

This instrument was prepared under the direction of:

City of Port St. Lucie City Attorney's Office

Prepared by:

CITY OF PORT ST. LUCIE

City Attorney's Office

121 S.W. Port St. Lucie Boulevard

Port St. Lucie, FL 34984

(Space above this line reserved for recording office use only)

### MAINTENANCE AGREEMENT

This **MAINTENANCE AGREEMENT**, (the "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, (the "Effective Date"), by and between **CITY OF PORT ST. LUCIE, a Florida municipal corporation**, whose address is 121 SW Port St. Lucie Blvd., Port St. Lucie, Florida 34984 ("**CITY**") and **ABC LIQUORS INC., a Florida corporation**, whose address is 8989 S. Orange Ave., Orlando Florida 32824 ("**ABC**"). The City and ABC may be referred to individually as a "Party" or collectively as "Parties."

### WITNESSETH:

**WHEREAS**, the City owns that certain real property more particularly described on the attached **Exhibit "A"** ("City Property"); and

**WHEREAS**, ABC is the fee simple owner of that certain real property located at 2091 SW Gatlin Blvd., Port St. Lucie, Florida 34953 with tax parcel identification number 3420-650-1202-000-9 and as more particularly described on the attached **Exhibit "B"** ("ABC Property"); and

**WHEREAS**, ABC, through its predecessor in title, reserved a drainage, utilities, ingress, and egress easement over, across, and through the City Property, as indicated in the City Property deed recorded in Book, 880 Page 583 of the Official Records of St. Lucie County ("Reserved Easement"); and

**WHEREAS**, ABC replaced an old culvert pipe with a new culvert pipe ("Culvert Pipe") through the Reserved Easement in the area described on the attached **Exhibit "C"** ("Specified Area"); and

**WHEREAS**, City and ABC desire to clarify and establish their rights and obligations with regard to the City Property, Reserved Easement, Culvert Pipe, and Specified Area.

**NOW THEREFORE**, for and in consideration of the sum of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, the Parties covenant and agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein as material provisions of this Agreement by this reference.

2. Maintenance.

- a. ABC Responsibilities. ABC and its assigns and successors in interest and/or title shall be responsible for maintenance and repair of the Reserved Easement, and installed infrastructure, including the Culvert Pipe, necessary to utilize the Reserved Easement, including items listed in section 41.08(g) of the City Code that are located within the Reserved Easement. Notwithstanding ABC's maintenance and repair obligations, ABC is not precluded from seeking all remedies available in equity and law against third parties, including the City, for damage caused to the Culvert Pipe or other infrastructure or improvements installed within the Reserved Easement. Nothing in this section shall be deemed to be a waiver of the City's sovereign immunity under section 768.28, Florida Statutes.
- b. City Responsibilities. The City shall have no obligation or responsibility for ensuring the Specified Area or the Reserved Easement is maintained in a condition necessary or required for ABC to utilize the Reserved Easement, including but not limited to maintenance and repair of the Culvert Pipe, or any other infrastructure or improvements installed by ABC to facilitate ABC's utilization of the Reserved Easement.

3. Indemnification. ABC shall indemnify, defend and hold the City, and City's members, partners, affiliates, employees, contractors, agents, successors and assigns (collectively, the "Indemnified Parties") harmless from and against any and all loss, injury, damage, claim, liability, cost and expense (including, without limitation, reasonable attorneys' and paralegals' fees and costs through all trial and appellate levels) that may be sustained by the City or City's Indemnified Parties, caused by the use and exercise of, ABC's rights granted hereby. The obligations set forth in this Section shall survive any termination of this Agreement or the rights granted hereby as to any pending or subsequent claim for indemnity under this Section that is based on an occurrence or incident by a third party the date of which third party occurrence or incident precedes the date of such termination; provided, however, ABC shall have no obligation or responsibility under this Section for any damage caused by, or other actions or inactions by, any Indemnified Parties. Nothing in this section shall be deemed to be a waiver of the City's sovereign immunity under section 768.28, Florida Statutes.

4. Cooperation. ABC and the City agree to cooperate in connection with any permits, approvals and modifications to permits and approvals as may be necessary to provide for ABC's maintenance and repair of the Culvert Pipe or Reserved Easement.

5. Covenant Running With the Land. The provisions of this Agreement constitute covenants running with the ABC Property. The provisions of this Agreement shall bind and inure to the benefit of the Parties hereto and their respective successors and assigns.

