

MEMORANDUM

TO: Real Estate & Transportation Committee
Commissioner Bill Read, Chairman
Commissioner Justin Troller
Commissioner Phillip Walker

FROM: City Attorney's Office

DATE: March 5, 2018

RE: Sale of CRA Property Located North of Myrtle Street, South of Parker Street, East of Stella Avenue and West of Lake Avenue to Green Mills Holdings, LLC

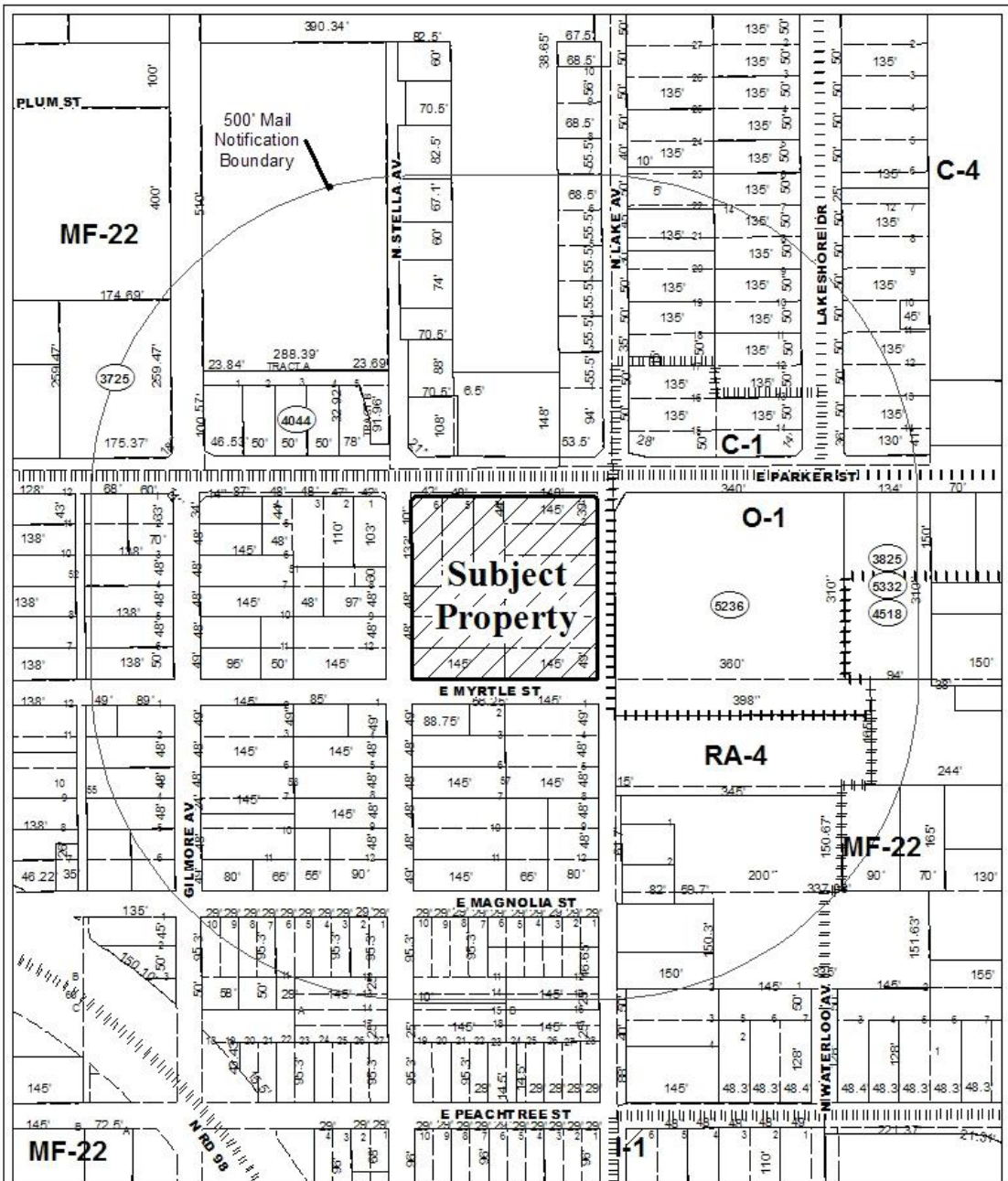
Attached for your consideration is an Agreement of Purchase and Sale between the Community Redevelopment Agency (CRA) and Green Mills Holdings, LLC for the sale of CRA-owned property located south of Parker Street, east of Stella Avenue, west of Lake Avenue and north of Myrtle Street. CRA and City staff were approached by representatives of Green Mills Holdings out of Fort Lauderdale on January 23, 2018 regarding their interest in securing site control of this CRA-owned property for the purpose of applying to the Florida Housing Finance Corporation (FHFC) for Low Income Housing Tax Credits. The subject property was assembled between 2006 and 2008 by the CRA. The 1.8-acre property is largely vacant, with the only remaining structure, a concrete block duplex, located at the southwest corner of the block.

Green Mills is interested in developing the site as affordable housing tax credit apartments and has offered \$324,000. The attached Agreement specifies that Green Mills will construct no fewer than 70 multi-family residential units on the site. The tax credit application process is conducted on a lottery basis and attracts many applicants. It is a condition of closing that Green Mills be awarded the necessary tax credits from the FHFC. If Green Mills is unsuccessful with obtaining tax credits in the 2018 application period, they may terminate the Agreement and receive a refund of their initial deposit of \$5,000.00. If they choose not to terminate, the \$5,000.00 deposit becomes non-refundable and they must submit an additional nonrefundable deposit of \$10,000 to apply again during the 2019 FHFC tax credit application cycle.

The subject property has been marketed by the CRA for a number of years, with little interest. Recent appraisals of the property's value have varied from \$40,000 to a value slightly under Green Mills' offer. The Property Appraiser's just market value for the property is \$163,198. After discussion with the CRA Advisory Board, the Board determined that a project of this type is consistent with the Midtown CRA Redevelopment Plan and the CRA Advisory Board has accepted the terms of the proposal. After the payment of brokerage fees of 8%, or \$25,920, the CRA would net \$298,080.00 for the property. The purchase price was increased from the amount originally offered to offset the payment of brokerage fees. The CRA Advisory Board voted to recommend approval of the disposition and development of this property to the City Commission at its February

1, 2018 meeting. The Board's motion included a condition that CRA staff approve the elevations of the development, which condition has been included in the Agreement. It is recommended that the City Commission, acting as the City's Community Redevelopment Agency, approve the attached Agreement of Purchase and Sale with Green Mills Holdings, LLC and authorize the appropriate CRA officials to execute all documents necessary to finalize the transaction.

