

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	<u>\$88,888</u>	<u>\$22,889</u>	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>\$88,888</u>	<u>\$22,889</u>	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes No _____

Does this item include the use of federal funds? Yes _____ No

Budget Account No: Fund 1300 Dept 440 Unit 4232 Object 4410
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

The Annual Gross Rent will be increased retroactively on 10/1/18 to \$88,887.06 (\$7,407.26/month) and will be increased on 10/1/19 to \$91,553.67 (\$7,629.47/month). FY20 fiscal impact is calculated based on the time period of 10/01/2019 -12/31/2019. The the estimated operating expenses for FY19 & FY20 related to the item (\$2,391.82 & \$1,698.00), respectively are budgeted in various object codes in unit 4232.

Fixed Asset Number _____

C. Departmental Fiscal Review: [Signature] 10/10/18

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature] 10/11/18
 OFMB 9/10/18 10/10/18

[Signature] 10/15/18
 Contract Development and Control

B. Legal Sufficiency:

[Signature] 10/15/18
 Assistant County Attorney
 Amendment not signed by Landlord
 at time of ACO review.

10/15/18
 At the time of our review, the Amendment was not executed

C. Other Department Review:

 Department Director

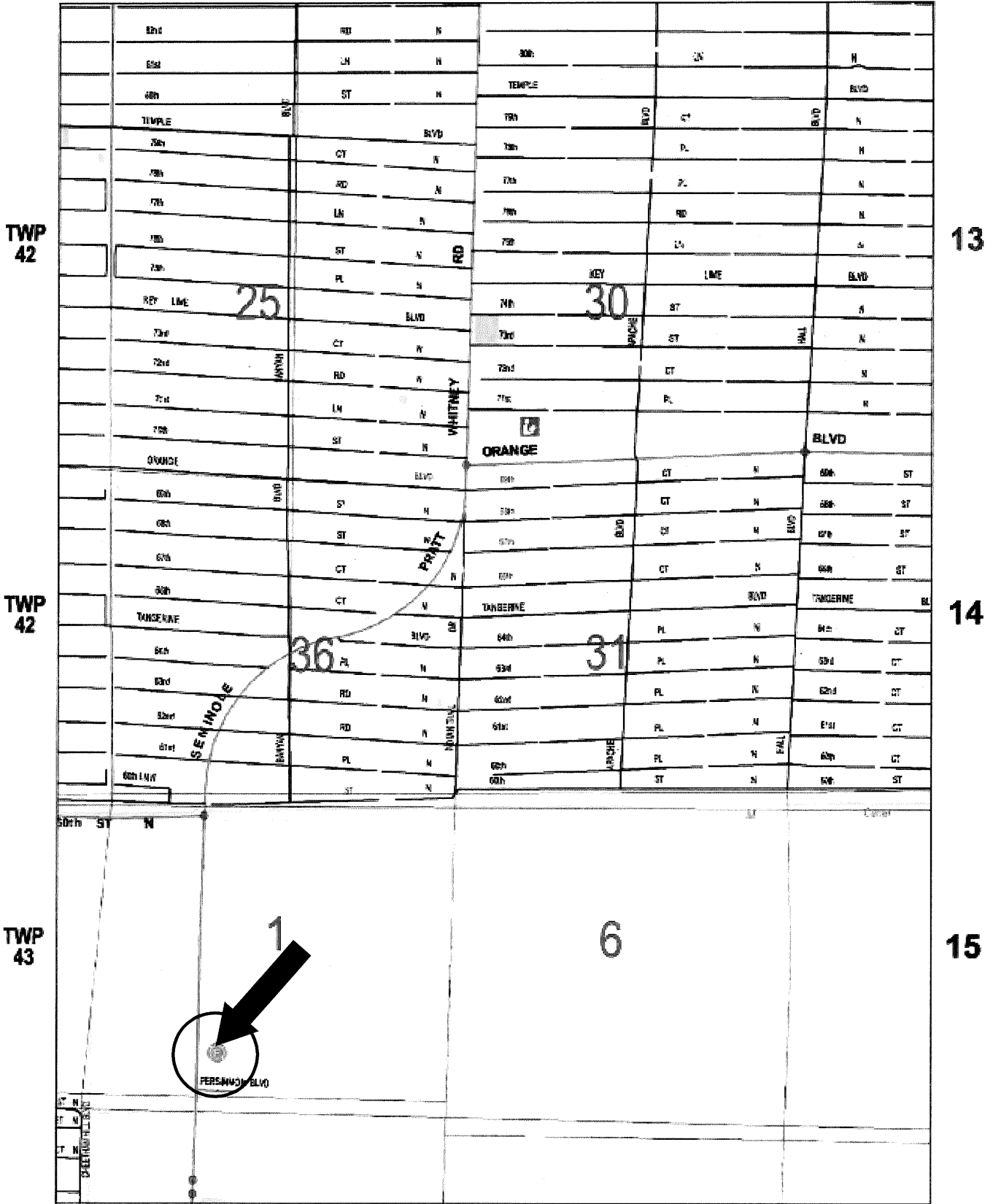
This summary is not to be used as a basis for payment.

