

**ORDINANCE  
NO. 2014-16**

**AN ORDINANCE OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, PROVIDING FOR VOLUNTARY ANNEXATION OF 8,845.19 ACRES MORE OR LESS INTO THE CITY OF FELLSMERE, CONSISTING OF EIGHT PARCELS OF LAND WHICH ARE OWNED BY J. PAT CORRIGAN FAMILY LIMITED PARTNERSHIP, LLLP, A FLORIDA LIMITED LIABILITY LIMITED PARTNERSHIP AND HUGH CORRIGAN III FAMILY LIMITED PARTNERSHIP, LLLP, A FLORIDA LIMITED LIABILITY LIMITED PARTNERSHIP AS TO PARCELS 1, 3, 4, 5 AND 6, HUGH DANIELS CORRIGAN, JAMES PATRICK CORRIGAN, ELEANOR CHRISTIE CORRIGAN, HUGH CORRIGAN IV AND PATRICK EDWARD CORRIGAN AS TO PARCEL 2, J. PAT CORRIGAN AND PATRICIA P. CORRIGAN AS TO PARCEL 7 AND HUGH CORRIGAN III FAMILY LIMITED PARTNERSHIP, A FLORIDA LIMITED LIABILITY LIMITED PARTNERSHIP AS TO PARCEL 8, WHICH PARCELS OF LAND ARE LOCATED CONTIGUOUS WITH EACH OTHER AND ARE LOCATED EASTERLY AND WESTERLY OF INTERSTATE HIGHWAY 95 (I-95) AND CONTIGUOUS TO THE EXISTING CITY LIMITS ON THE EAST SIDE AND WEST SIDE OF INTERSTATE HIGHWAY 95; PROVIDING FOR RATIFICATION; PROVIDING THE LEGAL DESCRIPTION OF THE PROPERTY ANNEXED; PROVIDING FOR REDEFINING THE BOUNDARY OF THE CITY LIMITS; PROVIDING FOR INTERIM LAND USE AND ZONING CLASSIFICATION; PROVIDING FOR FILING THIS ORDINANCE WITH THE CLERK OF THE CIRCUIT COURT, DEPARTMENT OF STATE AND THE CHIEF ADMINISTRATIVE OFFICER OF INDIAN RIVER COUNTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS, J. Pat Corrigan Family Limited Partnership, LLLP, a Florida limited liability limited partnership and Hugh Corrigan III Family Limited Partnership, LLLP, a Florida limited liability limited partnership as to Parcels 1, 3, 4, 5 and 6, Hugh Daniels Corrigan, James Patrick Corrigan, Eleanor Christie Corrigan, Hugh Corrigan IV and Patrick Edward Corrigan as to Parcel 2, J. Pat Corrigan and Patricia P. Corrigan as to Parcel 7 and Hugh Corrigan III Family Limited Partnership, a Florida limited liability limited partnership as to Parcel 8, the owners of the land described herein, have petitioned the City for voluntary annexation of said land and due public notice of this action has been given; and**

**WHEREAS, the City Council has determined that the land described herein is substantially contiguous to the present boundary of the City, will not result in the creation of any enclaves, pockets or fringe areas, constitutes a reasonably compact addition to the incorporated territory of the City and satisfies all requirements for voluntary annexation set forth in Chapter 171, Florida Statutes; and**

**WHEREAS**, the unique nature of the land, with areas containing pristine native habitat, annexation allows the City to continue to expand conservation and recreation opportunities for its residents and guests, in particular the integration of the I-95 “cattle underpass” into the City’s greenway network; and

**WHEREAS**, the land contains considerable water rights that can, in partnership with other land owners, provide opportunity for water supply sources to meet the City’s future needs; and

**WHEREAS**, the land will provide the City with the opportunity to work collaboratively to identify and implement water attenuation/nutrient removal projects; and

**WHEREAS**, with this land in the City, all land owners who will need and benefit from a proposed I-95 interchange will be in the City, thus facilitating the City’s ability to develop partnerships and agreements to fund this critical infrastructure improvement; and

**WHEREAS**, the Southern boundary of the land is in close proximity to State Road 60 which is ideally suited for industrial purposes bringing economic development to the City; and

**WHEREAS**, the annexation of this land will square off the Eastern limits of the City boundary to provide for more efficient delivery of urban services; and

**WHEREAS**, the addition of this land to the City will ensure future growth is sustainable, predictable, protects and enhances the natural environment and improves the City’s current and future citizen’s quality of life; and

**WHEREAS**, the City Council of the City of Fellsmere, Florida, finds and determines that the annexation of this land is in the best interest of the City.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Fellsmere, Indian River County, Florida, as follows:

**SECTION 1. RATIFICATION.** The above recitals are hereby ratified, confirmed and adopted as legislative finding by the City Council.

**SECTION 2. PROPERTY ANNEXED.** The following described land being situated in the unincorporated area of Indian River County, State of Florida, is hereby annexed into the City of Fellsmere, Florida:

**LEGAL DESCRIPTION**

See Exhibit "A" attached hereto and by this reference made a part hereof.

The annexed land consisting of eight (8) parcels is also shown on the map attached hereto, as Exhibit "B" and by this reference made a part hereof, said parcels of land containing 8,845.19 acres, more or less.

**SECTION 3. BOUNDARY OF CITY LIMITS REDEFINED.** On the effective date of this Ordinance, the corporate limits and boundary lines of the City of Fellsmere, Indian River County, Florida, shall be redefined to include therein the above described land.

**SECTION 4. INTERIM LAND USE AND ZONING CLASSIFICATION.** The interim land use and zoning classifications for this property shall be consistent with the provisions of State law.

**SECTION 5. FILING.** Following adoption of this Ordinance, the City Clerk is hereby directed to file a copy with the Clerk of the Circuit Court, Indian River County, Florida, the Chief Administrative Officer of Indian River County, Florida, and with the Department of State within seven (7) days after adoption. Following adoption of this Ordinance, the City Clerk is hereby directed to file a revision of Article I Boundaries of the City Charter with the Department of State within thirty (30) days after adoption. The City Clerk is further directed to submit within said thirty (30) days a copy of such revision of Article I Boundaries to the Office of Economic and Demographic Research along with a statement specifying the population census effect and the affected land area. The City Clerk shall also submit a copy of this Ordinance to the Supervisor of Elections for Indian River County, Florida.

**SECTION 6. SEVERABILITY.** If any section, part of a sentence, phrase, word, portion or provision of this Ordinance, including any exhibit(s) attached hereto, is for any reason held to be unconstitutional, inoperative, void or in violation of any law, such holding(s) shall not affect the remaining portions hereof and it shall be construed to have been the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part.

**SECTION 7. CONFLICTS.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

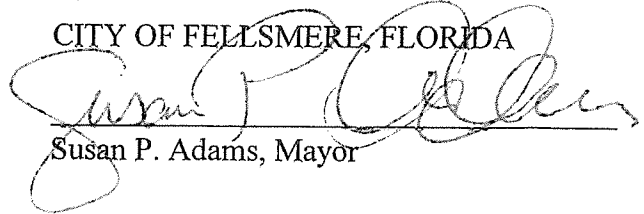
**SECTION 8. EFFECTIVE DATE.** Following its adoption and recordation, including the Annexation Agreement attached hereto as Exhibit "C", signed by the Owners and any Mortgagee(s), this Ordinance shall become effective.

The foregoing ordinance was moved for adoption by Council Member Juan Herrera. The motion was seconded by Council Member \_\_\_\_\_ and, upon being put to a vote, the vote was as follows:

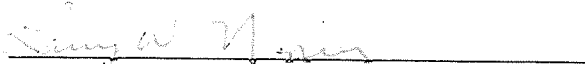
Mayor, Susan P. Adams	<u>aye</u>
Council Member Fernando Herrera	<u>aye</u>
Council Member Joel Tyson	<u>aye</u>
Council Member Sara J. Savage	<u>aye</u>
Council Member Jessica Salgado	<u>aye</u>

The Mayor thereupon declared this Ordinance fully passed and adopted this 2nd day of October, 2014.

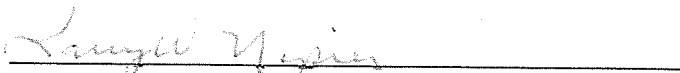
CITY OF FELLSMERE, FLORIDA

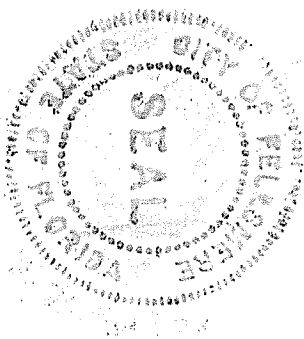
  
Susan P. Adams, Mayor

ATTEST:

  
Larry W. Napier, Deputy City Clerk

I HEREBY CERTIFY that Notice of the public hearing on this Ordinance was published in the Press Journal, as required by State Statute, that the foregoing Ordinance was duly passed and adopted on the 2nd day of October, 2014, and the first reading was held on the 18th day of September, 2014, and that the public hearing was held on the 2nd day of October, 2014, and that the second and final reading was held on the 2nd day of October, 2014.

  
Larry W. Napier, Deputy City Clerk [SEAL]



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**EXHIBIT "A"****LEGAL DESCRIPTION OF PROPERTY****PARCEL 1:**

All of that part of Section 16, Township 32 South, Range 38 East, lying West of 1-95, said land lying and being in Indian River County, Florida.