6. No Third Party Beneficiaries. Except as otherwise expressly stated herein, this Agreement shall not be deemed to confer in favor of any third parties any rights whatsoever as third-party beneficiaries, the Parties hereto intending by the provisions hereof to confer no such benefits or status unless otherwise expressly stated in this Agreement.

7. Non-Waiver. A failure of a Party to enforce at any time any term, provision or condition of this Agreement, or to exercise any right or option herein, shall in no way operate as a waiver thereof, nor shall any single or partial exercise preclude any other right or option herein. In no way whatsoever shall a waiver of any term, provision or condition of this Agreement be valid unless in writing, signed by the waiving Party, and only to the extent expressly set forth in such writing.

8. Applicable Law. This Agreement shall be executed, construed and enforced in accordance with Florida law, excluding those laws dealing with conflicts of laws. Venue for any dispute between the Parties regarding this Agreement and the subject matter hereof shall lie only in St. Lucie County, Florida.

9. Jury Waiver. Each Party hereto, and its successors and/or assigns, hereby voluntarily, intentionally, irrevocably, and forever waive the right it may have to a trial by jury in respect of any litigation based hereon or arising out of, under, or in connection with this Agreement and the subject matter hereof.

10. Severability. If any clause or provision of this Agreement is deemed by a court of law illegal, invalid, or unenforceable under any present or future law, the remainder of this Agreement shall not be affected thereby. It is the express intention of the Parties that if any such clause or provision is held to be illegal, invalid, or unenforceable, there shall be added in lieu thereof a clause or provision as similar in terms to such clause or provision as is possible and still be legal, valid, and enforceable.

11. Captions. All captions, headings, and other reference numbers or letters are solely for the purpose of facilitating reference to this Agreement and shall not supplement, limit or otherwise vary in any respect to the text of this Agreement

12. Warranties and Representations. The Parties hereby represent and warrant that the person signing below on behalf of such Party is authorized to execute this Agreement, and has full power and authority to legally bind such Party to this Agreement.

13. Complete Agreement. This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior oral or written agreements between the Parties. Notwithstanding, this Agreement is not intended to negate or supersede the Settlement Agreement between the parties dated \_\_\_\_\_.

14. Amendment. This Agreement may be modified or amended only by way of a written instrument executed jointly by all Parties specifically referring to this Agreement and recorded in the Public Records of St. Lucie County, Florida.

WITNESSES:

City of Port St. Lucie, a Florida municipal corporation

\_\_\_\_\_  
Signature  
Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_

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

Printed Name: Jesus Merejo

Title: City Manager

\_\_\_\_\_  
Signature  
Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_

STATE OF FLORIDA)

COUNTY OF ST. LUCIE)

The foregoing instrument was acknowledged before me by means of \_\_\_ physical presence or \_\_\_ online notarization, this \_\_\_ day of \_\_\_\_\_, 2024, by **Jesus Merejo**, as **City Manager** for the City of Port St. Lucie, a Florida municipal corporation, on behalf of the corporation who is personally known to me or who has produced \_\_\_\_\_ as identification.

[NOTARIAL SEAL]

\_\_\_\_\_  
Signature  
Print Name: \_\_\_\_\_  
Notary Public, State of Florida.  
Commission #: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

WITNESSES:

ABC Liquors Inc., a Florida corporation

Jennifer L. O'Neill  
Signature

By: Charles E. Bailes III

Printed Name: JENNIFER L. O'NEILL

Printed Name: Charles E. Bailes III

Address: 8989 S. ORANGE AVE  
ORLANDO, FL 32804  
Deborah Leatherland

Title: PRESIDENT & CEO

Signature

Printed Name: Deborah Leatherland

Address: 8989 S. Orange Ave.  
Orlando, FL 32824

STATE OF FLORIDA)

COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 20th day of August, 2024, by Charles E. Bailes III, as President & CEO for ABC Liquors, Inc., a Florida corporation, on behalf of the corporation who is personally known to me or who has produced \_\_\_\_\_ as identification.