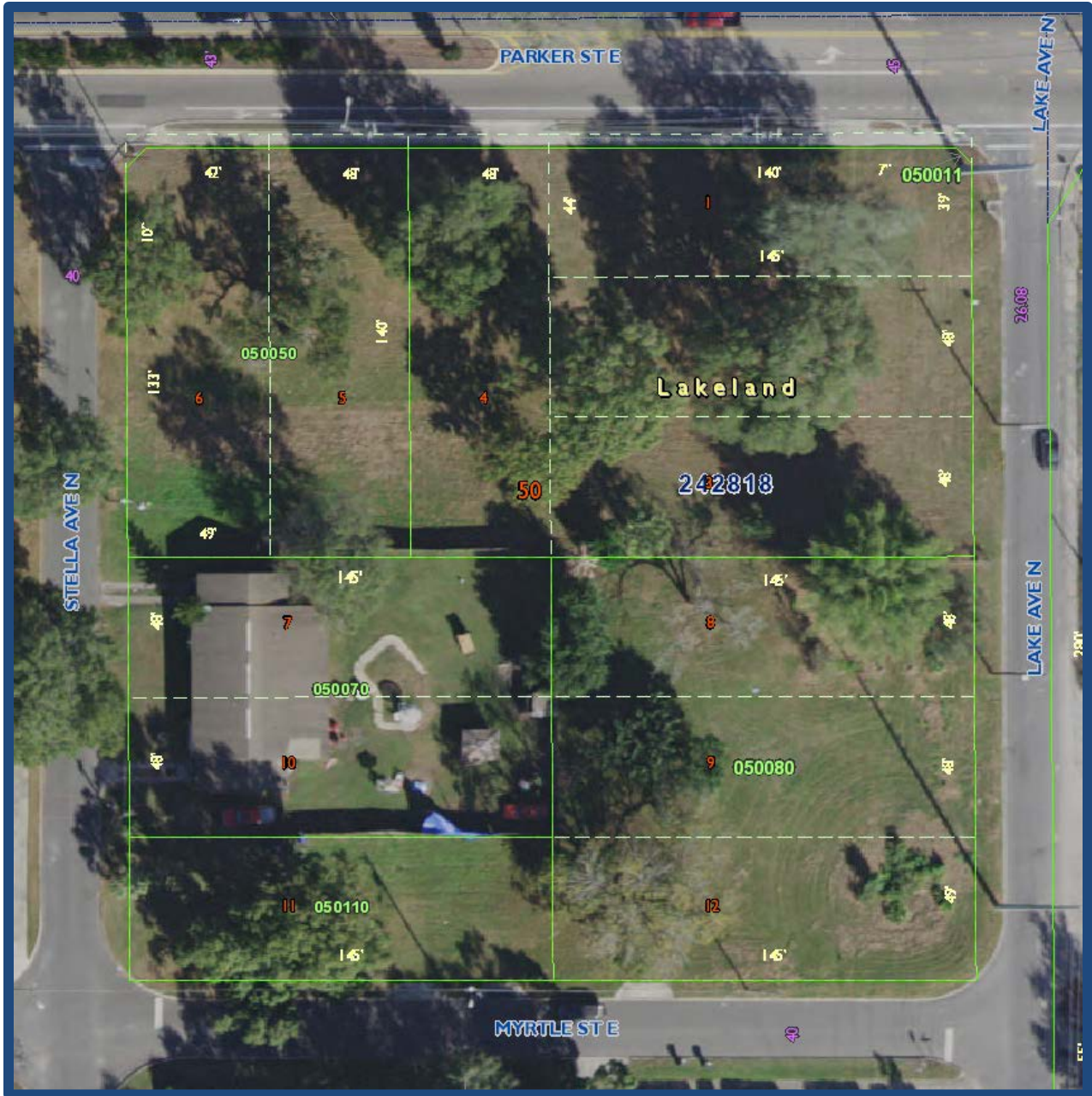
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PRESENT ZONING: RA-4
PROPOSED ZONING: MF-22
FILE NO: 13-APR-006-Z (1.9 Ac.+)



APRIL, 2013



AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE ("**Agreement**") is made by and between the Lakeland Community Redevelopment Agency ("**Seller**"), and Green Mills Holdings, LLC, and/or its assigns ("**Buyer**").

WITNESSETH:

WHEREAS, Seller owns certain real property comprised of approximately 1.89 acres located in Polk County, Florida, identified as parcel ID's 24-28-18-200000-050011, 24-28-18-200000-050050, 24-28-18-200000-050080, 24-28-18-200000-050070 and 24-28-18-200000-050110 by the Polk County Property Appraiser, as more particularly described in Exhibit "A" attached hereto and made a part hereof ("Property");

WHEREAS, Buyer wishes to purchase the Property and any and all improvements located thereon from Seller, and Seller wishes to sell the Property and any and all improvements located thereon to Buyer, pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, Seller and Buyer agree as follows:

1. **Purchase and Sale.** Seller agrees to sell and convey and Buyer agrees to purchase the Property, which shall include all of the right, title and interest of Seller in and to (i) all easements, rights of way, privileges, licenses, appurtenances and any other rights, privileges and benefits belonging to the owner of, running with title to, or in any way related to, the Property; (ii) all land use or other consents, authorizations, variances, waivers, licenses, permits, approvals, development orders, or any other entitlements issued or granted by or from any governmental authority with respect to the Property; (iii) all percolation, soil, topographical, traffic, engineering and environmental reports or studies in the possession or control of the Seller, and all riparian, littoral rights, title to submerged lands and other water rights related to or benefiting the Property; (iv) all utility service laterals, hydrants, connections, hook-ups and valves located on and servicing or available to service the Property; and (v) any and all other agreements, contracts, covenants, variances and rights, benefits and privileges related to or benefiting the Property.

