

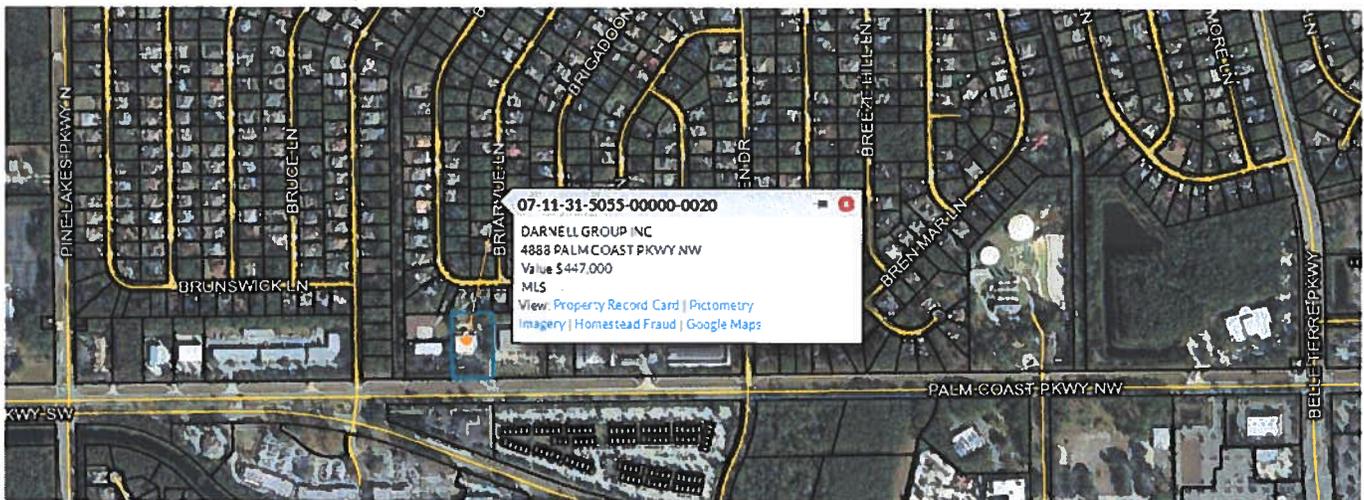
**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
CONSENT / AGENDA ITEM #71**

SUBJECT: Consideration of the Exercise of an Option Agreement to Purchase 8,000 Square Foot Facility to Relocate the Flagler County Tax Collector's Palm Coast District Office in the Amount of \$1,125,000.

DATE OF MEETING: November 19, 2018

OVERVIEW/SUMMARY: Staff is presenting for consideration the purchase of a facility located at 4888 Palm Coast Parkway NW to be used as the Tax Collector District Office in the Palm Coast area for the amount of \$1,125,000. This proposed new location has an existing 8,000 sq. ft. free standing building on approximately 1.5 acres (Flagler County Property Appraiser's ID# of 07-11-31-5055-00000-0020). Currently, the County is leasing approximately 1,200 ft. on Old Kings Road North. According to the Tax Collector, the current office serves approximately 71,000 customers per year at this time. This number reflects a steady growth in customers and as this area of Palm Coast continues to grow, this demand will continue to increase. During certain times of the year, such as tax season, the Tax Collector indicated it is common for this location to have customers lined up outside the door with very little room to move or sit inside the building. As a new location, this is expected to offer better service for residents, the proper space for eight Tax Collector staff members and Tax Collector functions, as well as plan for future growth over the next two decades. The County and Tax Collector's staff has been looking for over 2 years which resulted in the selection of the Palm Harbor Parkway NW location.

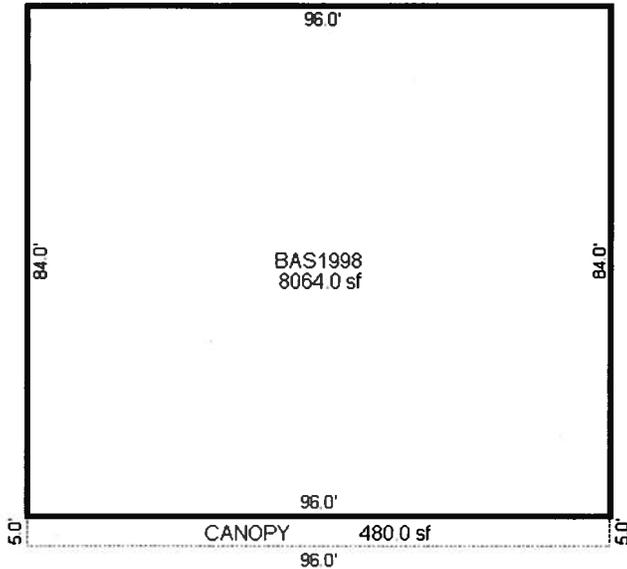
Located off of Palm Coast Parkway between Belle Terre Parkway and Pine Lake Parkway, this proposed site maintains a central location in Palm Coast and is less than a 10 minute drive from the current Tax Collector's District Office.



The property is located within incorporated Palm Coast and has COM-2 zoning. The structure's construction was completed in 2000 and has remained a single tenant retail facility since construction. The building is a one story steel beam construction. This property currently has the potential for up to 60 paved parking spaces. The building's construction and property layout allows for an easy addition of a drive through window in the future to more efficiently serve residents. Finally, the building's size provides



opportunity to house additional public services as well as a new location for voting.