Robin L. Martin  
Signature

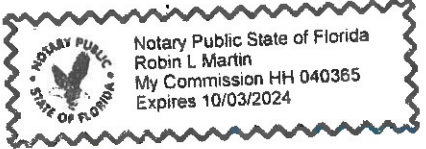
Print Name: Robin L. Martin

Notary Public, State of Florida

Commission #: HH 040365

My Commission Expires: 10/03/2024

[NOTARIAL SEAL]



**EXHIBIT "A"**  
**CITY PROPERTY**

From the point of beginning, which is the Northwest corner of Lot 17, Block 1714, PORT ST. LUCIE, SECTION THIRTY ONE, according to the plat thereof, recorded in Plat Book 14, pages 22, 22-A through 22-G, St. Lucie County, Florida public records; run South  $02^{\circ}22'54''$  East a distance of 65.0 feet to a point; thence run North  $87^{\circ}37'06''$  East a distance of 310.0 feet to a point; thence run North  $02^{\circ}22'54''$  West a distance of 40 feet to a point; thence run South  $87^{\circ}37'06''$  West a distance of 270.0 feet to a point; thence run North  $02^{\circ}22'54''$  West a distance of 25.0 feet to a point; thence run South  $87^{\circ}37'06''$  West a distance of 40 feet to the Point of Beginning.

Subject to a 50 ft. wide easement, with said easement comprising the east 50 ft. of the west 191 ft. as measured perpendicular to the west line of the above described drainage easement, which is hereby reserved by the Grantor for purposes of drainage, ingress, egress and utilities.

PARCEL 7

**EXHIBIT "B"**  
**ABC PROPERTY**



All of Lots 1 and 2, together with a portion of Lots 17, 18, 19, 20, 21 and a portion of an abandoned sixty five foot drainage right-of-way all lying within Block 1714, PORT ST. LUCIE SECTION THIRTY ONE, according to the Plat thereof as recorded in Plat Book 14, pages 22 and 22A through 22G, of the Public Records of St. Lucie County, Florida, being more particularly described as follows:

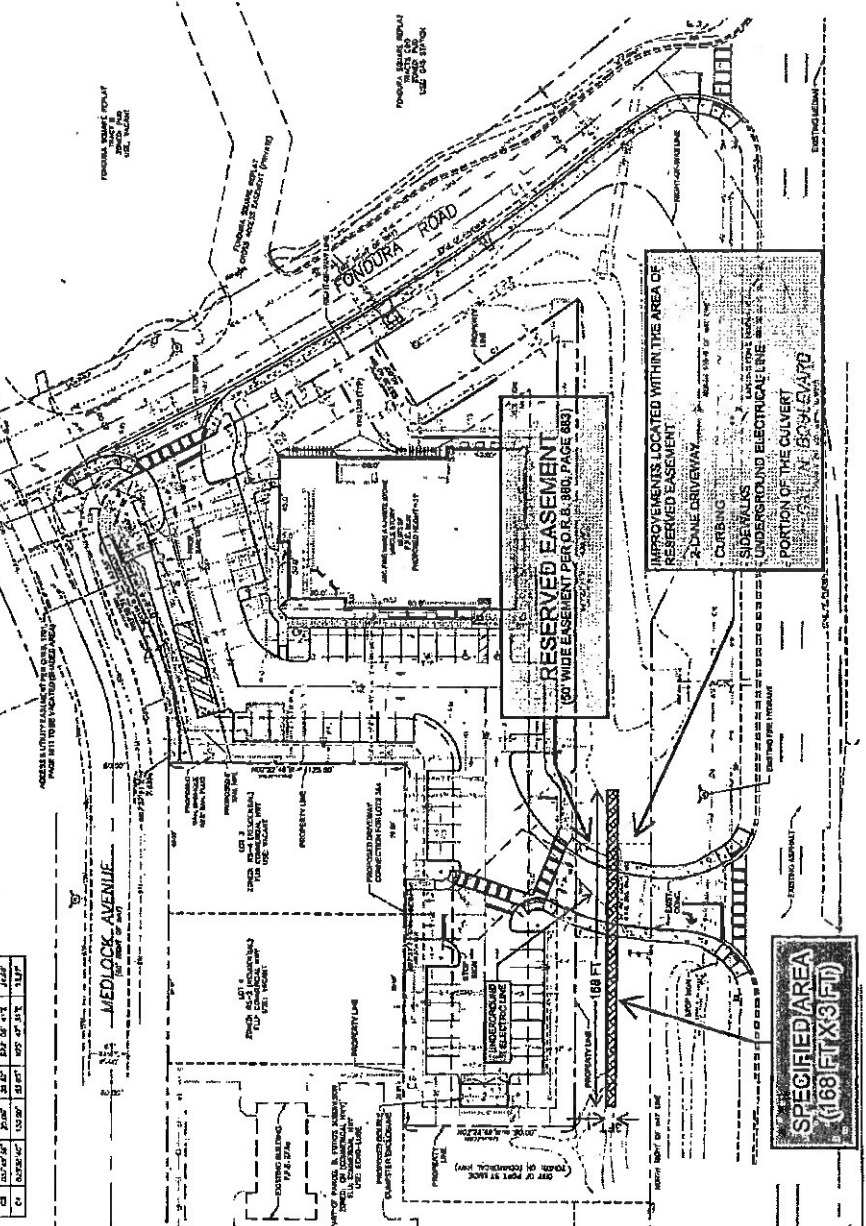
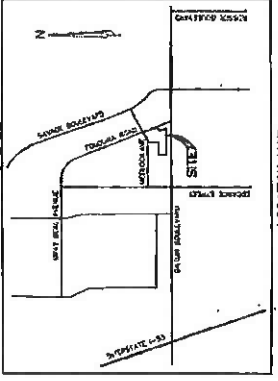
Beginning at the Northwest corner of said Lot 2, Block 1714, thence N 87 degrees 37' 06" E a distance of 7.43 feet to a point of curvature of a curve concave to the North; thence Easterly along the arc of said curve having a radius of 130.00 feet, through a central angle of 23 degrees 38' 40" a distance of 53.65 feet to a point of tangency; thence N 63 degrees 58' 26" E, a distance of 63.55 feet to a point of curvature of a curve concave to the Southwest; thence Easterly and Southerly along the arc of said curve having a radius of 25.00 feet, through a central angle of 87 degrees 49' 34", a distance of 38.32 feet to a point of reverse curve of a curve concave to the East; thence Southeasterly along the arc of said curve having a radius of 1425.00 feet, through a central angle of 6 degrees 08' 27", a distance of 152.73 feet; thence S 55 degrees 39' 33" W along a radial line, a distance of 40.00 feet to a point on a curve of curve concave to the East from which a radial line bears N 55 degrees 39' 33" E; thence Southeasterly along the arc of said curve having a radius of 1465.00 feet, through a central angle of 3 degrees 59' 15" a distance of 101.95 feet; thence S 87 degrees 37' 06" W, a distance of 439.97 feet; thence N 02 degrees 22' 54" W, a distance of 90.0 feet; thence N 87 degrees 37' 06" E, a distance of 192.91 feet; thence N 02 degrees 22' 54" W, a distance of 125.00 feet to the Point of Beginning.