Background and Policy Issues continued: On August 18, 2009, the Board approved the initial Lease Agreement (R2009-1281) with the then Center owner, FWI 20, LLC for a five (5) year term to September 30, 2014, with two (2) extension options of one (1) year each. In 2012, FUCMT 2001-C4 Seminole Road, LLC acquired the property via foreclosure. The First Amendment (R2015-0362) with FUCMT extended the term to May 24, 2019; decreased the Annual Gross Rent by approximately 44%; decreased the Annual Rent increases from 3.5% to 3%; and required the County to pay a proportionate share of 5.39% of Operating Expenses.

On May 30, 2017, Minto PBLH, LLC, the developer of Westlake conveyed a 4.41 acre Civic Site to the County for construction of the permanent fire station.

This Second Amendment identifies 5060 Loxahatchee Retail, LLC as the new owner; extends the term from May 25, 2019 through December 31, 2019; updates the Notice, Non-Discrimination, Broker's Commission and Inspector General provisions; deletes the County's right to terminate the Lease early; and, adds Holdover and Miscellaneous provisions. Pursuant to the Lease Agreement, the Annual Gross Rent increased three percent (3%) on October 1, 2018, to \$88,887.06 (\$7,407.27/month).

Florida Statutes Section 286.23 requires that a Disclosure of Beneficial Interests be obtained when a property held in a representative capacity is leased to the County. In 2016, 5060 Loxahatchee Retail, LLC, a Delaware limited liability company, provided the Disclosure attached hereto as Attachment No. 4 the Disclosure identifies the members of 5060 Loxahatchee Retail, LLC, holding a 5% or greater beneficial interest as the Starwood Property Trust, Inc. an entity registered with the Federal Securities Exchange Commission who interest is for sale to the general public.



LOCATION MAP



Attachment #1

Attachment #2
Second Amendment to Lease Agreement (2 @ 6 pages each)

SECOND AMENDMENT TO LEASE AGREEMENT

THIS SECOND AMENDMENT TO LEASE AGREEMENT (the “Second Amendment”) is made as of the _ day of , 2018, by and

between **5060 LOXAHATCHEE RETAIL, LLC**, a Delaware limited liability company (the “Landlord”), and **PALM BEACH COUNTY**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, on behalf of Palm Beach County Fire Rescue, (the “County”).

WHEREAS, FWI 20 LLC, the original landlord, and County entered into that certain Lease Agreement dated August 18, 2009 (R2009-1281) (the “Lease”) for the use of the Premises that consists of approximately 4,050 rentable square feet and is known as Space #5084 in the Grove Market Shopping Center (the “Shopping Center”), with an address of 5060 Seminole Pratt Whitney Road, Westlake, Florida 33470, as defined in the Lease; and

WHEREAS, Landlord is the successor in interest to the original landlord; and

WHEREAS, Landlord and County are parties to a First Amendment to Lease Agreement dated March 10, 2015 (R2015-0362) (the “First Amendment”) which extended term to May 24, 2019, decreased the Annual Gross Rent and the Annual Gross Rent adjustments, required the payment of Operating Expenses and updated various County provisions; and

WHEREAS, the Term of the Lease currently expires on May 24, 2019; and

WHEREAS, the parties wish to amend the Lease to extend the Term of the Lease; and

WHEREAS, Landlord hereby acknowledges that County is not delinquent in the payment of rent and is not in default of any of the terms and conditions of the Lease.

NOW, THEREFORE, in consideration of the premises and mutual covenants and conditions contained herein, the parties agree that the Lease is hereby modified as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference. Capitalized terms not defined or amended herein shall have the same meaning as ascribed to them in the Lease.