The MLS listing for this building shows an asking price of \$1,400,000. As previously mentioned, staff has negotiated a purchase price of \$1,125,000, contingent upon the agreed price being confirmed by two separate property appraisals. Prior to extending an offer, staff had the building appraised, and the agreed upon price remains lower than the appraised value. As you recall County practice is to follow the appraisal procedures outlined in Florida Statute 125.355. While the confidentiality of records isn't the primary focus in this case, the appraisal procedures provide a good process for confidence in the market value of property. Properties valued at greater than \$500,000 are appraised by two appraisers. In accordance with County ESL and St Johns River Water Management District procedures, both products are then reviewed by an

appraisal reviewer to ensure soundness of methodology and attempt to close a difference in values of greater than 20%. The attached option is conditioned upon the second appraisal and review of both products. If the Board chooses to exercise this option a closing of January is planned. Additional acquisition expenses



would include title insurance, an updated survey, and other normal closing expenses which may increase purchase and closing costs to \$1,150,000. Further estimated expenses include costs associated with conversion to a Tax Collector's space of 5,000 sq.ft. and the potential for 3,000sq.ft. of governmental offices, or retail uses, which would add an estimated additional \$150,000 in remodeling expenses. The construction costs are only estimates and could grow \$50,000-\$100,000 depending on the final details of what is required from the State, Tax Collector and permitting requirements

Seller costs include payoff of all taxes, liens, judgements and other encumbrances of the property that are not acceptable to us in our sold discretion as well as recorded costs and documentary stamp fees.

Financially, total costs are expected to be \$1.3M to \$1.4M. The County will be securing financing for this project through the FAC commercial paper program. The County will charge the Tax Collector over a 15-year period for the purchase. However, at a practical level, any payment agreement with the Tax Collector will reduce the amount the County receives in returned monies at the end of the year. There are potential savings for the Tax Collector which include the rent and CAM costs the Tax Collector pays at the current location, which are \$41,469.36 per year. There

may also be some savings on security (\$27,000 per year), if the Sheriff's Office deputies occupy some of the remaining space.

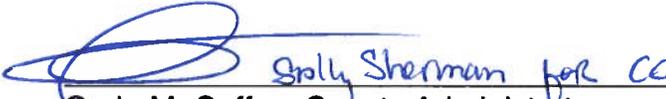
FUNDING INFORMATION: Flagler County is approved in the Florida Association of Counties Commercial Paper Program to borrow up to \$4M with no issuance costs. A resolution to draw funds sufficient to purchase and improve the property will be brought to the Board for approval before closing on the property

DEPT./CONTACT/PHONE #: Land Management, Tim Telfer (386) 313-4066

RECOMMENDATION: Request the Board approve exercising the option agreement for the Flagler County Tax Collector's Palm Coast District Office and authorize the County Administrator to execute any instruments necessary to effectuate the purchase, as approved to legal format by the County Attorney.

ATTACHMENTS:

- 1) Option Agreement



Craig M. Coffey, County Administrator

11-15-18

Date

OPTION AGREEMENT FOR SALE AND PURCHASE

THIS OPTION AGREEMENT FOR SALE AND PURCHASE (the "Agreement" or the "Option Agreement") is made this ____ day of November, 2018 (the "Effective Date") by and between the **DARNELL GROUP, INC.**, a Florida corporation, whose address is 4888 Palm Coast Parkway, Palm Coast, Florida 32137 ("Seller"), and **FLAGLER COUNTY**, a political subdivision of the State of Florida, whose address is 1769 East Moody Blvd, Bunnell, Florida, 32110 ("Buyer"). Buyer and Seller may hereafter be referred to individually as "Party" and collectively as "Parties".

1. **Grant of Option.** In consideration of the mutual agreements herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller grants to Buyer an exclusive option to purchase the real property located in **Flagler County, Florida**, legally described in **Exhibit "A"** attached hereto and incorporated herein by reference, together with all buildings, structures, timber, transferable development rights, improvements, easements, appurtenances, hereditaments, and riparian and littoral rights, if any (the "Property"), in accordance with the provisions of this Agreement. The Property shall include the two shipping containers currently on the back portion of the property. This Option Agreement becomes legally binding upon execution hereof, but exercise of the option is subject to approval by Buyer and is effective only if Buyer gives written notice of exercise to Seller.

2. **Option Period.** The term of this Option Agreement (the "Option Period") shall commence beginning on the Effective Date and shall expire at 5 p.m. on November 30, 2018 unless otherwise agreed upon by the Parties in writing (the "Option Date").

3. **Exercise of Option.** Buyer shall exercise its option to purchase the Property by majority vote at a publicly noticed meeting on or before the Option Date. If Buyer votes to approve this Agreement at such time, Buyer shall indicate its approval by having the Chairman of the Flagler County Board of County Commissioners execute the Option Agreement Approval, as set forth in **Exhibit "B"** attached hereto and incorporated herein by reference ("Approval"). Upon execution of the Approval, this Agreement shall henceforth be considered a binding purchase and sale agreement pursuant and subject to the terms and conditions hereinafter set forth.

4. **Automatic Termination of Agreement.** Except as otherwise set forth by this Agreement, if the Approval is executed by Buyer on the Option Date, the terms and conditions of this Agreement shall be binding upon the Parties until the earliest occurrence of (i) the Closing, as defined hereafter, (ii) receipt of written notice of a Party's intention to terminate the Agreement, (iii) the passage of one hundred and fifty (150) days from the Option Date, ("Option Expiration Date") or (iv) the occurrence of a "Material Adverse Change" prior to Closing, which shall mean any loss or damage to the Property that

materially reduces its value in the aggregate and/or the ability to operate as a Flagler County Tax Collector's facility prior to Closing.

5. **Obligations Incident to Closing.** At Closing, neither Party shall be prohibited by law, decree or any pending legal action or proceeding from fulfilling its respective obligations required for Closing, as more fully set forth below. A Party's inability to make or continue the warranties and representations contained herein, or its failure to perform any obligations hereunder, shall constitute grounds for the immediate termination of this Agreement.

6. **Appraisal Contingency.** Buyer's ability to close is contingent upon a second appraisal obtained in accordance with the Uniform Standards of Professional Appraisal Practice (U.S.P.A.P.), as defined in Chapter 475, Part II, Florida Statutes as well as Florida Communities Trust appraisal instructions and procedures. The report must be self-contained appraisal report as described under Standards Rule 2-2(a) of the U.S.P.A.P. The result of this appraisal and the appraisal obtained previously will be averaged, and Buyer's ability to proceed with the purchase is contingent upon the averaged appraised value exceeding the agreed purchase price. In addition, for these appraisals to be considered valid, their values must not diverge by greater than 20%. This is in accord with the application of state statute and County policy on land acquisitions.