2. **Purchase Price.** The purchase price for the Property ("**Purchase Price**"), which Buyer agrees to pay and Seller agrees to accept, is THREE HUNDRED TWENTY FOUR THOUSAND and No/100 Dollars (\$324,000.00), subject to the credits, prorations, and adjustments herein set forth, at Closing. The Purchase Price shall be payable as follows:

a. **First Deposit.** On or before the fifth (5th) business day following the Effective Date of this Agreement, Buyer shall deliver to Broad and Cassel, as escrow agent ("**Escrow Agent**"), the sum of FIVE THOUSAND and No/100 Dollars (\$5,000.00) by check or wire transfer, the proceeds of which shall be held in trust by Escrow Agent as an earnest money deposit ("**First Deposit**") in an interest bearing account, and disbursed only in accordance with the terms of this Agreement. The First Deposit shall become non-refundable three (3) business days after expiration of the Inspection Period, except in the event that: (i) the Seller fails, refuses or is unable to perform all of its obligations under this Agreement; (ii) one or more of the Closing

Conditions in favor of Buyer set forth herein has not been satisfied, with the exception of the condition that Buyer shall have received an award of LIHTC funds from FHFC sufficient to construct the Intended Improvements, the failure of which shall not entitle Buyer to a refund of the First Deposit; or (iii) as otherwise specifically provided in this Agreement.

b. Second Deposit. If Buyer has elected to proceed with this transaction following the Inspection Period, then within five (5) business days after the expiration of the Inspection Period, Buyer shall deliver to Escrow Agent, the sum of TEN THOUSAND and No/100 Dollars (\$10,000.00) by check or wire transfer, the proceeds of which shall be held in trust by Escrow Agent as an earnest money deposit ("Second Deposit") in the same interest bearing account as the First Deposit. The First Deposit and the Second Deposit, to the extent delivered to the Escrow Agent, are sometimes hereinafter referred to as the "Deposit"). The Second Deposit shall be non-refundable to Buyer, except in the event that (i) the Seller fails, refuses or is unable to perform all of its obligations under this Agreement; (ii) one or more of the Closing Conditions in favor of the Buyer set forth herein has not been satisfied, with the exception of the condition that Buyer shall have received an award of LIHTC funds from FHFC sufficient to construct the Intended Improvements, the failure of which shall not entitle Buyer to a refund of the Second Deposit; or (iii) as otherwise specifically provided in this Agreement.

c. Balance. The Deposit(s) shall be applied to the Purchase Price at Closing, and Buyer shall pay to Seller the remainder of the THREE HUNDRED TWENTY FOUR THOUSAND and No/100 Dollars (\$324,000.00) subject to the credits, proration, and adjustments herein set forth, by a cashier's check or by wire transfer of United States Dollars.

d. Escrow Deposit. The Deposit shall be invested by Escrow Agent in an interest bearing account, but only after Buyer has executed all necessary governmental forms, including a W-9 and delivered such form to Escrow Agent. Any and all interest earned on the Deposit shall accrue to the benefit of Buyer and shall be reported to Buyer's federal tax identification number. Escrow Agent shall have no responsibility in case of failure or suspension of business of the institution holding the Deposit. Interest earned, if any, shall be credited to the Buyer upon Closing, or, in the event of Buyer's default, paid to Seller.

3. Demolition/Stormwater. Buyer shall pay for all demolition and abatement as necessary after the Closing Date. Buyer and Seller shall work together to understand scope of demolition and abatement options.

4. Title Insurance/Survey.

a. Within ten (10) business days following the Effective Date, Seller shall deliver to Buyer and Escrow Agent a copy of Seller's title insurance policy insuring Seller's fee simple title to the Property, if any, and a copy of Seller's existing boundary survey of the Property, if any. Within twenty (20) days after the Effective Date, Buyer, at its sole cost and expense, shall obtain an owner's title insurance commitment ("Title Commitment") from a nationally recognized title insurance company acceptable to Buyer. Marketable title shall be determined according to the Title Standards adopted by authority of The Florida Bar and in accordance with Florida law. Following the Effective Date, Buyer may order an ALTA/ACSM survey or an update of Seller's existing survey, prepared by a Florida licensed surveyor and depicting the Property and all of the

plottable exceptions to the Title Commitment (“Survey”). Buyer shall have until the expiration of the Inspection Period within which to examine the condition of Seller’s title to the Property. If the Title Commitment or the Survey reflects that title to the Property is subject to any exceptions or other survey matters unacceptable to Buyer, Buyer shall, prior to the expiration of the Inspection Period, notify Seller in writing of the specific title defects (“Title Objections”). Any exceptions listed in the Title Commitment to which Buyer has not timely objected shall be deemed to be “Permitted Exceptions.” Seller, at Seller’s sole cost and expense, shall use commercially reasonable efforts to correct or remove such Title Objections within thirty (30) days after receipt of notice from Buyer. If Seller is not successful in correcting or removing the Title Objection within such thirty (30) day period, Buyer shall have the option of either accepting the title in its existing condition, or of terminating this Agreement by sending written notice of termination to Seller and Escrow Agent. In the event that Buyer elects to terminate this Agreement, Escrow Agent shall return the Deposit to Buyer, and, thereafter, neither Buyer nor Seller shall have any further liabilities or obligations hereunder except with respect to those obligations which expressly survive termination.

b. Seller covenants and agrees that after the Effective Date it shall not enter into or record any document or instrument, or enter into any lease or other agreement, affecting or burdening the Property, unless Buyer has consented in writing to the execution or recordation of such document, instrument, lease or agreement. If any updated endorsement to the Title Commitment or any update of the Survey obtained prior to Closing reveals any exception or survey defect not reflected on the Title Commitment or the Survey that was not consented to by Buyer, Seller, at Seller’s sole cost and expense, shall have such exception deleted from the Title Commitment, or such survey defect removed or cured prior to Closing. If Seller is not successful in removing the same by the Closing Date, Buyer shall have the option of either accepting the title in its existing condition, or of terminating this Agreement by sending written notice of termination to Seller and Escrow Agent. In the event that Buyer elects to terminate this Agreement, Escrow Agent shall return the Deposit to Buyer. Notwithstanding anything else to the contrary in this Agreement, in the event Seller fails to remove an exception revealed in the Title Commitment, or any update thereof (whether or not objected to by Buyer), in the form of: (1) a mortgage or other security interest entered into by Seller; (2) a lien or encumbrance of any kind or nature voluntarily created by Seller at any time on or after the date of this Agreement; or (3) a mechanic's or materialman’s lien or a judgment docketed against the Property, in any case resulting from the non-payment by Seller of any sums alleged to be due and owing by Seller to a contractor or materialman or otherwise voluntarily caused or created by Seller, then in addition to the return of the Deposit, Buyer shall be entitled to recover from Seller all third party costs incurred by Buyer, including reasonable attorneys’ fees and costs, in connection with this Agreement and the Property.