2. Section 1.03 of the Lease is modified to extend the Term for the period commencing on May 25, 2019 (the "Extension Commencement Date"), and expiring on December 31, 2019.
3. Until October 1, 2018, the County shall continue to pay Annual Gross Rent pursuant to the terms of the Lease, as amended, and in the amounts set forth in the Lease. Commencing upon October 1, 2018, the Annual Gross Rent shall increase to \$88,887.06 (\$7,407.27/month) in accordance with Section 2.01 of the Lease, as amended. Commencing upon October 1, 2019, the Annual Gross Rent shall increase to \$91,553.67 (\$7,629.47/month) in accordance with Section 2.01 of the Lease, as amended. Throughout the Term of the Lease, the County shall continue to pay Additional Rent pursuant to the terms of the Lease, as amended, including, but not limited to, the County's Proportionate Share of Operating Expenses for a calendar year in excess of Operating Expenses for the Base Year.
4. Section 15.05 of the Lease, as amended by Section 11 of the First Amendment, is amended so that Notices for the Landlord shall be sent as follows:

5060 Loxahatchee Retail, LLC
c/o Crossman & Company
3333 S. Orange Avenue, Suite 201
Orlando, Florida 32806
Attn: Property Manager

and

5060 Loxahatchee Retail, LLC
c/o Starwood Property Trust, Inc.
1601 Washington Avenue, Suite 700
Miami Beach, Florida 33139
Attn: Legal Department
Fax: (305) 695-5379

5. Section 15.17 of the Lease is deleted in its entirety and replaced with the following:

Section 15.17 Non-Discrimination

The parties agree that no person shall, on the grounds of race, color, sex, age, national origin, disability, religion, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information, be excluded from the benefits of, or be subjected to any form of discrimination under any activity conducted pursuant to this Lease.

6. Section 15.23 of the Lease is deleted in its entirety and replaced with the following:

Section 15.23 Office of the Inspector General.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General is authorized with the power to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

7. Section 1.05 of the Lease, as amended by Section 4 of the First Amendment, is hereby deleted, and the County's right to terminate the Lease as set forth therein is of no further force or effect.

8. Article XII of the Lease is hereby deleted, and the County's right of cancellation as set forth therein is of no further force or effect.

9. The Lease is hereby amended to add the following:

Section 15.24 Holdover.

Any holding over by the County after the expiration or termination of the Lease, as amended, shall be construed as a tenancy at sufferance at a rental of twice the Annual Gross Rent and Additional Rent for the month of the term of this Lease preceding the month in which the expiration or termination occurred.

10. The Lease is hereby amended to add the following:

Section 15.25 Miscellaneous.

The Lease, as amended, sets forth the entire agreement between Landlord and the County concerning the Premises. The parties hereby acknowledge and affirm that as of the date of full execution and delivery of this Second Amendment, the

Lease is in full force and effect and there are no claims, defenses, counterclaims, offsets, or breaches of the Lease, or any action or causes of action by the County against Landlord or Landlord against County directly or indirectly relating to the Lease. This Second Amendment has been negotiated “at arm’s length” by and between Landlord and the County, with each having the opportunity to be represented by legal counsel of its choice and to negotiate the form and substance of this Second Amendment. Therefore, this Second Amendment shall not be more strictly construed against either party by reason of the fact that one party may have drafted any or all of the provisions of this Second Amendment. Landlord and the County represent and warrant that each has full authority to execute this Second Amendment without the consent or joinder of any other party. This Second Amendment shall be binding upon and inure to the benefit of Landlord, the County and their respective successors and assigns.

11. Section 15.07 of the Lease is deleted in its entirety and replaced with the following:

Section 15.07 Brokers’ Commission. Landlord represents and warrants to County that it has not dealt with any real estate salesperson, agent, finder or broker in connection with this Second Amendment other than Crossman & Company (“Landlord’s Broker”), whose commission shall be paid by Landlord pursuant to a separate written agreement. Landlord agrees to indemnify, defend, and save County harmless from and against any claims or demands of Landlord’s Broker, and any other broker, agent or finder claiming to have dealt with Landlord. The foregoing indemnification shall include, without limitation, the payment of all costs, expenses and fees, including reasonable attorney’s fees at trial and all appellate levels, expended or incurred in the defense of any such claim or demand. County represents and warrants to Landlord that it has not dealt with any real estate salesperson, agent, finder, or broker in connection with this Second Amendment other than Landlord’s Broker. The terms of this Section shall survive the termination of the Lease, as amended.