7. **Financing Condition Precedent.** As a condition precedent to Closing, Buyer shall obtain financing for the Property through a loan. If Buyer is unable to obtain financing on such terms as acceptable to Buyer, Buyer may terminate the Agreement at its discretion. If Buyer's funds in the amount of the purchase price (as hereinafter defined in paragraph 3.) are not available by the Option Expiration Date, the period of exercise of the option may be extended until such funds become available, not to exceed 60 days after the Option Expiration Date, by written notice to Seller.

8. **Purchase Price.** The total purchase price for the Property is ONE MILLION ONE HUNDRED TWENTY FIVE THOUSAND AND NO/100 DOLLARS (\$1,125,000.00) ("Purchase Price") which will be paid by Buyer at Closing.

9. **Inspection/Testing Rights.**

(a) Buyer shall have sixty (60) days from the Option Date ("Due Diligence Period") to conduct an investigation of the Property. During the Due Diligence Period, Buyer shall coordinate access to the Property to conduct any inspections or tests which Buyer deems necessary or desirable, including but not limited to the land and all structures thereon. Such inspections/tests shall be normal and customary, as further described in paragraph 11.

(b) No invasive or damaging inspections or tests may be conducted without the prior written consent of Seller as to the nature and scope of such inspection or test. Buyer hereby agrees to indemnify and hold Seller harmless from any loss or liability incurred by Seller as a result of any of Buyer's actions relative to such inspection and/or investigation activities. If Buyer has not terminated this Agreement, as provided herein, or defaulted hereunder, the right of entry and investigation granted in this paragraph 9 shall continue unabated through Closing or until this Agreement is otherwise terminated. During the Due Diligence Period, Buyer shall have the

absolute right, in its sole discretion, to terminate the contract if it discovers or detects any structural flaw or deficiency in the land, buildings or any other improvements situated on the Property that it deems unacceptable.

(c) Within fifteen (15) days of the Option Date, Seller shall provide to Buyer or Buyer's counsel copies of the following, to the extent such items are within Seller's possession: any plats affecting the Property, all existing title insurance policies, any boundary or topographical surveys (collectively, the "Survey"), any building or property inspection reports, any structural or engineering reports related to the buildings located on the Property, any environmental site assessment reports, any geotechnical reports, any local, state and federal government permits and approvals for the Property, and any other documents related to the condition and use of the Property and the buildings located thereon.

10. **Defect Remedies.** If any defects are discovered on the Property or any building located thereon, Buyer, at its sole option, may elect to conduct or assume responsibility for any necessary repairs or to terminate this Agreement. If the County cost estimate of work necessary to repair any defects equals or exceeds One Hundred Thousand Dollars (\$100,000) in total, above the repairs contemplated in the initial project budget of One Hundred Twenty Five Thousand Dollars (\$125,000), it will be necessary for the Flagler County Board of County Commissioners to provide an additional concurrence to move forward with the Buyer's purchase of the Property and related repair of the defects. At a minimum, such defects not contemplated in the project budget shall generally be structural or environmental, but shall not preclude the County Administrator from presenting any other unanticipated defect that he believes will materially affect the initial project budget.

11. **Environmental Site Assessment.** Buyer may conduct normal and customary environmental site assessments of the Property, including but not limited to Phase I and II Environmental Site Assessments, to determine the existence and extent, if any, of mold, lead, radon, asbestos or any other Hazardous Materials on the Property. If further investigations, testing, monitoring or environmental site assessments are required to determine the existence or extent of Hazardous Materials on the Property, Buyer, at its sole option, may elect to extend the Option Expiration Date by thirty {30} days to conduct such procedures. For purposes of this Agreement, "Hazardous Materials" shall mean any hazardous or toxic substance, material or waste of any kind or any other substance which is regulated by any Environmental Law as hereinafter defined in paragraph 11.

12. **Hazardous Materials.** If the environmental site assessment provided for in paragraph 8 confirms the presence of Hazardous Materials on the Property, Buyer, at its sole option, may elect to terminate this Agreement and neither Party shall have any further obligations under this Agreement. Should Buyer elect not to terminate this Agreement, and Seller agrees to remediate the Hazardous Materials, Seller shall, at Seller's sole cost and expense and prior to the exercise of the option and Closing, promptly commence and diligently pursue any assessment, clean up and monitoring of the Property necessary to bring the Property into full compliance with Environmental Law. "Environmental Law" shall mean all federal, state and local laws, including statutes, regulations, ordinances, codes, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements and other governmental restrictions relating to the protection of the environment or human health, welfare or safety, or to the emission, discharge, seepage, release or

threatened release of any contaminant, solid waste, hazardous waste, pollutant, irritant, petroleum product, waste product, radioactive material, flammable or corrosive substance, carcinogen, explosive, polychlorinated biphenyl, asbestos, hazardous or toxic substance, material or waste of any kind into the environment, including, without limitation, ambient air, surface water, ground water or land including, but not limited to, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Federal Resource and Conservation and Recovery Act of 1976, the Hazardous and Solid Waste Amendments of 1984, the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Federal Superfund Amendments and Reauthorization Act of 1986, Chapters 161,253,373,376 and 403, Florida Statutes, Rules of the U.S. Environmental Protection Agency, Rules of the Florida Department of Environmental Protection, and the rules of the Florida water management districts now or at any time hereafter in effect. However, should the estimated cost to Seller of cleanup of Hazardous Materials exceed a sum which is equal to or greater than five percent (5%) of the Purchase Price as stated in paragraph 7, Seller may elect to terminate this Agreement, and neither party shall have any further obligations under this Agreement. If Hazardous Materials placed on the Property prior to Closing are discovered after Closing, Seller shall remain obligated hereunder, with such obligation to survive the Closing, delivery, and recording of the deed described in paragraph 18 of this Agreement and to survive Buyer's possession of the Property, and Seller shall diligently pursue and accomplish the cleanup of Hazardous Materials in a manner consistent with all applicable Environmental Laws and at Seller's sole cost and expense.