5. **Inspection Period.** For the period beginning with the Effective Date and continuing until 11:59 PM Eastern Time the date that is five (5) business days after the Buyer receives an invitation to credit underwriting from FHFC to finance the development of the Property, or December 31st, 2018 (“Inspection Period”), whichever comes first, Seller hereby grants to Buyer the right to make or obtain any and all investigations, tests, studies, evaluations, assessments and reports Buyer deems necessary or desirable with respect to the Property.

a. During the Inspection Period, Seller hereby grants to Buyer and its agents, employees, contractors and representatives, a right of entry upon every portion of the Property, and a right to examine all records, documents, data or information of any kind or nature relating to or concerning the Property in the possession or under the control of Seller or other matters pertaining to the Property (and Seller hereby agrees to make any and all records, documents, data or information of any kind or nature relating to or concerning the Property in the possession or under the control of Seller available to Buyer) from time to time at all reasonable times for the purpose of making surveys, engineering studies, drainage studies, appraisals, zoning and land use studies, impact studies, surface and subsurface explorations, tests, excavations, borings and such other investigations, inspections, assessments or reports as Buyer, in its sole and absolute discretion, may elect to make. Seller shall deliver to Buyer, within three (3) business days after the Effective Date, copies of any and all surveys (in CADD format, if available), site plans or layouts, engineering, environmental, soil, wetlands determinations, zoning, land use, appraisal and feasibility studies, reports and assessments, concurrency evaluations, any plans and specifications for the Property approved by the local building department having jurisdiction over the Property, which Seller has in its possession or control (collectively, "Plans and Specs"), and any correspondence concerning any such topics that Seller has in its possession or control, and all other governmental orders, approvals, exemptions, waivers, permits, licenses, special exceptions or variances relating to the Property or any proposed use thereof which are in Seller's possession or control. Seller shall also deliver to Buyer, within three (3) business days after the Effective Date, legible copies of all leases, service contracts, operating agreements, management agreements and warranties relating to or concerning the Property.

b. Buyer assumes liability for all acts of its agents who enter onto the Property and agrees to indemnify and hold harmless the Seller from any loss, damage, cost or expense incurred by Seller as a result of such acts of Buyer and its agents that cause injury to persons or damage to the Property.

c. Notwithstanding any provision in this Agreement to the contrary, at any time on or before the end of the Inspection Period, Buyer may, without liability to Seller and for any reason or no reason whatsoever, terminate this Agreement by written notice to Seller and Escrow Agent, following which Escrow Agent shall promptly return the First Deposit to Buyer; upon such termination, both parties shall be released from all further obligations or liability under this Agreement except for those obligations which expressly survive termination.

d. If Buyer has not terminated this Agreement, as provided herein, the right of entry and investigation granted herein shall continue unabated through Closing.

e. During the Inspection Period Buyer shall make diligent efforts to obtain financing for the intended improvements. These efforts will include applying for Low Income Housing Tax Credits from the Florida Housing Finance Corporation within each applicable Request for Application cycle for which the Property is competitive. Buyer will spend considerable effort and incur expenses related to applying for funding and will provide Seller with copies of all applicable funding applications. If the Buyer is not successful in attaining the Low Income Housing Tax Credits from the Florida Housing Finance Corporation in the 2018 application cycle, a 2nd Inspection Period will commence at the Buyer's option. The 2nd Inspection Period will expire on December 31st, 2019.

6. **Government and FHFC Approvals.**

a. Buyer's obligation to purchase the Property from Seller is contingent upon Seller obtaining the final issuance of: (i) all zoning and other governmental approvals from applicable governmental authorities having jurisdiction over the Property, to permit the construction, completion and operation of a multifamily residential project containing a minimum of 70 residential units together with related amenities and accessory uses (the "Intended Improvements"); (ii) final site plan approval, for which all appeal periods have expired with no appeal having been filed, for the Intended Improvements from the applicable governmental and regulatory authority(ies); (iii) concurrency and utility approvals; (iv) storm water drainage permit issued by the relevant drainage district; (v) building permits issued by the relevant municipality or county; and (v) any other governmental and regulatory approvals and/or permits required in connection with the construction of the Intended Improvements (collectively the "Government Approvals"). Seller agrees to apply for, or join in any and all applications, permits, consents, zoning, land use, concurrency, platting and other permitting, etc., that may be required to be filed in connection with the Government Approvals. Buyer shall pay all reasonable and documented costs associated with obtaining the Government Approvals.

b. Final issuance of the Government Approvals shall be deemed to occur only when all of the Government Approvals have been issued or granted by the applicable governmental and quasi-governmental boards and agencies, all appeal periods have expired and any appeals filed have been finally and favorably determined. If this condition precedent is not satisfied on or before August 15th, 2020 (the "Approvals Deadline") then Buyer shall be entitled (but Buyer shall not be obligated) to terminate this Agreement and upon such termination by Buyer, the Deposit shall be refunded to Buyer and the parties shall be relieved of all further liability under this Agreement, except for those obligations which expressly survive termination of this Agreement.

c. If either (i) the Government Approvals are not sufficient to allow for the construction of the Intended Improvements or contain unreasonable conditions to approval that are not acceptable to Buyer in its sole discretion or (ii) Seller fails to obtain the Government Approvals prior to the Approval Deadline, then, in the case of any such event, Buyer shall have the right to terminate this Agreement by providing written notice to Seller ("Approval Termination Notice"). Upon receipt of the Approval Termination Notice, the Second Deposit shall be refunded to Buyer and this Agreement shall be terminated and shall be null and void without recourse as to either party hereto, except for those obligations that expressly survive the termination of this Agreement.

d. So long as Seller is not required to incur any cost or expense with regard thereto, Seller shall cooperate with Buyer in performing its due diligence with respect to the Property and in seeking any and all consents, permits or approvals regarding the Property as Buyer may request, and Seller shall promptly join in all applications for building permits, certificates or other agreements, and permits for sewer, water, or other utility services, other instruments or other permits or approvals, the granting of or entry into which, by any governmental or quasi-governmental authority having jurisdiction over the Property, is, in Buyer's reasonable opinion, necessary to permit the development, construction, use or occupancy of the Intended Improvements.