TOGETHER WITH that certain 50 foot easement as set forth in that certain Instrument recorded in Official Record Book 880, page 583, of the Public Records of St. Lucie County, Florida.

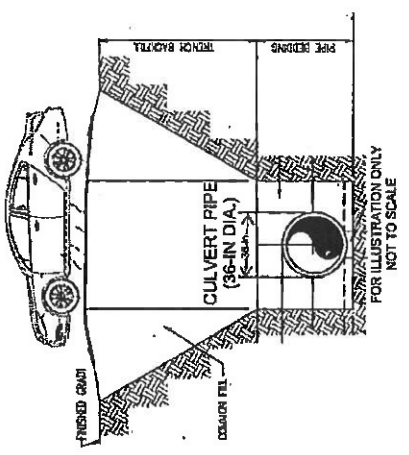
**EXHIBIT "C"**  
**SPECIFIED AREA**

U:\FB\CLIENTS\ABC\STORE NO. 40 (PORT ST. LUCIE), RE A4-25444\SETTLEMENT\MAINTENANCE AGREEMENT CLEAN FINAL.DOCX

# EXHIBIT "C"



PICTORIAL REPRESENTATION OF END-ON SECTION VIEW OF SPECIFIED AREA



FOR ILLUSTRATION ONLY NOT TO SCALE

STATION	CHORD	ANGLE	CHORD	ANGLE	CHORD	ANGLE	CHORD
C1	63.5775	111.41	111.41	59.75	59.75	111.41	59.75
C2	50.0000	90.00	50.00	90.00	50.00	90.00	50.00
C3	50.0000	90.00	50.00	90.00	50.00	90.00	50.00
C4	50.0000	90.00	50.00	90.00	50.00	90.00	50.00

**NOTES:**

- SEE PAGES 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200.