Further, if neither party elects to terminate this Agreement as provided above, Seller shall indemnify and save harmless and defend Buyer, its respective officers, servants, agents and employees from and against any and all claims, suits, actions, damages, liabilities, expenditures or causes of action of whatsoever kind arising from Hazardous Materials placed on the Property prior to Closing. Seller shall defend, at Seller's sole cost and expense, any legal action, claim or proceeding instituted by any person against Buyer as a result of any claim, suit or cause of action for injuries to body, life, limb or property for which Hazardous Materials placed on the Property prior to Closing are alleged to be a contributing legal cause. Seller shall save Buyer harmless from and against all judgments, orders, decrees, attorney's fees, costs, expenses and liabilities in and about any such claim, suit, investigation or defense thereof, which may be entered, incurred or assessed as a result of the foregoing.

The limitation herein on Seller's contractual obligation to indemnify Buyer as specified in this paragraph 12 shall not be construed to limit Seller's legal liability under any Environmental Law for Hazardous Materials located on the Property or to limit Buyer's legal and equitable remedies against Seller under any Environmental Law for Hazardous Materials located on the Property.

13. **Updated Survey.** Buyer shall have the right, but not the obligation at Buyer's sole cost and expense, to obtain an updated boundary survey for the Property (the "Updated Survey"). If Buyer elects to obtain an Updated Survey, and the Updated Survey shows any encroachment, hiatus or other condition that could affect the marketability of title to the Property, Buyer shall have the right to object to such condition as a Title Objection pursuant to the provisions of paragraph 14.

14. **Title Evidence.** Buyer shall purchase, at its sole cost and expense a fee title insurance

policy (the "Policy") (unqualified, except as provided in this paragraph 14) with all printed standard exceptions deleted, insuring Buyer as the fee simple Seller of the Property in the full amount of the Purchase Price for the Property; such Policy to be purchased from and issued by a title insurance company selected by Buyer (the "Title Company"). Within fifteen (15) calendar days after the Option Date, a commitment for such title insurance policy shall be delivered to Buyer by Seller, including legible copies of all documents shown in exceptions (the "Title Commitment"). The Title Commitment shall be dated later than the Option Date, shall be in the full amount of the Purchase Price, and shall have attached to it copies of all instruments described in said commitment. The Title Commitment must disclose the title to be good, marketable and insurable. If either the Survey or the Title Commitment reveals any encroachments, overlaps, easements, restrictions, covenants, conditions or other title defects (the "Title Objections"), the Buyer, within thirty (30) calendar days after the Option Date, may notify Seller of the Title Objections. Seller shall have the later of (i) thirty (30) calendar days after receipt of notice of the Title Objections, or (ii) the Closing Date to cure any such Title Objections. Seller shall have no duty to cure any Title Objections except that Seller must cure liens or encumbrances evidencing monetary obligations of Seller at or before Closing. If any such Title Objections, other than those that will be cured or satisfied at Closing, remain uncleared by Seller at the end of thirty (30) calendar days after Seller receives notice of the Title Objections, then Seller shall give Buyer written notice of Seller's failure to cure all the Title Objections and describe with specificity in that notice the Title Objections which remain uncured and those Title Objections which will be satisfied at Closing. Buyer may then do one of the following as Buyer's sole remedy:

a. Accept the uncured Title Objections and require Seller to deliver the title to the Property at the Closing in its existing condition with no reduction in the Purchase Price; or

b. Terminate this Agreement, whereupon all parties shall be released from further obligation hereunder.

Buyer shall give Seller written notice of Buyer's decision either to accept the uncured Title Objections or to terminate this Agreement within ten (10) business days after Buyer receives written notice from Seller of the uncured Title Objections. The failure of Buyer to give Seller notice of termination within ten (10) business days shall be deemed to constitute an acceptance by Buyer of the uncured Title Objections that then remain. Any matter disclosed by the Title Commitment or by the Survey which is not timely specified in Buyer's written notice to Seller shall be deemed a "Permitted Exception."

15. **Buyer's Intended Use.** Buyer intends to relocate and operate other retail and office type uses thereon (together, the "Intended Use"). Notwithstanding the foregoing, Buyer may use the Property for other good and lawful purposes.

16. **Default.**

a. If Buyer fails to perform any of the covenants and agreements set forth in this Agreement on its part to be performed within the time or times specified herein, and within thirty (30) days of receiving written notice from Seller specifying the nature of any such failure, as consideration for its execution of this Agreement and in full settlement of, and as liquidated damages for, any and all claims for damages, occasioned by Buyer's default, and upon such payment this Agreement shall terminate and become null and void, and thereupon the parties shall have no further obligations hereunder, except as expressly provided herein to survive termination of this Agreement. Seller waives all other remedies it may have at law or in equity.

b. In the event Seller breaches its covenant to convey the Property to Buyer or otherwise fails to

perform its obligations under this Agreement which are to be performed at or prior to Closing, in accordance with its terms, or breaches any of its representations and warranties, for any reason except for Buyer's default, Buyer shall be entitled to one of the following as Buyer's sole remedy: (i) terminate this Agreement; or (ii) seek and obtain specific performance of this Agreement.