e. Buyer intends to submit an application to Florida Housing Finance Corporation (FHFC) for Low Income Housing Tax Credits (LIHTC) on or before the Application Deadline established by FHFC, subject to change based upon the FHFC determination. If Buyer determines that the LIHTC application submitted by Buyer either will not or has not been successful in obtaining an allocation of LIHTC in an amount sufficient to construct the Intended Improvements, then Buyer shall be entitled (but Buyer shall not be obligated) to terminate this Agreement by providing written termination notice to Seller and upon such termination by Buyer, the Deposit shall be refunded to Buyer, except as otherwise provided herein, and the parties shall be relieved of all further liability under this Agreement, except for those obligations which expressly survive termination of this Agreement.

f. Notwithstanding anything contained herein to the contrary, Seller shall have the right to review and approve or disapprove the final elevations for the Intended Improvements.

7. **Covenants of Seller; Operation of the Property.** Seller hereby covenants and agrees that from and after the Effective Date:

a. Seller will not, without the Buyer's prior written consent, create by its consent any encumbrances on the Property. For purposes of this provision the term "encumbrances" shall include, but not be limited to, any liens, claims, options, or other encumbrances, encroachments, rights-of-way, easements, covenants, conditions or restrictions.

b. Seller shall pay all assessments and taxes prior to becoming delinquent.

c. Seller will not create or consent to the creation of any special taxing districts or associations with the authority to impose taxes, liens or assessments on the Property.

d. Seller will not remove any fill or cause any change to be made to the condition of the Property without the prior written consent of the Buyer.

e. Seller shall take no action with respect to the Property that would alter or affect any of the representations or warranties of Seller under this Agreement or which would in any manner affect Buyer's future use and development of the Property.

8. **Closing Conditions.** Buyer's obligation to close this transaction shall be subject to the satisfaction of each of the following conditions on or before the Closing Date:

a. Seller shall not be in default under any term, covenant or conditions of this Agreement.

b. Each of the representations and warranties of Seller set forth in this Agreement shall be true, complete and correct at the date of the Closing as if made at that time, and the Seller shall have delivered its certificate to such effect.

c. Buyer shall have received an award of LIHTC funds from FHFC sufficient to construct the Intended Improvements.

d. There shall not be a sewer, water, building or other moratorium in effect which would interfere with the immediate construction and occupancy of Buyer's Intended Improvements ("Moratorium").

e. At the Closing, the Title Insurance Company shall irrevocably commit to issue to Buyer an ALTA Owner's Policy of title insurance, dated as of the date and time of the recording of the deed, in the amount of the Purchase Price, insuring Buyer as owner of good, marketable and indefeasible fee simple title to the Property, free and clear of liens and encumbrances, and subject only to the Permitted Exceptions ("Title Policy").

f. Sole and exclusive possession of the Property shall be delivered to Buyer at Closing.

In the event that any of the foregoing conditions precedent to Closing have not been satisfied as of the Closing Date, Buyer shall have the right to waive any or all of the foregoing conditions and close this transaction or Buyer shall have the right to terminate the Agreement, and in such event the Deposit and all interest earned thereon shall be refunded to Buyer and neither party shall have any further rights or obligations hereunder, except those obligations which survive termination of the Agreement, except that the failure of Buyer to receive an award of LIHTC funds from FHFC sufficient to construct the Intended Improvements shall not entitle Buyer to a refund of the Deposit. If at the time of Closing, there is a Moratorium in effect with respect to the Property as described herein, then at Buyer's option (by written notice to Seller): (i) this Agreement shall be terminated and in such event the Deposit shall be refunded to Buyer and neither party shall have any further rights or obligations hereunder, except those obligations which survive termination of the Agreement; or (ii) the Closing Date may be extended to the earlier of twenty (20) days after the date the Moratorium is lifted or six (6) months from the scheduled Closing. If the Closing Date is extended and if the Moratorium is still in effect six (6) months from the scheduled Closing, then unless Buyer waives the existence of such Moratorium as a Closing condition and elects to close this transaction, this Agreement shall be terminated and neither party shall have any further rights or obligations hereunder, except those obligations which survive termination of the Agreement. If Buyer waives such condition, the Closing shall take place within twenty (20) days after expiration of such six (6) month period.

9. **Closing Documents.** The Closing documents shall be provided by the parties as set forth below, in form acceptable to Buyer:

a. At Closing Seller shall execute and/or deliver to Buyer:

i. **Warranty Deed.** A warranty deed in recordable form, duly executed by the Seller, conveying to the Buyer good, marketable and insurable fee simple title to the Property subject only to the permitted exceptions as reflected in the Commitment which have not been objected to by Buyer, with the legal description provided in the Commitment.

ii. **Affidavit.** An owner's and contractor's affidavit adequate for title insurance to be issued by the Title Company without exception for parties in possession, mechanics' or materialmen's liens and to permit the Title Company to delete the "gap" in the Title Commitment.

iii. FIRPTA Affidavit. In order to comply with the requirements of the Foreign Investment Real Property Tax Act of 1980 (“FIRPTA”), Seller will deliver to Buyer at Closing Seller’s affidavit under penalty of perjury stating the Seller is not a “foreign person,” as defined in Section 1445 of the Internal Revenue Code of 1986 and the U.S. Treasury Regulations thereunder, setting forth Seller’s taxpayer identification number, and that Seller intends to file a United States income tax return with respect to the transfer or is exempt from filing a return. Seller represents and warrants to Buyer that it has not made nor does Seller have any knowledge of any transfer of the Property or any part thereof that is subject to any provisions of FIRPTA that has not been fully complied with by either transferor or transferee.

iv. A duly executed certification that every representation and warranty of Seller under this Agreement is true and correct as of the Closing as if made by Seller at such time;

v. Any and all documents reasonably requested by Buyer or the title company in connection with Seller’s authority to execute this Agreement, the deed and all other documents contemplated under this Agreement, including Trustee Affidavits, copies of Seller’s Trust Agreement, and any co-trustee or beneficiary consent required thereunder;

vi. Any and all documents requested by the title company which are required to release any vendor claims that may be available to Seller due to the unpaid portion of the Purchase Price at Closing.