All of Section 17, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida.

All of Section 18, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida. Less the Sebastian River Drainage District canal over the West 100.0 feet of the SW 1/4.

All of Section 19, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida. Less the Sebastian River Drainage District canal over the West 100.0 feet and the South 100 feet.

All of Section 20, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida.

All that part of Section 21, Township 32 South, Range 38 East, lying West of 1-95, said land lying and being in Indian River County, Florida.

All that part of Section 27, Township 32 South, Range 38 East, lying West of 1-95, said land lying and being in Indian River County, Florida.

All of Section 28, Township 32 South, Range 38 East, lying West of 1-95, said land lying and being in Indian River County, Florida.

All of Section 29, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida. Less and except the SW 1/4 of the SW 1/4 of the NW 1/4 and less the South 5 acres of the West 1/2 of the NW 1/4 of the SW 1/4 and less and except all Sebastian River Drainage District canals.

All of Section 30, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida. Less and except those portions taken for road right of way and borrow pits in Official Records Book 287, page 252 and Official Records Book 297, page 447, and less and except the South 150 feet conveyed to Indian River Property LP as described in Official Records Book 1615, Page 2157 and less and except that portion conveyed to Indian River County in Official Records Book 2260, Page 2040, and less and except all Sebastian River Drainage District canals, all of the Public Records of Indian River County, Florida.

All of Section 32, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida. Less and except the West 1/2 of the SW 1/4 and less and except the Sebastian River Drainage

District canals over the West 100 feet of the East 1/2 and the South 30 feet of the East 3/4 of said Section 32.

All of Section 33, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida. Less and except the Sebastian River Drainage District canal over the South 30 feet thereof.

All of Section 34, Township 32 South, Range 38 East, lying West of I-95, said land lying and being in Indian River County, Florida, less and that part of the West 1/2 conveyed in Official Records Book 1545, page 1977, Public Records of Indian River County, Florida and less and except the Sebastian River Drainage District canal over the South 30 feet and the East 30 feet thereof.

Containing 5,757.7711 acres more or less.

**PARCEL 2:**

A parcel of land lying in Section 34, Township 32 South, Range 38 East, Indian River County, Florida, described as follows:

Commence at the Southwest corner of said Section 34; thence South 89°27'42" East, along the South line of said Section, a distance of 1213.17 feet to the Point of Beginning; thence North 0°29'18" East, a distance of 1405.38 feet; thence North 15°28'52" West, a distance of 959.71 feet; thence South 89°27'42" East, a distance of 401.05 feet, to the Westerly right of way line of Interstate 95 and a point on a curve, concave to the Northeast, having a radius of 23,068.32 feet, the radius point of which bears North 64°01'05.3" East; thence Southerly, along the arc of said curve, through a central angle of 0°17'57", a distance of 120.48 feet; thence South 26°16'52" East, a distance of 372.93 feet to the point of curvature of a curve, concave to the West, having a radius of 22,768.32 feet; thence Southerly along the arc of said curve, through a central angle of 05°12'34" a distance of 2,070.14 feet to a point on the aforementioned South line of said Section 34; thence North 89°27'42" West, along said South line, a distance of 1,207.00 feet, to the Point of Beginning.

Containing 40.0867 acres more or less.

**PARCEL 3:**

The South 100 feet of the Southeast quarter of Section 19, Township 32 South, Range 38 East, **TOGETHER WITH**

The South 100 feet of the Southwest quarter of Section 20, Township 32 South, Range 38 East, **TOGETHER WITH**

The West 100 feet of the East one-half of Section 29, Township 32 South, Range 38 East, **TOGETHER WITH**

The West 100 feet of the East one-half of Section 32, Township 32 South, Range 38 East.

Containing 36.5088 acres more or less.

**PARCEL 4:**

The Southwest 1/4 of the Southwest 1/4 of the Northwest 1/4 of Section 29, Township 32 South, Range 38 East, lying and being in Indian River County, Florida.

Containing 10.1136 acres more or less.

**PARCEL 5:**

The South 1/2 of SW 1/4 of NW 1/4 of SW 1/4 of Section 29, Township 32 South, Range 38 East, lying and being in Indian River County, Florida.

Containing 4.9998 acres more or less.

**PARCEL 6:**

All of Section 15, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida, and less and except the East 30 feet thereof.

All that part of Section 16, Township 32 South, Range 38 East, lying East of 1-95, said land lying and being in Indian River County, Florida.

All of Section 22, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida, and less and except the East 30 feet thereof.

All that part of Section 21, Township 32 South, Range 38 East, lying East of 1-95, less and except those portions taken for road right-of-way and borrow pits as provided in Official Records Book 287, Page 252 and in Official Records Book 297, Page 447, all of the public records of Indian River County, Florida, said land lying and being in Indian River County, Florida.

All that part of Section 27, Township 32 South, Range 38 East, lying East of 1-95, less and except those portions taken for road right-of-way and borrow pits as provided in Official Records Book 287, Page 252 and in Official Records Book 297, Page 447, all of the public records of Indian River County, Florida, said land lying and being in Indian River County, Florida, and less and except the East 30 feet thereof.

All that part of Section 28, Township 32 South, Range 38 East, lying East of 1-95, said land lying and being in Indian River County, Florida.

All that part of Section 34, Township 32 South, Range 38 East, lying East of 1-95, less and except those portions taken for road right-of-way and borrow pits as provided in Official Records Book 287, Page 252 and in Official Records Book 297, Page 447, and further less and except those parcels of real property referred to in Official Records Book 585, Page 1646 and in Official Records Book 585, Page 1648, all of the public records of Indian River County, Florida, said land lying and being in Indian River County, Florida, and less and except the East 30 feet thereof and the South 30 feet thereof.

Containing 2,965.55 acres more or less.

**PARCEL 7:**

From the Northeast corner of Section 34, Township 32 South, Range 38 East, Indian River County, Florida, run South of 00°33'37" West along the East line of said Section 34, a distance of 2653.25 feet to the East Quarter corner of said Section 34; thence run North of 89°36'22" West along the Quarter Section line a distance of 1960 feet; thence run North 00°33'37" East a distance of 220 feet to the point of beginning. From said point of beginning, continue North 00°33'37" East a distance of 960 feet, thence run North 89°36'22" West a distance of 680.63 feet, thence run South 00°33'37" West a distance of 960 feet, thence run South 89°36'22" East a distance of 680.63 feet, to the point of beginning.

Said parcel lying and being in the Southwest Quarter of Northeast Quarter of Section 34.

Containing 15.156 acres more or less.