17. **Warranties Of Seller.** Seller hereby warrants and represents to the Buyer, as follows, as of the date of this Agreement and as of the date of the Closing:

a. That the Property, as presently zoned under the zoning laws of the city or county applicable to the Property, may be used by Buyer for the Intended Use.

b. Neither Seller nor any agent or employee of Seller has received any notice of existing violation by the Property or any portion thereof of any zoning, building, fire, health, pollution, environmental protection or waste disposal ordinance, code, law or regulation, and Seller shall give prompt notice to Buyer of any such notice received by Seller, its agents or employees, prior to Closing.

c. There is legal and practical ingress and egress for the Property over public roads or valid, recorded easements for the use and benefit of and as an appurtenance to the Property.

d. Seller has not received notice, either oral or written, and has no reason to believe, that any governmental or quasi-governmental agency or authority intends to commence construction of any special or off-site improvements or impose any special or other assessments against the Property.

e. There is no litigation or other legal or administrative proceedings pending or threatened against or relating to the Property, nor does Seller know or have reasonable grounds to know of the basis for any such proceedings.

f. No assessments for public improvements have been made against the Property or any part thereof which remain unpaid, including without limitation, notice for construction of sewer, water, gas and electric lines and mains, streets, roads, sidewalks and curbs.

g. There is no commitment of Seller which is or will be binding on Buyer to dedicate any portion of the Property for road right-of-way or other public purposes.

h. There are no agreements or other commitments which have been contractually entered into by Seller or any other person with any governmental, administrative or quasi-governmental body or agency affecting or binding upon the Property in any manner.

i. Seller has not received notice (either oral or written) of any default or breach by Seller under any covenants, conditions, restrictions or easements affecting the Property or any part thereof, no such default now exists, and no event has occurred and is continuing which with the passage of time would constitute default on any part thereof and Seller has no reason to believe that it is in such default or breach.

j. Seller has not received notice of (either oral or written), and to the best of Seller's knowledge, there are no violations of any laws, statutes, ordinances, regulations or requirements of any governmental authority affecting the Property in its present use by the Seller.

(k) Seller has the full right and authority to execute this Agreement and to undertake all

actions which it requires.

(l) To the best of Seller's knowledge, none of the Property was excavated, other than in connection with the standard construction practices for the construction of a building or buildings on the Property, no landfill was deposited on or taken from any part of the Property, nor was any construction debris or any other debris or contamination (such as, but not limited to rocks, stumps or concrete or Hazardous Materials) buried on any of the Property, and the Property is free from contamination by any Hazardous Materials as defined in paragraph 12.

Seller shall indemnify, defend and hold Buyer harmless from and against any and all liabilities which arise after the Effective Date of this Agreement due to a breach of any of the foregoing representations and warranties by Seller.

Seller shall not by any act or omission of Seller, alone or in conjunction with others, cause to arise any defect in or burden or cloud upon the title (other than regular ad valorem taxes) to the Property subsequent to the execution of this Agreement and prior to Closing.

Each of the warranties and representations contained in this paragraph 17 shall be deemed made as of the date of this Agreement and again as of the date of Closing. Seller shall remain fully liable to Buyer for any loss, harm, damage or expense, including reasonable attorney's fees and court costs incurred by Buyer arising out of any breach or inaccuracy of any warranty or representation given hereunder or under any other Paragraph of this Agreement and Buyer, at its option, shall be entitled to an offset and reduction of the Purchase Price for any loss sustained or, alternatively, payment by Seller in cash upon demand.

18. **Interest Conveyed.** Upon execution of this Agreement, Seller shall submit to Buyer a properly completed and executed beneficial interest affidavit and disclosure statement as required by Sections 286.23, 375.031(1) and 380.08(2), Florida Statutes. At Closing, Seller shall execute and deliver to Buyer a statutory warranty deed in accordance with the provisions of Section 689.02, Florida Statutes, conveying marketable title to the Property in fee simple free and clear of all liens, reservations, restrictions, easements, leases, tenancies and other encumbrances, except for those that are Permitted Exceptions, as determined in the sole discretion of Buyer. The Parties shall also execute a closing statement, a title, possession and lien affidavit certified to Buyer, an assignment of development rights, an environmental affidavit and any other Closing documents required by Buyer, Seller or the Title Company. In addition, Seller shall authorize Buyer to issue funds for the Purchase Price directly to an escrow agent who is authorized by law to receive such payments and who is acceptable to Buyer, and to require the escrow agent to pay Seller's expenses of sale and real estate taxes from the funds deposited with escrow agent.

19. **Preparation of Closing Documents.** Prior to the Closing hereunder, Seller shall submit to Buyer a properly completed and executed beneficial interest affidavit and disclosure statement as required by Sections 286.23, 375.031(1) and 380.08(2), Florida Statutes. The Closing agent shall prepare the deed described in paragraph 18 of this Agreement, the Buyer's and Seller's Closing statements, the title, possession and lien affidavit certified to Buyer, the title insurance commitment, an assignment of development rights, an environmental affidavit and any other Closing documents required by Buyer, Seller or the Title Company.

20. **Proration of Property Taxes and Assessments.** Real property taxes upon the Property for the year of Closing shall be prorated as of the Closing Date on the basis of maximum discounts allowed by taxing authorities, if any. Real property taxes for all prior years shall be Seller's responsibility and shall be paid by Seller at or prior to Closing. If the amount of taxes for the current year cannot be ascertained as of the Closing, the rates, millage and assessed valuations for the preceding calendar year (with known changes) shall be used for purposes of making a tentative proration at Closing; however, said taxes shall thereafter be finally re-prorated by and between Seller and Buyer (on the basis of maximum allowable discounts) upon receipt by Seller or Buyer of the statement or statements therefor from the proper taxing authorities. The cash payment due Seller from Buyer at Closing shall be increased or decreased as may be required by such proration of taxes. If the Property is not yet a separate tax parcel and is included in other Property of Seller, Seller shall receive Buyer's credit at Closing and shall be responsible for paying the taxes for the year in which the Closing occurs.

21. **Permits.** Seller shall transfer and assign to Buyer all St. Johns River Water Management District, Florida Department of Environmental Protection, U.S. Army Corps of Engineer, Florida Fish and Wildlife Conservation Commission, City of Palm Coast and any and all other local, state or federal permits and approvals applicable to the Property, if any, prior to Closing. Seller shall execute any documents necessary to effectuate such permit assignments.