12. This Second Amendment shall become effective when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

13. Except as set forth herein, all of the terms and conditions of the Lease, as amended, remain unmodified and in full force and effect.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have duly executed this Second Amendment as of the day and year first above written.

LANDLORD:
5060 LOXAHATCHEE RETAIL,
LLC, a Delaware limited liability

company

Witness Signature

Print Witness Name

Witness Signature

Print Witness Name

By: _____
Signature

Name: _____

Title: _____

SEAL

ATTEST:
SHARON R. BOCK
CLERK & COMPTROLLER

By: _____
Deputy Clerk

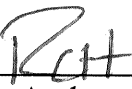
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
Assistant County Attorney

COUNTY:
PALM BEACH COUNTY, a political
subdivision of the State of Florida

By: _____
Melissa McKinlay, Mayor

APPROVED AS TO TERMS
AND CONDITIONS

By:  _____
Audrey Wolf, Director
Facilities Development & Operations

G:\PREM\PM\Out Lease\Fire Res STN #22 Grove Market\NewLease\Amend 2\2nd Amendment. hf app 9-21-2018.docx

Attachment #3
Budget Availability Statement (1 page)

BUDGET AVAILABILITY STATEMENT

REQUEST DATE: 09/06/18 REQUESTED BY: Della M. Lowery

PHONE: (561) 233-0239
FAX: (561) 233-0210

PROJECT TITLE: F-R #22 Grove Market Second Amendment

PROJECT NO.: 2018-5-020

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures	<u>\$33,693</u>	<u>\$24,586</u>	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>\$33,693</u>	<u>\$24,586</u>	<u>\$-0-</u>	<u>\$-0-</u>	<u>\$-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

*** By signing this BAS your department agrees to these staff costs and your account will be charged upon receipt of this BAS by FD&O. Unless there is a change in the scope of work, no additional staff charges will be billed.*

BUDGET ACCOUNT NUMBER

FUND: 1300 DEPT: 440 UNIT: 4232 OBJ: 7410 SUB OBJ: _____

IS ITEM INCLUDED IN CURRENT BUDGET: YES _____ NO _____

IDENTIFY FUNDING SOURCE FOR EACH ACCOUNT: (check all that apply)

- Ad Valorem (source/type: #33,693)
- Non-Ad Valorem (source/type: _____)
- Grant (source/type: _____)
- Park Improvement Fund (source/type: _____)
- General Fund Operating Budget Federal/Davis Bacon
- _____ _____ _____

Department: Fire Rescue

BAS APPROVED BY: *Michael A. Mackey* DATE: 9/26/18
m.mackey

ENCUMBRANCE NUMBER: _____

Attachment #4
Disclosure of Beneficial Interests (6 pages)

**LANDLORD'S DISCLOSURE OF BENEFICIAL INTERESTS
(REQUIRED BY FLORIDA STATUTES 286.23)**

TO: PALM BEACH COUNTY CHIEF OFFICER, OR HIS OR HER OFFICIALLY
DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

BEFORE ME, the undersigned authority, this day personally appeared, Andrew J. Sossen hereinafter referred to as "Affiant", who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the Executive Vice President (position - i.e. president, partner, trustee) of **5060 Loxahatchee Retail, LLC**, the "**LANDLORD**" which entity is the owner of the real property legally described on the attached Exhibit "A" (the "Property").

2. Affiant's address is c/o Starwood Property Trust, Inc., 591 West Putnam Avenue, Greenwich, CT 06830, Attention: General Counsel.

3. Attached hereto, and made a part hereof, as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater beneficial interest in the Landlord and the percentage interest of each such person or entity.

4. Affiant acknowledges that this Affidavit is given to comply with Florida Statutes 286.23, and will be relied upon by Palm Beach County in its lease of the Property.

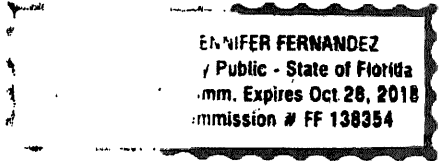
5. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

6. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

[Signature], Affiant
Print Affiant Name: Andrew J. Sossen

The foregoing instrument was sworn to, subscribed and acknowledged before me this 27th day of October, 2016, by Andrew J. Sossen as Executive Vice President of 5060 Loxahatchee Retail, LLC [] who is personally known to me or [] who has produced _____ as identification and who did take an oath.