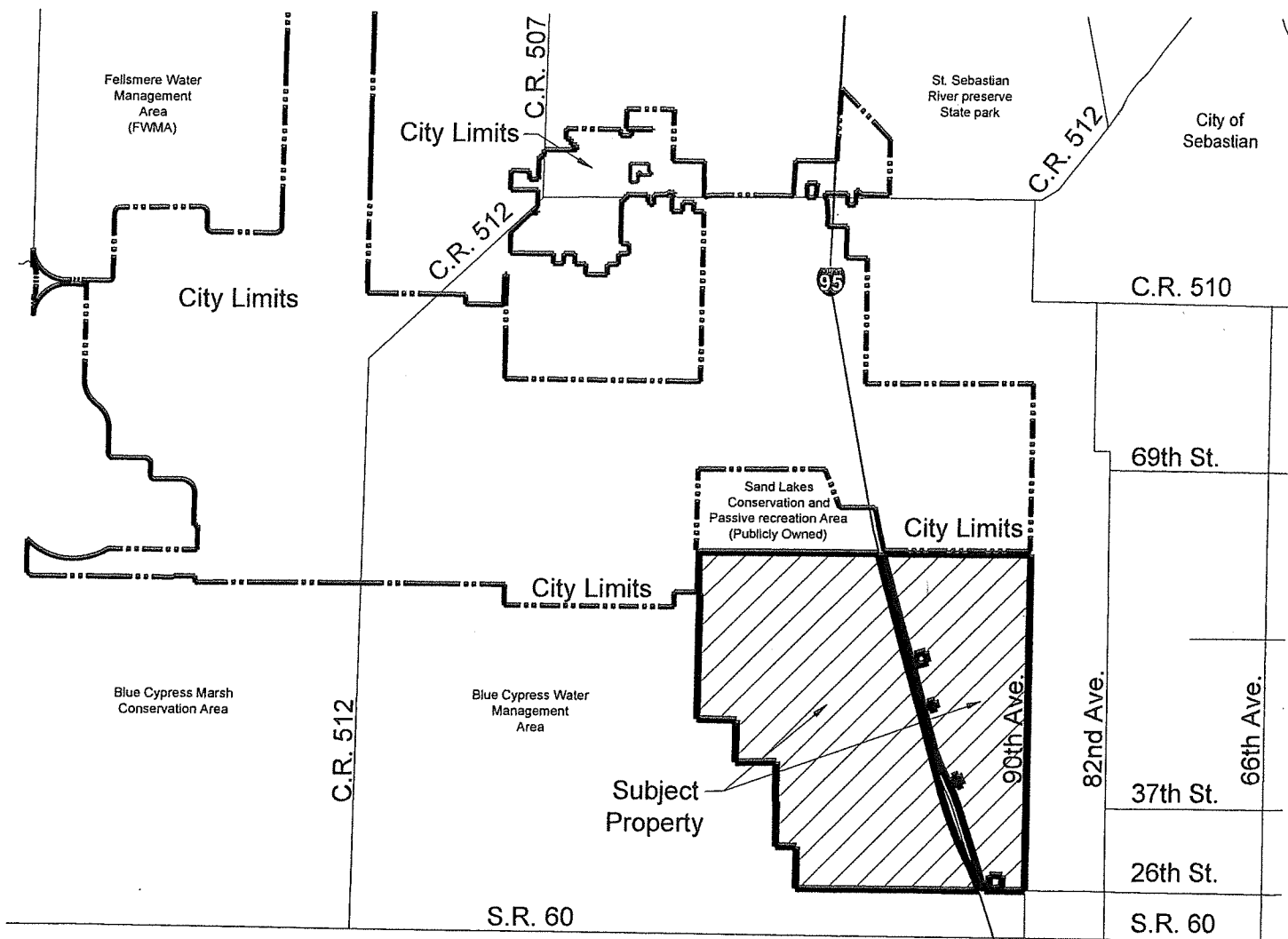
**PARCEL 8:**

From the Northeast corner of Section 34, Township 32 South, Range 38 East, Indian River County, Florida, run South of 00°33'37" West along the East line of said Section 34, a distance of 2653.25 feet to the East Quarter corner of said Section 34; thence run North of 89°36'22" West along the Quarter Section line a distance of 1960 feet to the point of beginning. From said point of beginning, run North 00°33'37" East a distance of 220 feet, thence run North 89°36'22" West a distance of 680.63 feet, thence run South 00°33'37" West a distance of 960 feet, thence run South 89°36'22" East a distance of 680.63 feet, thence run North 00°33'37" East a distance of 740 feet to the point of beginning.

Said parcel lying and being partially in the Southwest Quarter of Northeast Quarter of the Northwest Quarter of the Southeast Quarter of Section 34 Township 32 South, Range 38 East, Indian River County, Florida.

Containing 15.00 acres more or less.





**Exhibit "B"**  
 To Ordinance No. 2014-16 North

## ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT, entered into this 2<sup>nd</sup> day of October, 2014, between the CITY OF FELLSMERE, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "City") and HUGH CORRIGAN III FAMILY LIMITED PARTNERSHIP, LLLP, a Florida limited liability limited partnership, J. PAT CORRIGAN FAMILY LIMITED PARTNERSHIP, LLLP, a Florida limited liability limited partnership, ELEANOR CHRISTIE CORRIGAN, HUGH CORRIGAN, IV, HUGH DANIELS CORRIGAN, JAMES PATRICK CORRIGAN, JR., PATRICK EDWARD CORRIGAN, and J. PAT CORRIGAN and PATRICIA P. CORRIGAN, husband and wife (hereinafter collectively referred to as "Owner").

### RECITALS

WHEREAS, Owner owns certain real property (hereinafter collectively referred to as the "Property" or "Annexation Properties") in Indian River County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Owner desires to annex the Annexation Properties and in the future have the Annexation Properties developed as one or more Planned Development Projects (PDP) for uses allowed under their applicable Comprehensive Plan Land Use designations; and

WHEREAS, Owner desires voluntary annexation of the Annexation Properties into the City pursuant to Chapter 171, Florida Statutes; and

WHEREAS, as a part of its plan for annexation, Comprehensive Plan Amendment and ultimate rezoning of the Annexation Properties, Owner wishes to create a master planned, sustainable community that will be an integral part of the City's social, economic, and cultural fabric; and

WHEREAS, the City is authorized to regulate development of the Annexation Properties; and

WHEREAS, the Annexation Properties are contiguous to the boundaries of the City, reasonably compact, will not result in the creation of enclaves, and otherwise satisfy all requirements for voluntary annexation set forth in Chapter 171, Florida Statutes; and

**WHEREAS**, the City has found and determined that the City's interest will be best served by annexing the Annexation Properties into its municipal boundaries and by entering into this Agreement to ensure that development of the Annexation Properties is in accordance with the City's Comprehensive Plan (CP) and Land Development Code (LDC); and

**WHEREAS**, the Annexation Properties are particularly suited for inclusion in to the City due to their proximity to existing traffic corridors and transportation systems, and annexation will yield significant benefits to the City in the form of measured development, increased employment opportunities and employment base, an increased tax base, and permanent conservation and preservation of natural ecosystems; and

**WHEREAS**, Owner intends to provide for adequate utilities and transportation needs for the Annexation Properties; and

**WHEREAS**, the City is entering into this Annexation Agreement (the "Agreement") pursuant to the authority of the Florida Constitution (including Article VIII, Section 2(b) and (c) thereof), the general powers conferred upon municipalities by statute and otherwise (including Chapter 166, Florida Statutes), and the City's charter; and

**WHEREAS**, the City and Owner (hereinafter collectively referred to as the "Parties") desire to enter into this Agreement in order to memorialize their understanding and agreements with respect to the annexation, development, and use of the Annexation Properties; and

**WHEREAS**, upon the Parties' compliance with their respective obligations under this Agreement, the development of the Annexation Properties will be consistent with the City's Comprehensive Plan and Land Development Code.

**NOW, THEREFORE**, the parties agree as follows:

**1. Recitals.**

The foregoing recitations are true and correct and are hereby incorporated herein by reference. All exhibits to this Agreement are hereby deemed a part hereof.

**2. Owner.**

Hugh Corrigan III Family Limited Partnership, LLLP, a Florida limited liability limited partnership, J. Pat Corrigan Family Limited Partnership, LLLP, a Florida limited liability limited partnership, Eleanor Christie Corrigan, Hugh Corrigan, IV, Hugh Daniels Corrigan, James Patrick Corrigan, Jr., Patrick Edward Corrigan, and J. Pat Corrigan and Patricia P. Corrigan, husband and wife, represent that, collectively, they are the fee

"Owner" of the real property described in Exhibit "A" (the "Annexation Properties"). The terms "Owner" and "Developing Party" are used in this Agreement to note the distinction between the present fee simple owner of the Annexation Properties, and the party undertaking actual development activities upon the Annexation Properties in the future. Use of these terms in this manner is intended to: (i) identify the party seeking municipal annexation and performing master planning and future land use functions; and (ii) clarify that the legal duty to comply with the requirements to construct Infrastructure (as herein defined) and the responsibility to develop the Annexation Properties in accordance with the governing City Comprehensive Plan and Land Development Code is to be borne by the party actually performing physical development activities. The Owner and Developing Party may be the same if the Owner is seeking to develop the Annexation Properties or any portion thereof.

**3. Development of Annexation Properties.**

- A. The City acknowledges that one or more applications requesting an amendment to the City's Comprehensive Plan and Future Land Use Map to include the Annexation Properties within the Low Density Mixed Use Neighborhood, Industrial and/or Regional Employment Activity Center (REAC) future land use designations will be submitted to the City. The Annexation Properties shall be developed according to the future land use classification then in effect.
- B. The Annexation Properties shall be limited to: (i) a maximum of 1.69 dwelling units per acre calculated over the Low Density Mixed Use Neighborhood acreage within the Annexation Properties; and (ii) a maximum of 12,000,000 nonresidential square feet composed of Regional Employment Activity Center and/or Industrial uses. Owner concurrently agrees to implement a permanent commitment to land conservation and wetlands preservation, restoration and enhancement, as set forth herein.
- C. The parties acknowledge that the Annexation Properties are intended to be subdivided into multiple parcels, each of which are intended to be developed as one or more Planned Development Projects ("PDP"). The Owner acknowledges that the Property may be subject to the requirements of Chapter 380, Florida Statutes and that development may not be allowed to proceed unless approved as part of a

Development of Regional Impact (“DRI”) or Preliminary Development Agreement (“PDA”) unless exempt from the DRI requirements to extent allowable by law.

- D. The City acknowledges and agrees that at the present time, the applicable rules and regulations of the St. Johns River Water Management District govern all wetland jurisdictional determinations and any related wetlands mitigation, and that any wetland permit issued by the St. Johns River Water Management District for any portion of the Annexation Properties shall satisfy all City wetland permitting requirements for the portion of the Annexation Properties subject to such permit.
- E. The City shall not be required or obligated in any way to construct or maintain or participate in the construction or maintenance of any improvements (except for maintenance of improvements dedicated to and accepted by the City at its sole discretion). The Developing Party, its grantees, successors or assigns in interest, or an association, as applicable, shall be responsible for the maintenance of all improvements not dedicated to and accepted by the City.
- F. Owner agrees that regardless of the open space requirements that may be required for each independent future land use designation that may be assigned to the Annexation Properties, a minimum aggregate total of 50% of the Annexation Properties shall be set aside as open space. Each of the following uses shall qualify to meet the open space requirement: conservation areas; greenways and trails; all public parks greater than one acre, whether passive or recreational; pervious portions of agricultural land; golf courses; all common open space; all drainage and stormwater management systems, whether conveyance, retention, or detention; upland preserves; and all public institutional property that is donated (not sold); all subject to the reasonable discretion of the City Council through the Land Development Code or conditions imposed as part of the PDP process.

