers, agents or employees, as a result of such failure to maintain, the Agency shall not settle any claims without Owner's prior written consent. Owner may defend any such action or may agree to resolve any such claim, in its sole discretion. If a judgment is rendered against Agency as a result of Owner's failure to maintain the landscape in accordance with the Applicable Code then Owner shall pay all costs and expenses in connection therewith. Owner's liability under this Agreement shall not exceed Owner's equity interest in the Property. Nothing herein shall constitute a contractual obligation of the Agency to indemnify, defend or hold harmless in any fashion the Owner from any claims arising from any failure of Owner to carry out its maintenance obligations as required by the Applicable Code.
7. No waiver of any provision of this Agreement shall affect the right of any party thereafter to enforce such a provision or to exercise any right or remedy available. This Agreement embodies the entire agreement and understanding between the parties hereto with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous agreements and understandings relative to such subject matter. This Agreement may not be amended or altered except by a writing signed by all parties to this Agreement at the time of the Agreement or alteration. This Agreement shall be governed by and construed in

accordance with the laws of the State of Florida and the applicable laws of the United States of America. Any action or proceeding under or in connection with this Agreement shall be brought in St. Lucie County, Florida. This Agreement inures, is for the benefit of, and is binding upon each Party's respective predecessors, successors, assigns, affiliates, divisions, subsidiaries, members, partners, insurers, reinsurers, their former, current and future shareholders, directors, officers, trustees, receivers, employees, agents, attorneys, volunteers, representatives, their heirs, executors, administrators, successors and assigns, as well as any persons or entities claiming through one or more of them, any benefit of this Agreement. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, then neither the remainder of this Agreement nor the application of such provision to the other persons or circumstances shall be affected thereby, but rather shall be enforced to the greatest extent permitted by law. All signatories hereto hereby warrant, represent and affirm that they have the authority to enter into this Agreement.

This Agreement is signed by the parties' duly authorized representatives as of the day first written above.

Business Name

By: _____
Property Owners Signature

Owners Name:

**STATE OF FLORIDA
COUNTY OF ST. LUCIE**

The foregoing instrument was acknowledged before me by physical presence this _____ day of _____ by _____ on behalf of said corporation who is ____ personally known by me or ____ has produced _____ as identification.

[SEAL]

Notary Public Signature

My Commission Expires:

EXHIBIT A

Legal Description & Location Map

EXHIBIT "B"

Landscape Plan