[Signature]
Notary Public

Jennifer Fernandez
(Print Notary Name)

NOTARY PUBLIC
State of Florida at Large
My Commission Expires: 10/28/18

EXHIBIT "A"

PROPERTY

LEGAL DESCRIPTION

TRACT A, OF GROVE MARKET PLAT, A M.U.P.D, AS RECORDED IN PLAT BOOK 82, PAGES 67 AND 68 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT (MOBIL)

A PARCEL OF LAND IN "TRACT A" OF GROVE MARKET PLAT AS RECORDED IN PLAT BOOK 82, PAGES 67 AND 68 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID "TRACT A";
THENCE S 01°42'54" W FOR A DISTANCE OF 22.64 FEET TO THE POINT OF BEGINNING;
THENCE RUN S 07°47'40" E FOR A DISTANCE OF 159.77 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE SOUTHWEST;
THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 20.00 FEET, THRU A CENTRAL ANGLE OF 90°00'00", FOR AN ARC DISTANCE OF 31.42 FEET TO A POINT OF TANGENCY;
THENCE RUN S 02°12'20" W FOR A DISTANCE OF 42.16 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE NORTHWEST;
THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 19.32 FEET, THRU A CENTRAL ANGLE OF 10°58'23", FOR AN ARC DISTANCE OF 4.73 FEET TO A POINT OF TANGENCY;
THENCE RUN S 02°10'44" W FOR A DISTANCE OF 11.61 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE NORTHWEST;
THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 4.33 FEET, THRU A CENTRAL ANGLE OF 64°32'01", FOR AN ARC DISTANCE OF 4.91 FEET TO A POINT OF NON-TANGENCY;
THENCE RUN S 01°42'54" W FOR A DISTANCE OF 75.00 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE EAST;
THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 64.69 FEET, THRU A CENTRAL ANGLE OF 23°17'02", FOR AN ARC DISTANCE OF 26.29 FEET TO A POINT OF NON-TANGENCY;
THENCE RUN S 88°17'44" E FOR A DISTANCE OF 5.17 FEET TO A POINT ON THE ARC OF A CIRCULAR CURVE CONCAVE TO THE NORTHEAST, THE CENTER OF WHICH BEARS NORTH 66°24'52" E FROM SAID POINT;
THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 59.98 FEET, THRU A CENTRAL ANGLE OF 04°50'01", FOR AN ARC DISTANCE OF 5.06 FEET TO A POINT OF NON-TANGENCY;
THENCE RUN S 01°42'54" W FOR A DISTANCE OF 8.06 FEET TO A POINT;
THENCE RUN N 27°47'40" W FOR A DISTANCE OF 103.01 FEET TO A POINT;
THENCE RUN N 01°42'54" E FOR A DISTANCE OF 195.00 FEET TO THE POINT OF BEGINNING. (CONTAINING 30,744 SQUARE FEET)

LESS AND EXCEPT (OUTPARCEL)

A PARCEL OF LAND IN "TRACT A" OF GROVE MARKET PLAT AS RECORDED IN PLAT BOOK 82, PAGES 67 AND 68 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHERLY MOST SOUTHWEST CORNER OF SAID "TRACT A";
THENCE N 43°17'20" W ALONG THE SOUTHWESTERLY LINE OF SAID "TRACT A" A DISTANCE OF 112.43 FEET TO THE WEST LINE OF SAID "TRACT A";
THENCE N 01°42'54" E ALONG SAID WEST LINE A DISTANCE OF 116.75 FEET;
THENCE S 00°17'04" E A DISTANCE OF 27.05 FEET;
THENCE S 43°17'20" E A DISTANCE OF 154.95 FEET;
THENCE N 43°17'20" E A DISTANCE OF 18.48 FEET;
THENCE S 43°17'20" E A DISTANCE OF 59.80 FEET;
THENCE S 01°42'54" W A DISTANCE OF 43.47 FEET TO THE SOUTH LINE OF SAID "TRACT A";
THENCE N 23°17'04" W ALONG SAID SOUTH LINE A DISTANCE OF 126.47 FEET TO THE POINT OF BEGINNING.