**4. Agricultural/Conservation Pursuits.**

- A. Owner shall be allowed to continue all existing agricultural operations and practices under the Indian River County future land use and zoning designations assigned to the property as of the adoption date of this Agreement. City agrees to work cooperatively to incorporate functional agricultural uses and operations, including the conformity and continuity of existing facilities and operations, into the LDC and

Comprehensive Plan. Owner shall also be permitted to perform commercial mining activities within the Annexation Properties, subject to procurement of applicable project permits and regulatory approvals.

- B. There are existing billboards along I-95. Upon annexation of the Property, these uses will be subject to the City's non-conforming use regulations. However, notwithstanding the nonconforming use regulations, the existence of the billboards shall only be allowed to continue through their active lease term. After the expiration of the lease term for each above referenced nonconforming use, such use shall be removed from the Property, subject to any applicable Federal law and the reasonable discretion of the City.
- C. The City hereby agrees to support a continued Greenbelt exemption for ad valorem tax purposes (the "agricultural exemption") for any portion of the Annexation Properties used for agricultural purposes prior to non-agricultural development. Moreover, nothing contained herein shall prohibit or preclude the use of the Annexation Properties or any portion thereof for agricultural or agriculture-related purposes.
- D. The City acknowledges that the Owner has adopted and is administering a voluntary, permanent commitment to land conservation within a portion of the Annexation Properties. Specifically, the Owner has procured a permit from the State of Florida to establish a wetlands mitigation bank, which will involve an initial phase of an unfunded conservation easement encumbering approximately 2,000 acres, as well as a perpetual duty to preserve, restore, and enhance these environmentally sensitive wetland areas within the Annexation Properties. The City agrees to support these efforts, to qualify the wetland mitigation bank conservation areas and all future expansions thereof as open space, and to exempt the initial unfunded conservation easement phase of the wetland mitigation bank from annexation fees, as hereinafter set forth.

**5. Infrastructure.**

- A. The Developing Party in each instance will be responsible for compliance with Section 163.3180 which includes sanitary sewer; potable water; offsite solid waste and drainage as well as, parks; recreation; schools and transportation, and which may

include mass transit (hereinafter collectively referred to as the "Infrastructure"), for the Annexation Properties. To the extent not funded by others, the Developing Party shall be responsible for funding design, permitting and construction of the Infrastructure in order to serve the needs of the future development of the Annexation Properties at full build out and in accordance with the level of service established by the City's Comprehensive Plan, as amended from time to time. This Infrastructure shall be built to the City and permitting agencies' reasonable and customary standards. It is recognized by the parties that said Infrastructure may be constructed in phases commensurate with the creation of demand by development. In accordance with Section 163.3180 F.S., CP and/or LDC, sanitary sewer, solid waste, drainage, potable water, parks and recreation, schools and transportation facilities shall be provided to meet level of service standards. The City shall have the right to require the Infrastructure to be oversized by the Developing Party to serve other property, provided a mutually agreeable cost recovery system is in place to reimburse the Developing Party for the over sizing. Improvements necessitated by development of the Annexation Properties shall be in place and available to serve new development as required by Section 163.3180 F.S., CP and/or LDC unless otherwise addressed by an executed Proportionate Fair Share Agreement, an executed Developer's Agreement, an executed Impact Fee Agreement, DRI Development Order, or posting of a surety equal to 125% of an engineer's estimated cost as provided in the Land Development Code. Transportation concurrency can be met through a proportionate share contribution under Section 163.3180.

- B. Owner recognizes that this Agreement does not authorize approval of any specific development plan or proposal. Development plans or proposals may be approved within the Annexation Properties if the necessary public facility improvements are added to the City's Five-Year Capital Improvements Schedule and, if necessary, supported by an executed Developer Agreement. If the Capital Improvement Schedule is amended, it shall specify the party or parties responsible for funding the necessary public facilities. City agrees to consider interlocal service agreements with proximate service providers such as Indian River County in lieu of the construction of additional redundant facilities for the provision of potable water, reuse water, and

wastewater treatment. The City agrees to work cooperatively with Owner and/or Developing Party in identifying the provider for such services.

- C. The City acknowledges that an on-site irrigation water supply system may be provided to serve non-agricultural uses within the Annexation Properties. In the event that an irrigation water supply system is constructed within the Annexation Properties, the City upon the request of Owner agrees to require evidence of payment of any required connection fee prior to the issuance of a building permit within a portion of the Annexation Properties served by such system, to the extent such requirement is authorized by State law.
- D. The Developing Party shall provide a standby emergency generator with each sewer pump station at proportionate cost to any users.
- E. The City has the right to acquire the utility system(s) provided the Developing Party receives a return on and of capital (including reimbursement of all out-of-pocket costs and expenses), and the City assumes or replaces all existing debt incurred as a result of construction of the utilities system(s). The return on capital shall be consistent with the return rate established by the Public Service Commission.
- F. The City will work cooperatively with Owner or the Developing Party as applicable, to secure all credits and refunds to which the Owner or the Developing Party may be legally entitled to receive under Florida law or under any local ordinances.

**6. Financing Mechanisms.**

- A. The City will encourage a variety of financing tools and strategies to fund capital improvement programs within the Annexation Properties such as but not limited to Community Development Districts (CDD), Independent Special Districts, Business Improvement Districts (BID), Educational Facilities Benefit Districts, Interlocal Agreements, Developer Agreements, Proportionate Share Contributions to the extent permitted under Chapter 163, F.S., and the establishment of special assessment districts. The objective of the City is to achieve fiscal neutrality, whereby the Developing Party pays for all costs associated with the development of the Annexation Properties.
- B. The City understands that one or more Community Development Districts ("CDD") may hereafter be established, or the boundaries of an existing Community



Development Districts CDD may hereafter be modified, or any combination of the foregoing, by each Developing Party to provide services to any portion of the Annexation Properties owned by such Developing Party. Any such CDD established by a Developing Party may plan, finance, acquire and construct community infrastructure that may benefit all or portions of the Annexation Properties owned by such Developing Party. The City further understands that any CDD that may hereafter be established with respect to the Annexation Properties may have the right to exercise the powers enumerated under Chapter 190, Florida Statutes. No bulk sale agreements for water and/or wastewater service outside the Annexation Properties shall be permitted without the express written approval from the City. The Owner agrees to support the collection of a water and sewer franchise fee by the City.

- C. Should the City in the future adopt an impact fee ordinance and thereafter assess impact fees against the Annexation Properties, the City hereby acknowledges that the fair market value of any land dedicated to the City or the public, any facilities construction costs incurred by the Developing Party or other contributions including fair share apportionment payments by the Developing Party for the benefit of the public or City may be a credit against any impact fees that may be assessed for the same purpose by the City against the Annexation Properties of the Developing Party who incurred such expense or whose property was liened to pay such expense or who provided such land (as applicable). The City further acknowledges that any impact fee credit due for any impact fees assessed against the Annexation Properties may inure to the benefit of that portion of the Annexation Properties providing such land and/or incurring such costs from time to time; however, upon mutual agreement, any such credits may be apportioned by Owner to any portion of the Annexation Properties.

**7. Transportation.**

- A. The Developing Party and City shall work together to establish a satisfactory, well planned roadway network. Transportation concurrency shall be satisfied at the time required by constructing improvements or execution of a mutually agreeable Proportionate Fair Share Agreement; or a mutually agreeable Developer's Agreement; or a mutually agreeable Impact Fee Assessment. Alternatively, the

Developing Party shall be deemed to meet transportation concurrency by providing a proportionate share contribution under section 163.3180. Additionally, an improvement may be constructed that will benefit the Annexation Properties or a dedication of right of way either of which may be eligible as a credit against the proportionate share contribution or such other mechanism approved by City. Subject to the foregoing, transportation infrastructure shall be in place or committed through an appropriate capital improvements program, and scheduled to be in place within three years from the approval of the building permit or its functional equivalent that results in traffic generation. The Capital Improvements Element shall specify the timeframe and responsible party for the funding of such transportation infrastructure.

- B. The City and Owner or Developing Party recognize that development plans or proposals may be approved within the Annexation Properties if the transportation improvements necessary for capacity required for such plan are supported by an executed Developer Agreement, Interlocal Agreement, Impact Fee Agreement, Proportionate Fair Share Agreement, DRI Development Order using proportionate share or other method guaranteeing adequate funding for the Annexation Properties' Fair Share Cost of such improvements. Consideration will be given to adding the necessary improvement projects to the 5-Year Transportation Capital Improvements Schedule and/or the Long-Term Transportation Capital Improvements at the next regularly scheduled Comprehensive Plan amendment cycle or Capital Improvements Element update. Any amended Capital Improvement Element shall specify the responsible party, whether County, City, developer or otherwise, for funding the necessary public facilities and is subject to adjustment through the City's final development plan approval process and state and federal permitting processes, to the extent such adjustment meets the Objectives and Policies of the Comprehensive Plan.
- C. The Developing Party shall be required to construct a City-approved Pedestrian Linkage System.
- D. The Developing Party shall dedicate without compensation sufficient right-of-way for 90<sup>th</sup> Avenue, as the same is ultimately determined to be located and configured, as a condition of development of each Planned Development on the east side of Interstate 95 traversed by or adjacent to 90<sup>th</sup> Avenue as extended.