vii. A closing statement prepared by Escrow Agent setting forth all amounts paid, credited and otherwise due, payable and paid hereunder (“Closing Statement”); and

viii. Such additional documents or instruments as may be required to effectuate the terms, conditions and provisions hereof and to carry out the intent of the parties hereto, or as may be reasonably required by the title insurance company, so as to be able to delete at Closing all of the requirements of Schedule B-Section 1 of the Title Commitment and all of the standard printed exceptions (other than the exception for taxes and assessments for the current year not yet due and payable, and the survey exception, which shall be limited to the specific matters affecting the Property reflected on the Survey) from Schedule B-Section 2 of the Title Commitment, and to insure the gap between the effective date of the Title Commitment and the recording of the deed conveying title to the Property from Seller to Buyer.

b. At Closing, Buyer shall deliver to Seller:

(i) Closing Statement executed in counterpart;

(ii) The Assignment Agreement executed in counterpart;

(iii) The Purchase Price (as adjusted for all credits, adjustments and prorations set forth in this Agreement); and

(iv) Final Building Permits issued by City of Lakeland and permits from any other regulatory agencies required to commence construction.

(v) Such additional documents or instruments as may be reasonably required or requested by Seller to effectuate the terms, conditions and provisions of this Agreement.

10. **Closing/Closing Expenses.** Except as otherwise provided herein, the consummation of the transactions described in this Agreement (“Closing”) shall take place at the offices of Buyer’s counsel or by mail no later than December 31st, 2020 (“Closing Date”).

At Closing, Buyer shall pay the cost of state documentary stamps and surtax on the warranty deed, all title search fees and other costs pertaining to the Title Commitment and for the title insurance premium on the owner’s title insurance policy to be issued to Buyer pursuant to the Title Commitment in an amount equal to the Purchase Price, the fee for recording the warranty deed, and the costs of the Survey. Each party shall pay its own attorneys’ fees.

11. **Prorations.** The following items shall be adjusted, apportioned, and allowed as of the Closing Date:

a. **Special Assessment Liens.** If, on the Closing Date, the Property or any part thereof, shall be or shall have been affected by any certified, confirmed, and ratified special assessment liens, the same shall be paid and discharged by Seller. Pending liens shall be assumed by Buyer; provided, however, that once the amount of a pending special assessment lien has been finally determined, the amount of the special assessment lien shall be prorated and Seller shall reimburse Buyer for any amounts paid by Buyer which are allocable to the period of time Seller owned the Property within thirty (30) days of Buyer’s delivery to Seller of the proration statement.

b. **Real Estate Taxes.** If the Closing shall occur before the tax rate is fixed, the apportionment of taxes shall be based upon the real estate taxes for the previous year. If the tax rate is not fixed at Closing, the parties agree to make an appropriate adjustment upon the issuance of the actual statement for the taxable year. Thus, if at the time of Closing, the taxes for the current year have not been finally determined, Seller or Buyer, as the case may be, agree to pay any balance later found to be due on the reparation of the actual taxes for the year in which the Closing occurred, within thirty (30) days of the determination thereof.

c. The provisions of this section shall survive the Closing.

12. **Seller’s Representations and Warranties.** Seller represents and warrants to Buyer and covenants and agrees with Buyer as follows:

a. Seller has not entered into any contracts, subcontracts, arrangements, leases, licenses, concessions, easements, or other agreements, either recorded or unrecorded, written or oral, affecting all, or any portion of, or any interest in the Property, which will not have been terminated or expired prior to Closing;

b. To the best of Seller’s knowledge, there are no: (1) existing or pending improvement or special assessment liens affecting the Property; (2) violations of building codes and/or zoning ordinances or other governmental or regulatory laws, ordinances, regulations, orders or requirements affecting the Property; (3) existing, pending or threatened lawsuits, or appeals of prior lawsuits, affecting the Property; (4) existing, pending or threatened condemnation

proceedings affecting the Property; (5) existing, pending or threatened zoning, building or other moratoria, downzoning petitions, proceedings, restrictive allocations or similar matters that could adversely affect the development of the Intended Improvements on the Property; or (6) unrecorded easements, restrictions or encumbrances affecting all or any part of the Property;

c. Seller has not used, manufactured, stored, or released any “Hazardous Materials” (as hereinafter defined) on, in or around the Property, and, to the best of Seller’s knowledge, no other person or entity has ever used, manufactured, stored or released any Hazardous Materials on, in or around the Property, and, to the best of Seller’s knowledge, no Hazardous Materials are present in, on, under or around the Property. As used herein, “Hazardous Materials” shall mean petroleum and petroleum based products and any other substance or material, the use, manufacture, storage, release or presence of which in land, water or elsewhere in the environment is limited, prohibited or in any other way regulated by any federal, state or local law, ordinance, rule or regulation. Seller further represents and warrants that, to the best of Seller’s knowledge, no portion of the Property has ever been used as a landfill or a dump;

d. There are no agreements currently in effect which prohibit or restrict the sale of the Property;

e. Seller has the right, power and authority to execute and deliver this Agreement, to perform each and every obligation of Seller hereunder, and to consummate the transactions contemplated by it; no consent is required by any co-trustee or beneficiary to the Seller’s land trust for the execution of this Agreement or the consummation of the transactions set forth herein; neither the execution and delivery of this Agreement, and, to the best of Seller’s knowledge, neither the performance or consummation of the obligations and transactions contemplated by it, nor the fulfillment of, nor the compliance with, the terms, conditions and provisions of this Agreement will conflict with, or result in a violation or breach of, any relevant law, or any other instrument or agreement of any nature to which Seller is a party or by which it is bound or may be affected, or constitute (with or without the giving of notice or the passage of time) a default under such an instrument or agreement; no consent, approval, authorization or order of any person is required with respect to the execution or delivery of this Agreement or the performance and consummation of the transactions contemplated by this Agreement;

f. No commitments or agreements have been or will be made by Seller to any governmental authority, utility company, school board, church or other religious body, any homeowners or homeowners’ association, or any other organization, group or individual, relating to the Property which would impose an obligation upon Buyer to make any contributions or dedications of money, land, or any interest in land, to construct, install or maintain any improvements of a public or private nature on or off the Property, or otherwise impose any obligations or liability on Buyer or the Property;

g. The Property is currently zoned for multifamily under the applicable zoning ordinance affecting the Property;

h. All utilities, including, without limitation, water, sewer, electricity, telephone, gas and cable television which are necessary or desirable and in the capacities or size

required for development of the Property are available at or near the boundaries of the Property at the rates generally chargeable to developers in Polk County, Florida;

i. All agreements, documents, studies and other materials delivered to Buyer pursuant to the provisions of Sections 3 and 4(a) are true, correct and complete copies of all such items;

j. Seller has received no notice of and to its knowledge there is no violation of any law, regulation, ordinance, order or judgment affecting the Property;

k. Seller owns the Property in fee simple, subject only to those matters disclosed in the Title Commitment.