22. **Closing Place and Date.** The Closing hereunder (the "Closing") shall occur as quickly as possible but no later than January 28th 2019; provided, however, that if a defect exists in the title to the Property, title commitment, Survey, environmental site assessment, or any documents required to be provided or completed and executed, the Closing shall occur either on the original Closing date or within thirty (30) days after receipt of documentation removing the defects, whichever is later. Buyer shall set the date, time and place of Closing. Closing may be extended by mutual agreement of the Parties.

23. **Risk of Loss and Condition of Property.** Seller assumes all risk of loss or damage to the Property prior to the date of Closing and warrants that the Property shall be transferred and conveyed to Buyer in the same or essentially the same condition as of the date of Seller's execution of this Agreement, ordinary wear and tear excepted. If the condition of the Property is altered, by an act of God or other natural force beyond the control of Seller, however, Buyer may elect, at its sole option, to terminate this Agreement and neither party shall have any further obligations under this Agreement. Seller represents and warrants that there are no parties other than Seller in occupancy or possession of any part of the Property. Seller warrants that there are no facts known to Seller materially affecting the value of the Property which are not readily observable by Buyer or which have not been disclosed to Buyer. Buyer acknowledges Buyer is purchasing the Property in "as is condition".

24. **Right to Enter Property and Possession.** Seller agrees that from the date this Agreement is executed by Seller, Buyer and its agents, upon reasonable notice, shall have the right to enter the Property for all lawful purposes in connection with this Agreement. Buyer shall coordinate with Seller to minimize disruption to Seller's normal store hours. Seller shall provide Buyer with access to all buildings on the Property for such purposes. Seller shall deliver possession of the Property to Buyer at Closing.

25. **Brokers.** Buyer hereby acknowledges, represents and warrants that no broker or finder has been employed by Buyer in connection with the sale and purchase transaction contemplated

in this Contract. Seller hereby acknowledges, represents and warrants that any brokerage or finder services employed by Seller in connection with the sale and purchase transaction contemplated in this Contract shall be the sole responsibility of the Seller and be independent of this Contract. Seller and Buyer each agrees to indemnify, defend, save and hold the other harmless from and against the payment of any commissions or fees or claims for commissions or fees by virtue of any acts or actions undertaken by them, respectively; it being expressly agreed that the foregoing agreement of indemnification shall expressly survive any Closing under this Contract or earlier termination of this Contract.

26. **Recording.** Buyer may record this Agreement, or notice of it, in the Public Records of Flagler County, Florida, at its discretion and expense. If Buyer subsequently terminates this Agreement, if Buyer has recorded the Agreement or notice thereof, Buyer shall record a Notice of Termination.

27. **Assignment.** This Agreement may be assigned by Buyer to another government entity, in which event Buyer will provide written notice of assignment to Seller. Seller may not assign this Agreement without the prior written consent of Buyer.

28. **Time.** Time is of essence with regard to all dates or times set forth in this Agreement.

29. **Severability.** If any of the provisions of this Agreement are deemed to be unenforceable and the unenforceability of said provisions does not adversely affect the purpose and intent of this Agreement, in Buyer's sole discretion, the enforceability of the remaining provisions of this Agreement shall not be affected.

30. **Successors in Interest.** This Agreement shall bind and inure to the benefit of Seller and Buyer and their respective heirs, legal representatives and successors. Whenever used, the singular shall include the plural and one gender shall include all genders.

31. **Entire Agreement.** This Agreement contains the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. No supplement, modification or amendment to this Agreement shall be binding unless executed in writing by the parties. Notwithstanding the foregoing, the parties acknowledge that the legal description contained in **Exhibit "A"** was prepared based upon historic chain of title information, without the benefit of a current survey of the Property. The parties agree that if, in the opinion of Buyer, it becomes necessary to amend the legal description of the Property to correct errors, to more properly describe the Property, to cut out portions of the Property affected by title defects unacceptable to Buyer or which cannot be timely cured by the Seller, or to otherwise revise the legal description of the Property, the legal description to be used in the Survey (if any) and in the Closing instruments required by this Agreement shall be revised by or at the direction of Buyer, and shall be subject to the final approval of Buyer. Anything to the contrary hereinabove notwithstanding, such a revision of the legal description of the Property shall not require a written amendment to this Agreement. In such event, the Seller's execution and delivery of the Closing instruments containing the revised legal description and Buyer's acceptance of said instruments and of the final Survey (if any) containing the revised legal description shall constitute a full and complete ratification and acceptance of the revised legal description of the Property by the parties.

32. **Waiver.** Failure of Buyer to insist upon strict performance of any covenant or condition of this Agreement, or to exercise any right herein contained, shall not be construed as a waiver or relinquishment for the future of any such covenant, condition or right; but the same shall remain in full force and effect.

33. **Counterparts.** This Agreement may be executed in one or more counterparts, but all such counterparts, when duly executed, shall constitute one and the same Agreement.

34. **Addendum.** Any addendum attached hereto that is signed by the parties shall be deemed a part of this Agreement.

Notice. Whenever either party desires or is required to give notice unto the other, it must be given by written notice, and either delivered personally, transmitted via facsimile transmission, mailed postage prepaid, certified mail, or sent by overnight courier to the appropriate address indicated on the first page of this Agreement, or such other address as is designated in writing by a party to this Agreement. A copy of any notice given to Buyer shall also be given to the following representatives of the Buyer: Flagler County Administrator, at 1769 E. Moody Blvd., Bldg. #2 Suite 301, Bunnell, Florida 32110, and also to Flagler County Attorney, at 1769 E. Moody Blvd., Bldg. #2 Suite 303, Bunnell, Florida 32110. A copy of any notice given to Seller shall also be given to the following representatives of _____ the Seller: _____

_____ and also to Ms. Margaret Sheehan-Jones, CCIM, Broker Associate, Parkside Realty Group, Commercial Division, 210 Old Kings Road S. Suite 500. Flagler Beach 32136.