- E. The Developing Party shall dedicate without compensation sufficient right-of-way for 53<sup>rd</sup> Street, as the same is ultimately determined to be located and configured, as a condition of development of each Planned Development on the east side of Interstate 95 traversed by or adjacent to the proposed 53<sup>rd</sup> Street extension.
- F. To the extent feasible, the City will participate and support efforts and aid in securing non-developer funding, dedications of right-of-way, intergovernmental coordination/support, and assistance with the Indian River County Metropolitan Planning Organization and FDOT District 4.
- G. In addition, the City acknowledges its intention, in good faith, to:
  - (i). Coordinate the pro-rata funding of the interchange, bridge crossings, or roadways with adjacent property owners/developers when such other properties are benefited by these improvements.
  - (ii). Implement a “cost-recovery” agreement when a Developing Party funds more than its pro-rata share of an improvement.
  - (iii). Work with the Developing Party to secure appropriate impact fee credits based upon fair share apportionment payments and/or actual construction of improvements.
  - (iv). Review and process any permit applications or other requests for approval submitted to the City to ensure that development within the Annexation Properties proceeds in a timely manner. The City further agrees to assist during the review processes of any other governmental approvals and permits for the Annexation Properties.

## **8. Housing Stock.**

- A. The Developing Party shall provide within areas of the Annexation Properties assigned the Low Density Mixed Use Neighborhood future land use designation a diverse mix of housing styles, sizes, configurations, costs and locations subject to each use’s market demand limitations.
- B. To the extent financially and commercially feasible and practical, “Green” building styles and methods shall be encouraged for both residential and non-residential development throughout the Annexation Properties.
- C. There shall be no additional mobile/manufactured housing units, which are

licensed/titled as such units, allowed on the Property.

**9. Master Planning Activities.**

- A. Owner and City recognize that due to the size of the Annexation Properties, the development of the Annexation Properties will necessitate an overall master development and multiple phasing plan, and depict a well-planned, sustainable, and integrated system of land uses, transportation networks, infrastructure locations, utility services/requirements, places for school, hospitals, higher education, cultural facilities; parks, recreation, open space and conservation; regional employment activity centers; areas for regional commercial, community commercial and neighborhood commercial areas; industrial areas; agricultural areas; water resources; and environmental conservation or preservation. The overall project must be approved and developed under the City's Planned Development Project regulatory framework. In addition, the Owner or Developing Party, either prior to or as part of the initial residential development process, shall submit to the City for review and approval a Master Stormwater Plan; Master Transportation Plan, including the 5-10-15 Year Capital Improvement Schedule and a Master Conservation and Greenways/Trails Plan.
- B. A Master Stormwater Plan shall be developed for the Annexation Properties containing information equivalent to a Conceptual Environmental Resource permit from the St. Johns River Water Management District. Alternatively, a Conceptual Environmental Resource permit shall be sufficient to meet the obligations of this section. The Owner acknowledges that the Annexation Properties shall be subject to the City's stormwater utility.
- C. A Master Transportation Plan showing arterial, collector and to the extent practical, local roadways, transit opportunities, and other multi-modal forms of transportation shall be created and phased commensurate with the impacts of new development. Such plan shall identify connectivity to the existing local, county, and state roadway network. The Master Transportation Plan shall provide the following specific facilities.
- i. Interconnection west of Interstate 95 to the private property north of the Annexation Properties;

- ii. Interconnection east of Interstate 95 to the private property north of the Annexation Properties;
  - iii. Interconnection east of Interstate 95 to a proposed interchange generally along 69<sup>th</sup> Avenue;
  - iv. Extension of 53<sup>rd</sup> Street from its terminus to 90<sup>th</sup> Avenue;
  - v. Extension of 90<sup>th</sup> Avenue along the entire frontage of the Annexation Properties;
  - vi. Interconnection west of Interstate 95 to SR60 in at least two locations with at least one of these connections continuing to the interconnection set forth in item “i” above; and
  - vii. Connection to the proposed interchange with Interstate 95.
- D. A Master Conservation and Greenway/Trails Plan shall be developed. Such plan shall show interconnectivity with existing and planned conservation, preserve, active and passive recreation and trails systems on the Annexation Properties with similar facilities within the City of Fellsmere. The Master Conservation and Greenway/Trails Plan shall provide the following specific facilities to the extent such access is permissible.
- i. Incorporation of existing Interstate 95 underpass into overall plan; and
  - ii. Interconnection of greenways/trails on Annexation Properties to Sand Lakes Conservation Area.

#### **10. Fair and Equal Treatment.**

The City acknowledges its intention to afford fair and equal treatment to the Annexation Properties and that it will endeavor not to impose greater obligations on the Annexation Properties than those imposed on other properties over two hundred (200) acres in size that may be subsequently annexed into the City within the next five (5) years after the effective date of this Agreement.

#### **11. Conveyance to the City.**

The Owner and/or Developing Party shall contribute ten (10%) percent of the gross acreage of the Annexation Properties (the “Donation Acreage”) to the City. The contribution shall be in the nature of a conveyance or the dedication of property for public open space, public parks, public recreation areas, public parking, public buildings and structures and economic development

initiatives. The contribution shall be by General Warranty Deed to the City without any compensation to the conveying party. The location of such acreage will be mutually agreed upon and shall include, but not be limited to, providing 100 contiguous net useable acres for an outdoor recreation area with mutually agreeable uses.

The Donation Acreage shall be conveyed to the City on a proportional basis to the property to be developed upon approval of each Plat or final development order if a plat is not required, (e.g. plat approval or a final development order for 1000 acres will require a dedication or conveyance of 100 acres provided prior conveyances have not already satisfied the total Donation Acreage accrued obligation). All such conveyances shall also be creditable toward open space as stated in Section 3.F of this Agreement, and all such conveyances for public open space, public parks, public recreation areas shall be creditable toward the common green space requirement of Section 15.10(A)(12) of the City of Fellsmere Land Development Code, subject to Council's discretion to change the Land Development Code. All dedications to the City used for public open space, recreation or public facilities needs shall be includable in the Donation Acreage calculation.

## **12. Miscellaneous Provisions.**

- A. The City agrees that the Developing Party or its designee may provide or contract to provide on-site telecommunications service to the Annexation Properties, including but not limited to telephone, cable television, security systems and internet services, subject only to the City's franchise, licensing and permitting requirements.
- B. During the first eight (8) years of this Agreement, if the Owner in its discretion determines that the development of all or a portion of the Annexation Properties is not feasible, the Owner shall notify the City in writing that this Agreement with respect to that portion of the Property is terminated, in which event the parties hereto shall have no further rights, obligations or liabilities hereunder as to that portion of the Property that has been withdrawn from the scope of this Agreement. In such event, the City will consider de-annexing the subject portion of the Property as warranted.
- C. The City will consider amending its Land Development Code to include provisions for off-site directional signage. Any off-site directional signage that may be allowed shall be at the Developing Party's expense.
- D. Owner shall comply with the Comprehensive Plan, Land Development Code and with

all other regulations and ordinances of the City of Fellsmere, Florida, in effect at the time of the applicable development approval. This Agreement constitutes the Developing Party's agreement to meet reasonable and customary additional standards or restrictions in developing the Annexation Properties.

- E. Owner, upon execution of this Agreement, shall pay to the City of Fellsmere the cost of recording this Agreement in Indian River County, Florida.
- F. The Developing Party may implement architectural and site design control mechanisms to govern future development. The City acknowledges that community architectural review committees established by developers serve important community interests and maintain property values.
- G. The Developing Party intends to provide land and construct all municipal facilities required to provide necessary services consistent with the demands of any developments of the Annexation Properties with the cost of all such facilities, including the market value of the land potentially creditable toward any current or future impact fees. If such costs incurred by the Developing Party are legally eligible for impact fee credits, the City will work with the Developing Party toward receiving a credit.
- H. The Developing Party intends to provide land necessary for public education facilities, EMS/Fire Services, and any other facilities that the City determines are necessary consistent with the requirements of the development. The market value of all such land dedications, if donated, is potentially creditable towards any current or future impact fees. If such donations are legally eligible for impact fee credits, the City will work with the Developing Party toward receiving a credit.
- I. The deed restrictions and the documents creating property owners'/homeowners' associations shall be reviewed and approved by the City Attorney to confirm the assumption of long term maintenance obligations, and consistency with this Agreement and conditions of development approvals. Said documents shall be recorded by the City at the expense of the Developing Party.
- J. In the event of a violation of any of the provisions contained in this Agreement, the City shall have the right to refuse to issue any further Building Permits (BP) or Certificates of Occupancy (CO) as the case may be, limited however to that particular

plat of development or final development plan, until such violations are corrected. This Agreement may also be enforced by all appropriate Sections of the Code of Ordinances and the Land Development Codes of the City of Fellsmere, Florida, as they may be amended. The City shall first be required to provide a notice of violation and permit a reasonable cure period before withholding BP's or CO's. In addition, the City may utilize adopted Code Enforcement procedures to assure conformance with the provisions of this Agreement.