At all times during the term of this Agreement and as of the Closing Date, all of Seller's representations, warranties and covenants in this Agreement shall be true and correct; no representation or warranty by Seller contained in this Agreement and no statement delivered or information supplied to Buyer pursuant to this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements or information contained in them or in this Agreement not misleading. In the event that any of the foregoing representations or warranties becomes untrue as a result of an act of a third party which is unrelated to and unaffiliated with Seller then such inaccuracy shall not be deemed to be a breach by the Seller, but such inaccuracy shall permit Buyer to terminate this Agreement. The provisions of this section shall survive the Closing.

13. **Broker.** Seller and Buyer represent and warrant each to the other that they have not dealt with any real estate broker, sales person or finder in connection with this transaction other than Gene Strickland of Strickland Real Estate. Seller shall pay a real estate commission of 8% of the Purchase Price at Closing to Strickland Real Estate.

14. **Condemnation.**

a. If the Property, or any part thereof, or any interest therein, shall be taken by eminent domain or condemned prior to the Closing Date, or if Seller shall receive any notice or knowledge that any agency or entity having the power of eminent domain is contemplating or is seeking the taking or condemnation of the Property, or any part thereof, or any interest therein, Seller shall promptly notify Buyer thereof ("Condemnation Notice").

b. Subject to the provisions of subsections (c) and (d) of this section, Buyer shall be entitled to the proceeds of any condemnation proceeding relating to any taking prior to or after the Closing Date. If the payment of such proceeds is received by the Seller prior to the Closing Date, the proceeds shall be delivered to Buyer at Closing. If such proceeds are not delivered to the Buyer on the Closing Date, there shall be a Closing adjustment under Section 2 in the amount of such proceeds.

c. If a condemnation, eminent domain or other taking proceeding shall have been overtly threatened or commenced against the Property, or a portion thereof, or an interest therein, then in any such event, Buyer shall have the option within thirty (30) days after receiving each Condemnation Notice, either to: (i) notify Seller and Escrow Agent of Buyer's election to

terminate this Agreement in which case the Deposit, shall be returned to Buyer and the parties shall thereafter be relieved of any further obligation or liability hereunder except with respect to those obligations which expressly survive termination; or (ii) complete the sale without any adjustments to the Purchase Price, except that any and all condemnation awards which relate to the Property, or any portion thereof, or any interest therein, received by Seller before Closing in respect of such taking shall be paid to Buyer on the Closing Date as a Closing adjustment, and Seller shall transfer and assign to Buyer at Closing all of Seller's rights and interest in and to any such awards and any such proceeds, and all such proceeds and all such awards received by or payable to the Seller after Closing on account thereof shall be paid over to Buyer as a post-closing adjustment under Section 2. Seller's obligation to transfer to Buyer all such proceeds and all such awards received by or paid to the Seller after Closing shall survive the Closing hereunder.

d. Notwithstanding anything in this Agreement to the contrary, unless Buyer has elected to terminate this Agreement, as provided in subsection (c) above, the Closing Date shall be thirty (30) days after receiving any Condemnation Notice, or the date set forth in Section 9, whichever is later.

The provisions of this section shall survive the Closing.

15. **Default.** In the event that Buyer shall fail to perform its obligations hereunder, other than its obligations to indemnify, defend and hold harmless Seller, and such failure is through no fault or failure of Seller to comply with its obligations hereunder, Seller may, as its sole, exclusive and absolute remedy, terminate this Agreement and retain, as full and complete agreed upon liquidated damages, the Deposit. This provision shall not be construed or operate to limit Buyer's obligations to indemnify, defend and hold Seller harmless as provided in this Agreement and such obligations shall survive the Closing or termination of this Agreement. If Seller shall refuse to close, despite its obligation to close hereunder, or if any of the representations, warranties and covenants of Seller shall at any time on or before Closing be found to be false or misleading in any material respect, or if Seller is otherwise in default under the terms and provisions of this Agreement, Buyer may: (i) terminate this Agreement and obtain the return of its Deposit, or (ii) Buyer may seek specific performance of Seller's obligations hereunder, unless specific performance is not available to Buyer, in which case Buyer may seek any other remedy available at law or equity.

16. **Notice.** All notices, consents, approvals, waivers and elections which any party shall be required or shall desire to make or give under this Agreement shall be in writing and shall be sufficiently made or given only when delivered in person, mailed by U.S. Mail, return receipt requested, or sent by email, as provided below:

To Buyer:

Green Mills Holdings, LLC
100 SE 3rd Ave, FL 10
Fort Lauderdale, FL 33394
Attention: Oscar A. Sol
Phone: 305-898-2188
Email: osol@greenmillsgroup.com

With a copy to: BROAD AND CASSEL
390 North Orange Ave, Suite 1400
Orlando, FL 32801
Attention: Heather Toft, Of Counsel.
Telephone: (407) 839-4252
Email: htoft@broadandcassel.com

To Seller: Lakeland Community Redevelopment Agency
228 S. Massachusetts Ave.
Lakeland, FL 33801
Attention: Nicole Travis, CRA Manager
Telephone: (863) 834-6011
Email: Nicole.travis@lakelandgov.net

With a copy to: City Attorney's Office
228 S. Massachusetts Ave.
Lakeland, FL 33801
Attention: Palmer C. Davis, Assistant City Attorney
Telephone: (863) 834-6010
Email: palmer.davis@lakelandgov.net

To Escrow Agent: BROAD AND CASSEL
390 North Orange Ave, Suite 1400
Orlando, FL 32801
Attention: Heather Toft, Of Counsel.
Telephone: (407) 839-4252
Email: htoft@broadandcassel.com

Notices, consents, approvals, waivers and elections given or made as aforesaid shall be deemed to have been dated, given and received: (i) on the date of actual receipt if transmitted by overnight courier, hand delivery, or U.S. Mail, return receipt requested, if a signed receipt is obtained; (ii) on the date of transmission, if transmitted by email, provided the recipient emails acknowledgement of receipt, in the absence of which a copy shall also be sent via overnight courier, effective as of the date of delivery to the overnight courier.