35. **Survival.** The covenants, warranties, representations, indemnities and undertakings of Seller set forth in this Agreement shall survive the Closing, the delivery and recording of the deed described in paragraph 18 of this Agreement and Buyer's possession of the Property.

IF THIS INSTRUMENT IS NOT EXECUTED BY THE SELLER ON OR BEFORE THE 16th DAY OF NOVEMBER, 2018, BUYER SHALL BE UNDER NO OBLIGATION TO ACCEPT THIS INSTRUMENT. THE EXERCISE OF THE OPTION PROVIDED FOR HEREIN IS SUBJECT TO: (1) APPROVAL BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS, (2) ADEQUATE BUYER FUNDING AS DEFINED HEREIN, AND (3) BUYER APPROVAL OF ALL DOCUMENTS TO BE FURNISHED HEREUNDER.

THIS IS INTENDED TO BE A LEGALLY BINDING AGREEMENT WHEN DULY EXECUTED.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement, to become effective as of the date and year first above written.

SELLER

DARNELL GROUP, INC., a Florida Corporation

Witness [Signature]
Print Name: [Signature]
Witness [Signature]
Print Name: MARLAET SHEEHAN-JONES

By:

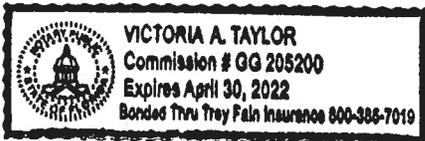
By: [Signature]
James McIntyre, its ~~Manager~~ PRESIDENT JMC
Date: 11/12/18

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this 12th day of Nov, 2018
by James K. McIntyre Such person(s) (Notary Public must check applicable box):

is/are personally known to me.
produced a current driver license(s).
produced _____ as identification.

(NOTARY PUBLIC SEAL)



[Signature]
Notary Public
Commission No.: 66205200
My Commission Expires: 4/30/1922

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BUYER

**FLAGLER COUNTY BOARD
OF COUNTY COMMISSIONERS**

Witness
Printed Name: _____

By: _____
Craig Coffey, County Administrator

Date: _____

Witness
Printed Name: _____

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this _____ day of _____, 2018 by _____ . Such person(s) (Notary Public must check applicable box):

is/are personally known to me.
produced a current driver license(s).
produced _____ as identification.

(NOTARY PUBLIC SEAL)

Notary Public
Commission No.: _____
My Commission Expires: _____

Exhibit "A"

Lot 2, PARKWAY WEST BUSINESS PARK, according to the plat thereof, recorded in Plat Book 31, Page(s) 34 and 35, of the Public Records of FLAGLER County, Florida.

**[To be verified by Updated
Survey].**

Project Folio/Tax ID No.: 07-11-31-5055-00000-0020

Exhibit "B"

Option Agreement Approval

On November 19, 2018, the Flagler County Board of County Commissioners voted to approve the Option granted in the Option Agreement for Sale and Purchase by and between Darnell Group, Inc., and Flagler County, subject to any additional conditions approved by the Board. All other conditions of the Agreement shall remain the same and it shall be considered a binding purchase and sale agreement pursuant to its terms and conditions as amended hereby. A copy of this acceptance of the Option shall be furnished to Seller as soon as is practicable.

Additional conditions approved by the Board: _____

FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS

ATTEST:

BY: _____
Gregory L. Hansen, Chair

Tom Bexley, Clerk of the Circuit Court
and Comptroller

APPROVED AS TO FORM:

Albert J. Hadeed, County Attorney

ITEM 7L – CONSIDERATION OF THE EXERCISE OF AN OPTION AGREEMENT TO PURCHASE 8,000 SQUARE FOOT FACILITY TO RELOCATE THE FLAGLER COUNTY TAX COLLECTOR’S PALM COAST DISTRICT OFFICE IN THE AMOUNT OF \$1,125,000

The following information was submitted by Craig Coffey, County Administrator:

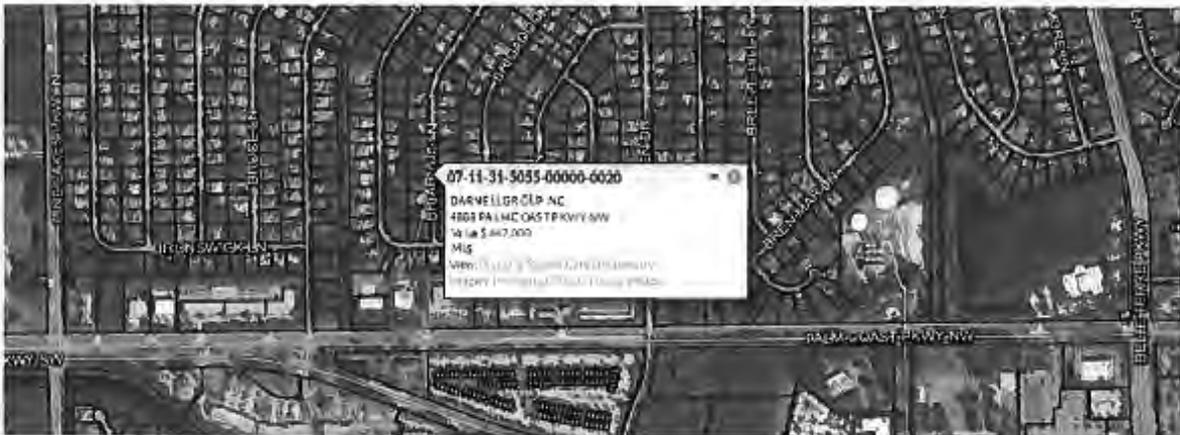
**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
CONSENT / AGENDA ITEM #7I**

SUBJECT: Consideration of the Exercise of an Option Agreement to Purchase 8,000 Square Foot Facility to Relocate the Flagler County Tax Collector’s Palm Coast District Office in the Amount of \$1,125,000.