- K. This Agreement contains and sets forth all the promises, covenants, agreements, conditions and all understandings between the Parties with respect to the subject matter of this Agreement. All terms and words used in this Agreement, regardless of the number and gender in which used, shall be deemed to include any other gender or number as the context or the use thereof may require.
- L. If any provision of this Agreement is held to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected or impaired, and each remaining provision shall remain in full force and effect. In the event that any term or provision of this Agreement is determined by appropriate judicial authorities to be illegal, void or otherwise invalid, said provision shall be given its nearest legal meaning or be construed to be in full force and effect. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not, and shall not be construed to, delegate the City's legislative function to a private property owner or to contract away the exercise of its police power.
- M. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provision hereof.
- N. This Agreement shall be construed and interpreted according to the laws of the State of Florida and venue with respect to any litigation between the Parties related to this Agreement shall be Indian River County, Florida.
- O. The failure of this Agreement to address a particular permit, condition, term or restriction existing at the time of execution of this Agreement shall not relieve Owner of the necessity of complying with the law governing said permitting requirement, condition, term or restriction.



- P. This Agreement shall not be changed, modified or amended except by an instrument in writing executed by the City and the parties owning the affected portion of the Annexation Properties with the same formality and/or equal dignity herewith.
- Q. The City hereby acknowledges and agrees that the Annexation Application may be withdrawn by Owner at any time prior to approval and adoption of Ordinance No. 2014-16 by the City. If the Annexation Application is withdrawn, this Agreement shall be cancelled and thereafter the Parties shall not be bound by the terms of this Agreement. In the event the annexation application is timely withdrawn, the application fee shall not be refunded, but the Annexation Fee shall be refunded, less any reasonable and actual fees, costs or expenses incurred by the City as a result of the review of the annexation application, including but not limited to reasonable attorney's fees.
- R. This Agreement shall be binding upon and shall inure to the benefit of the successors or assigns of the parties. This Agreement shall run with the Annexation Properties and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the Annexation Properties. The binding effect of this Agreement upon the current fee simple Owner as of the effective date hereof shall terminate in the event that the current Owner transfers and conveys any portion of the Annexation Properties to a bona fide purchaser for value pursuant to an arms-length sale. Said termination of the enforcement of this Agreement on the current fee simple Owner shall be limited, however, to only that particular portion of the Annexation Properties conveyed, and the binding effect shall continue as to the balance of the Annexation Properties. The successors or assigns of the current fee simple Owner shall continue to be bound by the terms of this Agreement. The effective date of this Agreement shall be the adoption date of Annexation Ordinance: Ordinance No.2014-16.
- S. This Annexation is subject to various provisions contained in Chapter 171 Florida Statutes, Municipal Annexation or Contraction. A portion of the boundary of the Annexation Properties is contiguous to the City. "Contiguous" is defined in Section 171.031(11) F.S. to mean "that a substantial part of a boundary of the territory sought to be annexed by a municipality is coterminous with a part of the boundary of the

municipality.” Should there be any legal challenge to the annexation of the Property, whether based on contiguity, enclaves or anything else, the Owner agrees to assume all risk associated with the challenge. The Owner further agrees to indemnify and hold harmless the City from all claims, suits and judgments in any way arising out of or relating to the annexation of the Property. This indemnity and hold harmless shall extend to all costs, fees and expenses, including, but not limited to, reasonable attorneys’ fees and expert witness fees incurred by the City in the investigation or defense of any challenge to the annexation whatsoever, including but not limited to Chapter 164, Chapter 171 and any legal challenge filed in Court, including all levels of court and any attorneys’ fees that the City may be ordered to pay pursuant to Section 171.081 Florida Statutes (collectively a "Third Party Claim"). Promptly after receipt of notice of the making or commencement by any third party of any claim, action, lawsuit, or proceeding as to which indemnification may be sought (a "Third Party Claim"), the City shall notify Owner. Failure to do so shall not relieve Owner from any liability that it may have under this section unless Owner is prejudiced by the lack of such notice; provided that, in such case Owner shall not be responsible for that portion of the liability caused by the prejudice resulting from the lack of notice. If any such Third Party Claim is brought against the City, Owner shall be entitled to participate and, to the extent they may elect by written notice delivered promptly to the City after receiving notice from the City, to assume the defense with counsel reasonably satisfactory to the City. The parties agree to cooperate fully in connection with the defense, negotiation, or settlement of any such legal proceeding, claim, or demand. The City shall have the right to employ counsel in any such case, with counsel reasonably acceptable to the Owner, and the fees and expenses of this counsel shall be at the expense of the City, subject to reimbursement from Owner. In any of these events, fees and expenses of the City's counsel shall be borne by Owner. Owner may not settle any Third Party Claim without the consent of the City. After any final judgment or award has been rendered by a court, arbitration board, or administrative agency of competent jurisdiction and the time in which to appeal from it has expired, a settlement has been consummated, or Owner and the City arrive at a mutually binding agreement with respect to each separate matter alleged to be indemnified by

Owner, the City shall forward to Owner notice of any sums due and owing by it with respect to the matter, and Owner immediately shall pay all of the sums owing, by wire transfer or certified or bank cashier's check, to the City.

- T. The City is annexing this Property without simultaneously processing a Comprehensive Plan Amendment through the Florida Department of Economic Opportunity (DEO). Therefore the Owner is assuming all risks associated with the annexation of this Property into the City. The City will exert a reasonable effort to have a Comprehensive Plan Amendment approved by DEO. However, should the DEO either refuse to approve the Comprehensive Plan Amendment as submitted or approve a different Comprehensive Plan Amendment, the Owner with the intention of binding themselves, their heirs, legal representatives, successors and assigns, expressly release, acquit, satisfy and forever discharge the City of and from all claims, causes of action, suits, debts, sums of money, covenants, promises, controversies, contracts, agreements, damages, demands, actions or rights of action, of whatever kind or nature whatsoever in law or in equity, including claims for contributions, that Owner ever had, or now has, or may have, known or unknown, foreseen and unforeseen, or that anyone claiming through or under Owner may have, or claim to have, against the City created by or arising from the annexation of the Property into the City. In any litigation, including breach, enforcement or interpretation arising out of this release, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorneys' fees, costs and expenses. The parties agree that jurisdiction and venue for purposes of enforcing this release shall be the State of Florida and venue shall be in the Circuit Court, Nineteenth Judicial Circuit for Indian River County, Florida. The release of claim(s) undertaken by Owner in this Section is subject to the Owner's rights contained in Section 12.B above.
- U. This Agreement shall be binding on and inure to the benefit of the parties hereto and their successors or assigns. This Agreement shall run with the Property and be binding upon any person, firm or entity who may become the successor in interest directly or indirectly to the Property, and such successor shall be subject to the above referenced conditions as approved by the City Council. In the event there is a timely

legal challenge to the annexation of the Property after the effective date of the Annexation Ordinance, which results in all or a portion of the Property being de-annexed or removed from the municipal boundaries of the City as the result of such legal challenge, the Owner shall be entitled to a pro rata reimbursement (based on the number of acres de-annexed) of up to ninety-five percent (95%) of the Annexation Fee paid to the City, less any reasonable and actual fees, costs or expenses incurred by the City as a result of the attempted annexation, including but not limited to reasonable attorneys' fees.

- V. The City agrees to conditionally waive and exempt from the Annexation Fee for that portion of the Annexation Properties to be subjected to permanent conservation and the conservation easement referenced in Section 4.D above associated with the initial phase of the permitted wetland mitigation bank. In the event that the implementation of the initial phase of the mitigation bank has not commenced within five (5) years after the effective date of this Agreement, the Owner, their successors or assigns shall pay to the City upon written demand within 60 days the Annexation Fee, at the level required as of the date of the adoption of this Agreement, for the acreage of the initial phase of the wetland mitigation bank. If the size of the initial phase of the wetland mitigation bank is less than 2,170.66 acres, the Owner shall pay to the City within 60 days of receipt of a written request from the City an amount equal to \$50 per acre for the difference between the actual acreage of the initial phase of the wetland mitigation bank and 2,170.66 acres.
- W. Nothing in this Agreement shall be construed as a waiver of any credits or refunds to which the Owner may be legally entitled.
- X. Subsequent to the annexation of the Property and upon request by the City, the Owner shall enter into a development agreement with the City in accordance with the Florida Local Government Development Agreement Act, Sections 163.3220-163.3243 Florida Statutes, incorporating relevant provisions of this Annexation Agreement.
- Y. The Owner hereby represents that it has full power and authority to sign all documents required by or set forth in the Annexation Ordinance, that the Annexation Agreement constitute valid and binding obligations of the Owner, enforceable against the Owner under the laws of Florida, and that the signing of the above referenced

documents has been authorized by the Owner as evidenced by the Board Resolutions provided to the City.

- Z. The terms "contribute", "dedicate", "dedication", "convey", "conveying", or "conveyance" as used in this Agreement relating to a municipal or governmental transfer, shall mean to transfer ownership to the City or other governmental body, without any cost to or payment by the City or other governmental body, such dedication or conveyance shall be a gift by the Owner, without any compensation.
- AA. Preparation of this Agreement has been a joint effort of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.
- BB. To facilitate execution, this Agreement may be executed in as many counterparts as may be required, and it will not be necessary that the signature of each party, or on behalf of each party, appear on each counterpart. It will be sufficient that the signature of; or on behalf of, each party appear on at least one counterpart. All counterparts will collectively constitute a single agreement, and any signatures hereon will be considered for all purposes as originals.