EXHIBIT "A"

PROPERTY

PCN00-40-43-01-01-001-0010

5060 Seminole Pratt Whitney Road
Unincorporated Loxahatchee, Florida

(as recorded in OR BOOK 25528, PG. 1806, Palm
Beach County, Florida, on October 16, 2012

Palm Beach County Fire Rescue Station #22

EXHIBIT "A"

PROPERTY

Grove Market Shopping Center

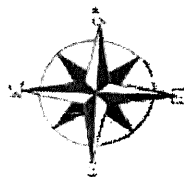
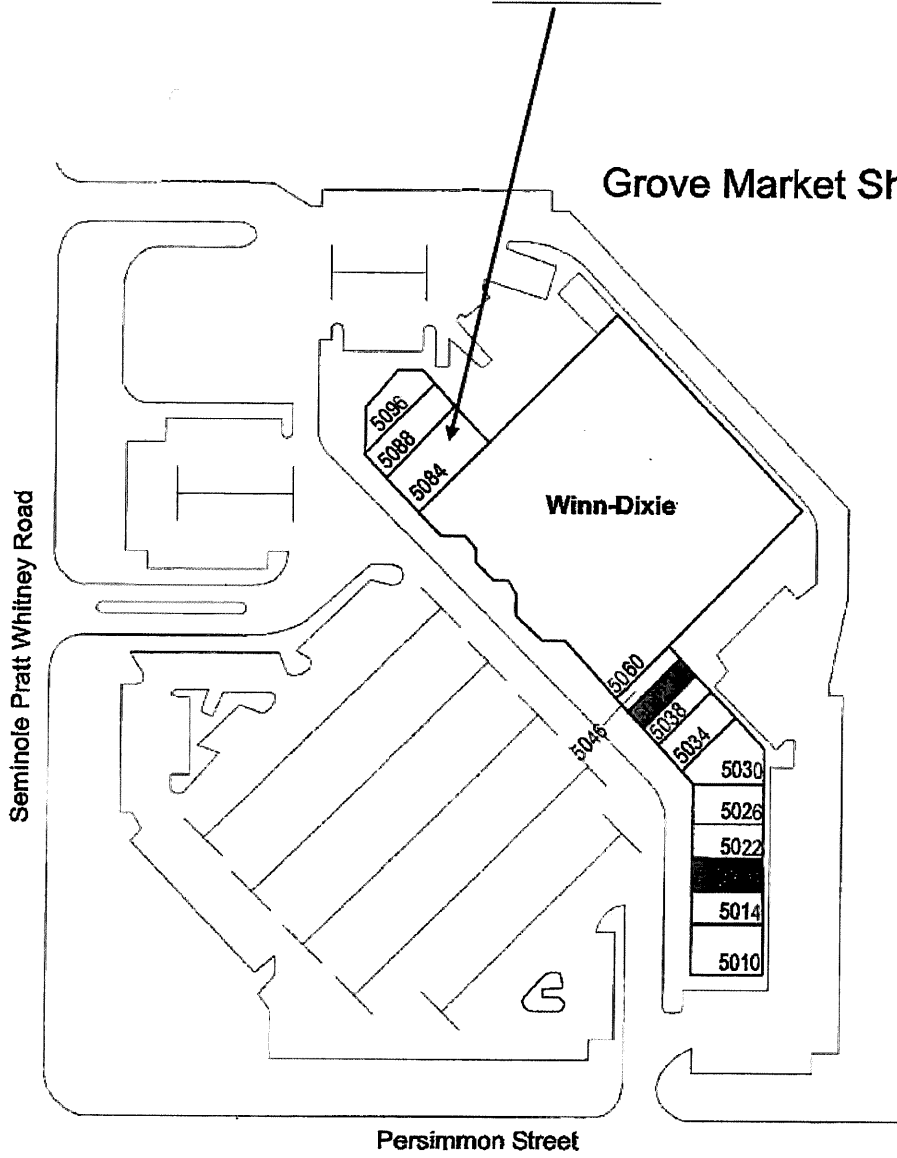


EXHIBIT "B"

**SCHEDULE TO BENEFICIAL INTERESTS IN
PROPERTY**

Landlord is only required to identify five percent (5%) or greater beneficial interest holders. If none, so state. Landlord must identify individual owners. If, by way of example, Landlord is wholly or partially owned by another entity, such as a corporation, Landlord must identify such other entity, its address and percentage interest, as well as such information for the individual owners of such other entity.

NAME	ADDRESS	PERCENTAGE OF INTEREST
Starwood Property Trust, Inc.*	591 West Putnam Ave., Greenwich, CT 06830	96%**

***Entity registered with the Federal Securities Exchange Commission who interest is for sale to the general public**

**** Reflects ultimate indirect beneficial ownership interest**