DATE OF MEETING: November 19, 2018

OVERVIEW/SUMMARY: Staff is presenting for consideration the purchase of a facility located at 4888 Palm Coast Parkway NW to be used as the Tax Collector District Office in the Palm Coast area for the amount of \$1,125,000. This proposed new location has an existing 8,000 sq. ft. free standing building on approximately 1.5 acres (Flagler County Property Appraiser’s ID# of 07-11-31-5055-00000-0020). Currently, the County is leasing approximately 1,200 ft. on Old Kings Road North. According to the Tax Collector, the current office serves approximately 71,000 customers per year at this time. This number reflects a steady growth in customers and as this area of Palm Coast continues to grow, this demand will continue to increase. During certain times of the year, such as tax season, the Tax Collector indicated it is common for this location to have customers lined up outside the door with very little room to move or sit inside the building. As a new location, this is expected to offer better service for residents, the proper space for eight Tax Collector staff members and Tax Collector functions, as well as plan for future growth over the next two decades. The County and Tax Collector’s staff has been looking for over 2 years which resulted in the selection of the Palm Harbor Parkway NW location.

Located off of Palm Coast Parkway between Belle Terre Parkway and Pine Lake Parkway, this proposed site maintains a central location in Palm Coast and is less than a 10 minute drive from the current Tax Collector’s District Office.

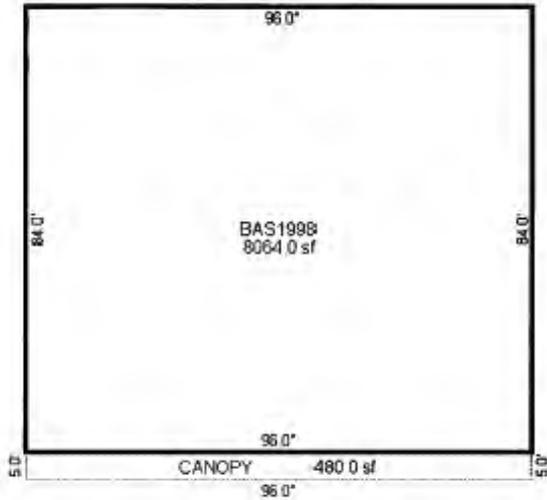


The property is located within incorporated Palm Coast and has COM-2 zoning. The structure's construction was completed in 2000 and has remained a single tenant retail facility since construction. The building is a one story steel beam construction. This property currently has the potential for up to 60 paved parking spaces. The building's construction and property layout allows for an easy addition of a drive through window in the future to more efficiently serve residents. Finally, the building's size provides



(Item 7I – continued)

opportunity to house additional public services as well as a new location for voting.



The MLS listing for this building shows an asking price of \$1,400,000. As previously mentioned, staff has negotiated a purchase price of \$1,125,000, contingent upon the agreed price being confirmed by two separate property appraisals. Prior to extending an offer, staff had the building appraised, and the agreed upon price remains lower than the appraised value. As you recall County practice is to follow the appraisal procedures outlined in Florida Statute 125.355. While the confidentiality of records isn't the primary focus in this case, the appraisal procedures provide a good process for confidence in the market value of property. Properties valued at greater than \$500,000 are appraised by two appraisers. In accordance with County ESL and St Johns River Water Management District procedures, both products are then reviewed by an

appraisal reviewer to ensure soundness of methodology and attempt to close a difference in values of greater than 20%. The attached option is conditioned upon the second appraisal and review of both products. If the Board chooses to exercise this option a closing of January is planned. Additional acquisition expenses



would include title insurance, an updated survey, and other normal closing expenses which may increase purchase and closing costs to \$1,150,000. Further estimated expenses include costs associated with conversion to a Tax Collector's space of 5,000 sq.ft. and the potential for 3,000sq.ft. of governmental offices, or retail uses, which would add an estimated additional \$150,000 in remodeling expenses. The construction costs are only estimates and could grow \$50,000-\$100,000 depending on the final details of what is required from the State, Tax Collector and permitting requirements

Seller costs include payoff of all taxes, liens, judgements and other encumbrances of the property that are not acceptable to us in our sold discretion as well as recorded costs and documentary stamp fees.

Financially, total costs are expected to be \$1.3M to \$1.4M. The County will be securing financing for this project through the FAC commercial paper program. The County will charge the Tax Collector over a 15-year period for the purchase. However, at a practical level, any payment agreement with the Tax Collector will reduce the amount the County receives in returned monies at the end of the year. There are potential savings for the Tax Collector which include the rent and CAM costs the Tax Collector pays at the current location, which are \$41,469.36 per year. There

(Item 7I – continued)

may also be some savings on security (\$27,000 per year), if the Sheriff's Office deputies occupy some of the remaining space.

FUNDING INFORMATION: Flagler County is approved in the Florida Association of Counties Commercial Paper Program to borrow up to \$4M with no issuance costs. A resolution to draw funds sufficient to purchase and improve the property will be brought to the Board for approval before closing on the property

DEPT./CONTACT/PHONE #: Land Management, Tim Telfer (386) 313-4066

RECOMMENDATION: Request the Board approve exercising the option agreement for the Flagler County Tax Collector's Palm Coast District Office and authorize the County Administrator to execute any instruments necessary to effectuate the purchase, as approved to legal format by the County Attorney.

ATTACHMENTS:

1) Option Agreement


Craig M. Coffey, County Administrator


Date

Commissioner Sullivan asked for an overview.

Mr. Coffey reviewed the item.

Chair Hansen requested for public comment. There was none.

Commissioner Ericksen noted that the additional space might be another way to relieve some of the voting traffic at the library.

A motion was made by Commissioner McLaughlin to approve Item 7I. Seconded by Commissioner Sullivan.

Chair Hansen called the question. Motion carried unanimously.

The meeting recessed at 8:38 p.m. and reconvened at 8:50 p.m.

Chair Hansen announced the BCC would first hear Item 9A and then Items 8a and 8b.