**[THIS SPACE IS INTENTIONALLY LEFT BLANK. SEPARATE SIGNATORY PAGES FOLLOW]**

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed as of the date and year first written above.

ATTEST:

CITY OF FELLOSMERE, FLORIDA  
a political subdivision of the State of Florida  
22 South Orange Street  
Fellsmere, Florida 32948

[Signature]  
Susan Adams, Mayor

As Approved by the Council on October 2, 2014

[Signature]  
Larry W. Napier, Deputy City Clerk

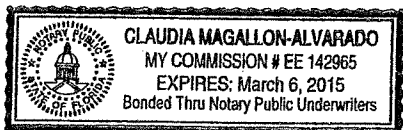
(SEAL)

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of October, 2014, by Susan Adams, Mayor of the City of Fellsmere, Florida, a political subdivisions of the State of Florida who is [] personally known to me or who [] produced a driver's license as identification.

[SEAL]

Claudia Magallon Alvarado  
NOTARY PUBLIC Commission No. EE142965  
Print Name: Claudia Magallon Alvarado  
My Commission Expires: 03/06/15



[THIS SPACE IS INTENTIONALLY LEFT BLANK. SEPARATE SIGNATORY PAGES FOLLOW]

OWNER:

**HUGH CORRIGAN III FAMILY LIMITED PARTNERSHIP, LLLP, a Florida limited liability limited partnership**

**By: Hugh Corrigan, III Control Trust, as its General Partner**

By:   
BRYAN H. CORRIGAN, Trustee

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 22 day of August, 2014, by BRYAN H. CORRIGAN, Trustee of the Hugh Corrigan, III Control Trust, General Partner of HUGH CORRIGAN III FAMILY LIMITED PARTNERSHIP, LLLP, a Florida limited liability limited partnership, who is  personally known to me or who  produced \_\_\_\_\_ as identification.

[SEAL]

  
NOTARY PUBLIC Commission No. \_\_\_\_\_

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

My Commission Expires \_\_\_\_\_



[SIGNATORY PAGE]

EXHIBIT "C"

OWNER:

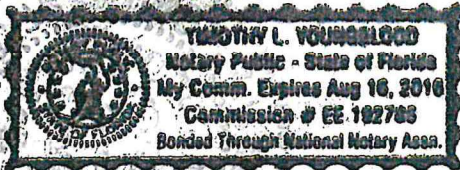
J. PAT CORRIGAN FAMILY LIMITED  
PARTNERSHIP, LLLP, a Florida limited  
liability limited partnership

By: The Corrigan Special Trust u/a/d December  
30, 2009, as its General Partner

By: [Signature]  
J. PAT CORRIGAN, Trustee

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 01<sup>st</sup> day of August, 2014, by J. PAT CORRIGAN, TRUSTEE of the Corrigan Special Trust u/a/d December 30, 2009, General Partner of J. PAT CORRIGAN FAMILY LIMITED PARTNERSHIP, LLLP, a Florida, limited liability limited partnership, who is  personally known to me or who  produced J Pat Corrigan as identification.



[Signature]  
NOTARY PUBLIC Commission No. EE 192786  
Print Name: Timothy L Youngblood  
My Commission Expires: 16 Aug 2016

[SIGNATORY PAGE]



OWNER:

✓ E. Christie Corrigan  
ELEANOR CHRISTIE CORRIGAN

STATE OF COLORADO  
COUNTY OF EL PASO

The foregoing instrument was acknowledged before me this ✓ 22 day of August, 2014, by ELEANOR CHRISTIE CORRIGAN, who is [ ] personally known to me or who [✓] produced Co. drivers license as identification.

[SEAL]

CHRISTINE A. WARE  
NOTARY PUBLIC  
STATE OF COLORADO

My Commission Expires 06/29/2016  
Lic# 20044022686

✓ Christine A. Ware  
NOTARY PUBLIC Commission No. ✓ 20044022686  
Print Name: ✓ Christine A. Ware  
My Commission Expires: ✓ 6-29-16

[SIGNATORY PAGE]

EXHIBIT 'C'

OWNER:

William E Corrigan, POA for  
HUGH CORRIGAN, IV Hugh Corrigan IV

STATE OF TEXAS  
COUNTY OF DALLAS

The foregoing instrument was acknowledged before me this 22nd day of August, 2014, by HUGH CORRIGAN, IV who is [X] personally known to me or who [    ] produced William Corrigan as POA for Hugh Corrigan IV as identification.



P. Elaine Benningfield  
NOTARY PUBLIC Commission No.       
Print Name: P. Elaine Benningfield  
My Commission Expires: June 23, 2018

[SIGNATORY PAGE]

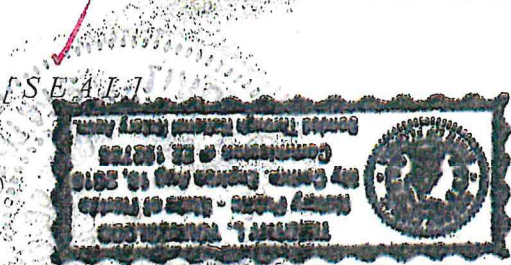
EXHIBIT "e"

OWNER:

Hugh Daniels Corrigan  
HUGH DANIELS CORRIGAN

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of August, 2014, by HUGH DANIELS CORRIGAN who is [] personally known to me or who [] produced as identification.



Timothy L. Youngblood  
NOTARY PUBLIC Commission No. FE 192786  
Print Name: Timothy L. Youngblood  
My Commission Expires: Aug. 16 2016

[SIGNATORY PAGE]

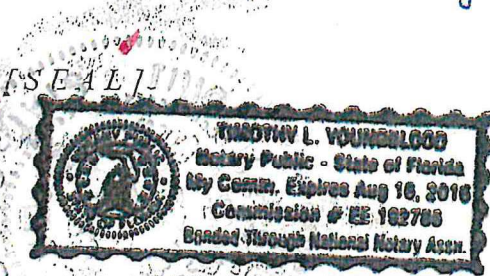
EXHIBIT "C"


OWNER:

  
JAMES PATRICK CORRIGAN, JR.

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of August, 2014, by JAMES PATRICK CORRIGAN, JR. who is  personally known to me or who  produced James Patrick Corrigan Jr. as identification.



  
NOTARY PUBLIC Commission No. EE 192786  
Print Name: Timothy L. Youngblood  
My Commission Expires: 16 Aug 2016

[SIGNATORY PAGE]

EXHIBIT "C"

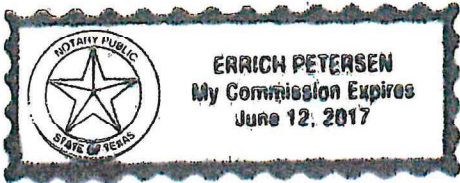
OWNER:

Patrick Edward Corrigan  
PATRICK EDWARD CORRIGAN

STATE OF TEXAS  
COUNTY OF TRAVIS

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of August 2014, by PATRICK EDWARD CORRIGAN who is [ ] personally known to me or who [X] produced Texas Driver License as identification.

[SEAL]



Errich Petersen  
NOTARY PUBLIC Commission No. 12695540-7  
Print Name: Errich Petersen  
My Commission Expires: 6/12/17

[SIGNATORY PAGE]

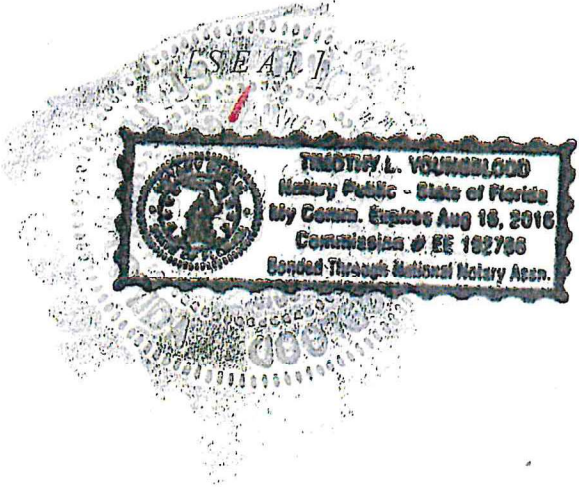
EXHIBIT "C"

OWNER:

J. Pat Corrigan  
J. PAT CORRIGAN

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of August, 2014, by J. PAT CORRIGAN who is [] personally known to me or who [] produced J Pat Corrigan as identification.



Timothy L. Youngblood  
NOTARY PUBLIC Commission No. EE 192786  
Print Name: Timothy L. Youngblood  
My Commission Expires: 16 Aug 2016

[SIGNATORY PAGE]

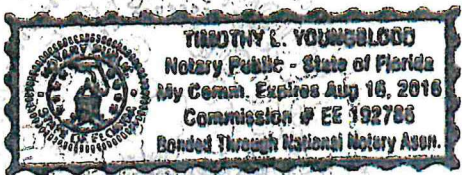
EXHIBIT C

OWNER:

*Patricia Corrigan*  
PATRICIA P. CORRIGAN

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of August, 2014, by PATRICIA P. CORRIGAN who is [] personally known to me or who [] produced Patricia P. Corrigan as identification.



*Timothy L. Youngblood*  
NOTARY PUBLIC Commission No. EE 192786  
Print Name: Timothy L. Youngblood  
My Commission Expires: 16 Aug 2016

[SIGNATORY PAGE]

EXHIBIT "C"

**EXHIBIT "A"****LEGAL DESCRIPTION OF PROPERTY****PARCEL 1:**

All of that part of Section 16, Township 32 South, Range 38 East, lying West of 1-95, said land lying and being in Indian River County, Florida.

All of Section 17, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida.

All of Section 18, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida. Less the Sebastian River Drainage District canal over the West 100.0 feet of the SW 1/4.

All of Section 19, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida. Less the Sebastian River Drainage District canal over the West 100.0 feet and the South 100 feet.

All of Section 20, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida.

All that part of Section 21, Township 32 South, Range 38 East, lying West of 1-95, said land lying and being in Indian River County, Florida.

All that part of Section 27, Township 32 South, Range 38 East, lying West of 1-95, said land lying and being in Indian River County, Florida.

All of Section 28, Township 32 South, Range 38 East, lying West of 1-95, said land lying and being in Indian River County, Florida.

All of Section 29, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida. Less and except the SW 1/4 of the SW 1/4 of the NW 1/4 and less the South 5acres of the West 1/2 of the NW 1/4 of the SW 1/4 and less and except all Sebastian River Drainage District canals.

All of Section 30, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida. Less and except those portions taken for road right of way and borrow pits in Official Records Book 287, page 252 and Official Records Book 297, page 447, and less and except the South 150 feet conveyed to Indian River Property LP as described in Official Records Book 1615, Page 2157 and less and except that portion conveyed to Indian River County in Official Records Book 2260, Page 2040, and less and except all Sebastian River Drainage District canals, all of the Public Records of Indian River County, Florida.

All of Section 32, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida. Less and except the West 1/2 of the SW 1/4 and less and except the Sebastian River Drainage



District canals over the West 100 feet of the East 1/2 and the South 30 feet of the East 3/4 of said Section 32.

All of Section 33, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida. Less and except the Sebastian River Drainage District canal over the South 30 feet thereof.

All of Section 34, Township 32 South, Range 38 East, lying West of I-95, said land lying and being in Indian River County, Florida, less and that part of the West 1/2 conveyed in Official Records Book 1545, page 1977, Public Records of Indian River County, Florida and less and except the Sebastian River Drainage District canal over the South 30 feet and the East 30 feet thereof.

Containing 5,757.7711 acres more or less.

**PARCEL 2:**

A parcel of land lying in Section 34, Township 32 South, Range 38 East, Indian River County, Florida, described as follows:

Commence at the Southwest corner of said Section 34; thence South 89°27'42" East, along the South line of said Section, a distance of 1213.17 feet to the Point of Beginning; thence North 0°29'18" East, a distance of 1405.38 feet; thence North 15°28'52" West, a distance of 959.71 feet; thence South 89°27'42" East, a distance of 401.05 feet, to the Westerly right of way line of Interstate 95 and a point on a curve, concave to the Northeast, having a radius of 23,068.32 feet, the radius point of which bears North 64°01'05.3" East; thence Southerly, along the arc of said curve, through a central angle of 0°17'57", a distance of 120.48 feet; thence South 26° 16'52" East, a distance of 372.93 feet to the point of curvature of a curve, concave to the West, having a radius of 22,768.32 feet; thence Southerly along the arc of said curve, through a central angle of 05°12'34" a distance of 2,070.14 feet to a point on the aforementioned South line of said Section 34; thence North 89°27'42" West, along said South line, a distance of 1,207.00 feet, to the Point of Beginning.

Containing 40.0867 acres more or less.

**PARCEL 3:**

The South 100 feet of the Southeast quarter of Section 19, Township 32 South, Range 38 East, **TOGETHER WITH**

The South 100 feet of the Southwest quarter of Section 20, Township 32 South, Range 38 East, **TOGETHER WITH**

The West 100 feet of the East one-half of Section 29, Township 32 South, Range 38 East, **TOGETHER WITH**

The West 100 feet of the East one-half of Section 32, Township 32 South, Range 38 East.

Containing 36.5088 acres more or less.

***EXHIBIT "A"***  
***to***  
***Annexation Agreement***

**PARCEL 4:**

The Southwest 1/4 of the Southwest 1/4 of the Northwest 1/4 of Section 29, Township 32 South, Range 38 East, lying and being in Indian River County, Florida.

Containing 10.1136 acres more or less.

**PARCEL 5:**

The South 1/2 of SW 1/4 of NW 1/4 of SW 1/4 of Section 29, Township 32 South, Range 38 East, lying and being in Indian River County, Florida.

Containing 4.9998 acres more or less.

**PARCEL 6:**

All of Section 15, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida, and less and except the East 30 feet thereof.

All that part of Section 16, Township 32 South, Range 38 East, lying East of 1-95, said land lying and being in Indian River County, Florida.

All of Section 22, Township 32 South, Range 38 East, said land lying and being in Indian River County, Florida, and less and except the East 30 feet thereof.

All that part of Section 21, Township 32 South, Range 38 East, lying East of 1-95, less and except those portions taken for road right-of-way and borrow pits as provided in Official Records Book 287, Page 252 and in Official Records Book 297, Page 447, all of the public records of Indian River County, Florida, said land lying and being in Indian River County, Florida.

All that part of Section 27, Township 32 South, Range 38 East, lying East of 1-95, less and except those portions taken for road right-of-way and borrow pits as provided in Official Records Book 287, Page 252 and in Official Records Book 297, Page 447, all of the public records of Indian River County, Florida, said land lying and being in Indian River County, Florida, and less and except the East 30 feet thereof.

All that part of Section 28, Township 32 South, Range 38 East, lying East of 1-95, said land lying and being in Indian River County, Florida.

All that part of Section 34, Township 32 South, Range 38 East, lying East of 1-95, less and except those portions taken for road right-of-way and borrow pits as provided in Official Records Book 287, Page 252 and in Official Records Book 297, Page 447, and further less and except those parcels of real property referred to in Official Records Book 585, Page 1646 and in Official Records Book 585, Page 1648, all of the public records of Indian River County, Florida, said land lying and being in Indian River County, Florida, and less and except the East 30 feet thereof and the South 30 feet thereof.

Containing 2,965.55 acres more or less.

**PARCEL 7:**

From the Northeast corner of Section 34, Township 32 South, Range 38 East, Indian River County, Florida, run South of 00°33'37" West along the East line of said Section 34, a distance of 2653.25 feet to the East Quarter corner of said Section 34; thence run North of 89°36'22" West along the Quarter Section line a distance of 1960 feet; thence run North 00°33'37" East a distance of 220 feet to the point of beginning. From said point of beginning, continue North 00°33'37" East a distance of 960 feet, thence run North 89°36'22" West a distance of 680.63 feet, thence run South 00°33'37" West a distance of 960 feet, thence run South 89°36'22" East a distance of 680.63 feet, to the point of beginning.

Said parcel lying and being in the Southwest Quarter of Northeast Quarter of Section 34.

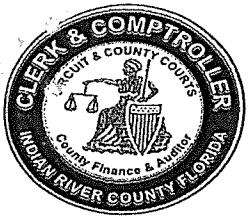
Containing 15.156 acres more or less.

**PARCEL 8:**

From the Northeast corner of Section 34, Township 32 South, Range 38 East, Indian River County, Florida, run South of 00°33'37" West along the East line of said Section 34, a distance of 2653.25 feet to the East Quarter corner of said Section 34; thence run North of 89°36'22" West along the Quarter Section line a distance of 1960 feet to the point of beginning. From said point of beginning, run North 00°33'37" East a distance of 220 feet, thence run North 89°36'22" West a distance of 680.63 feet, thence run South 00°33'37" West a distance of 960 feet, thence run South 89°36'22" East a distance of 680.63 feet, thence run North 00°33'37" East a distance of 740 feet to the point of beginning.

Said parcel lying and being partially in the Southwest Quarter of Northeast Quarter of the Northwest Quarter of the Southeast Quarter of Section 34 Township 32 South, Range 38 East, Indian River County, Florida.

Containing 15.00 acres more or less.



Indian River County  
Clerk of the Circuit Court  
Jeffrey R. Smith  
Vero Beach FL 32960  
(772) 770-5185

Transaction # 726951	Agent # 182	Source: Over the Counter
Receipt # 689337	Attention:	Returned: Over the Counter
Cashier Date: October 07, 2014	Name: CITY OF FELLSMERE	Will Call #
Cashier: Donna	Address: 22 SOUTH ORANGE ST FELLSMERE, FL 32948-6740	

GOVERNMENT RELATED CFN: 3120140059029 Book: 2793 Page: 2247

From: FELLSMERE CITY OF To: IN RE ORDINANCE NO 2014-11  
Recording @ 1st=\$10 Addtl=\$8.50 ea. \$367.00

PAYMENT: CC NCOURT d93109cf AMOUNT: \$367.00

Credit Card Amount	\$367.00	Credit Card Fee	\$12.85
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Signature: \_\_\_\_\_

Total Payments: \$ 367.00 Total Fees: \$ 367.00 Shortage: \$ 0.00 Overage: \$ 0.00

*My credit card +15 to Corrigan annexation  
OK'd  
Amy  
Lion  
10/8/14*

*403-*