17. **Assignment**. Buyer shall be entitled to assign Buyer's rights and obligations under this Agreement to any other related entity owned by, controlled by, under common control, or affiliated with, Buyer. Any other assignment shall require the prior written consent of Seller.

18. **Radon Gas Notice**. Pursuant to Florida Statutes Section 404.056(5), Seller hereby makes, and Buyer hereby acknowledges, the following notification:

RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and

state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

19. **Escrow Agent.**

a. Escrow Agent undertakes to perform only such duties as are expressly set forth in this Agreement. Escrow Agent shall not be deemed to have any implied duties or obligations under or related to this Agreement.

b. Escrow Agent may: (a) act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine; (b) assume the validity and accuracy of any statement or assertion contained in such a writing or instrument; and (c) assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions of this Agreement has been duly authorized to do so. Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument deposited in escrow, nor as to the identity, authority, or right of any person executing any instrument; Escrow Agent's duties under this Agreement are and shall be limited to those duties specifically provided in this Agreement.

c. The parties to this Agreement do and shall indemnify Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or other expenses, fees, or charges of any character or nature, including attorneys' fees and costs, which it may incur or with which it may be threatened by reason of its action as Escrow Agent under this Agreement, except for such matters which are the result of Escrow Agent's negligence or willful malfeasance.

d. If the parties (including Escrow Agent) shall be in disagreement about the interpretation of this Agreement, or about their respective rights and obligations, or about the propriety of any action contemplated by Escrow Agent, Escrow Agent may, but shall not be required to, file an action in interpleader to resolve the disagreement; upon filing such action, Escrow Agent shall be released from all obligations under this Agreement. Escrow Agent shall be indemnified for all costs and reasonable attorneys' fees, including those for appellate matters and for paralegals and similar persons, incurred in its capacity as escrow agent in connection with any such interpleader action; Escrow Agent may represent itself in any such interpleader action and charge its usual and customary legal fees for such representation, and the court shall award such attorneys' fees, including those for appellate matters and for paralegals and similar persons, to Escrow Agent from the losing party. Escrow Agent shall be fully protected in suspending all or part of its activities under this Agreement until a final judgment in the interpleader action is received.

e. Escrow Agent may resign upon five (5) calendar days' written notice to Seller and Buyer. If a successor escrow agent is not appointed jointly by Seller and Buyer within the five (5) calendar-day period, Escrow Agent may petition a court of competent jurisdiction to name a successor.

f. Seller and Buyer acknowledge and agree that Escrow Agent is the law firm representing Buyer with regard to this Agreement and the transaction which is the subject hereof, and hereby waive any claim against Escrow Agent based upon a conflict of interest as a result of Escrow Agent serving in such dual capacities, excluding only actions by Escrow Agent constituting knowing and intentional misconduct. Seller further agrees that Escrow Agent shall be permitted to represent Buyer in all aspects of this Agreement and the subject transaction, including, without limitation, any dispute with respect to the Deposit.

g. The provisions of this Section shall survive the Closing and also the cancellation of this Agreement.

20. **General Provisions.** The following general terms and conditions apply to this Agreement:

a. **Singular/Plural – Masculine/Feminine.** Words used herein in the singular shall include the plural and words in the masculine/feminine/neuter gender shall include words in the masculine/feminine/neuter where the text of this Agreement requires.

b. **Titles.** Headings in this Agreement are for convenience only.

c. **Successors.** The terms, covenants, and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns, except as herein limited.

d. **Choice of Law.** This Agreement shall be interpreted according to the laws of the State of Florida.

e. **Time.** Time is of the essence in the performance of each and every one of the obligations of the parties to this Agreement. Unless otherwise specified, in computing any period of time described herein, the day of the act or event for which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.

f. **Effective Date.** The last date this Agreement is executed by Buyer and Seller shall be deemed to be the “Effective Date” of this Agreement.

g. **Jury Trial Waiver.** In the event that it becomes necessary for either party to bring suit to enforce the terms of this Agreement, then each party hereby irrevocably and unconditionally waives any right it may have to a trial by jury.

h. **Liability Joint and Several.** If more than one party is named herein as Seller, then such parties hereby agree that the liability of each hereunder shall be joint and several.

i. **Entire Agreement; Construction; Severability.** This Agreement integrates and supersedes all other agreements and understandings of every character of the parties and comprises the entire agreement between them. This Agreement may not be changed, except in writing signed by the parties. No waiver of any rights or obligations hereunder shall be deemed

to have occurred unless in writing signed by the party against whom such waiver is asserted and no waiver shall be deemed a waiver of any other or subsequent right or obligations. The parties acknowledge that the parties and their respective counsel have reviewed and revised this Agreement and, therefore, the normal rule of construction of contracts that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement and any exhibits or amendments thereto. If any portion of this Agreement is held to be invalid or inoperative, the remainder of it shall be deemed valid and operative, and effect shall be given to the intent manifested by the portion held invalid or inoperative to the extent possible.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the parties have executed this Agreement on the dates set forth below.

BUYER:

By: _____

Print Name: _____

Title: _____

Date: _____

SELLER:

By: _____

Print Name: _____

Date: _____

JOINDER OF ESCROW AGENT

Broad and Cassel has joined in the execution of this Agreement in order to acknowledge its agreement to act as Escrow Agent in accordance with the terms and provisions of this Agreement, subject to collection.

Dated as of the ____ day of _____, 2018.

ESCROW AGENT:

BROAD AND CASSEL

By: _____

Name: _____

Title: _____

EXHIBIT "A"

Legal Description of the Property

729 E. Parker Street, 741 E. Parker Street, 706 N. Lake Avenue, 734 E. Myrtle Street, and 707 N. Stella Avenue in the City of Lakeland, Florida. The parcel identification numbers and legal descriptions for the property are as follows:

- Parcel 24-28-18-200000-050050
 - BAKERS SUB PB 1 PG 53 BLK 50 LOT 5 & 6 LESS RD R/W
- Parcel 24-28-18-200000-050011
 - BAKERS SUB PB 1 PG 53 BLK 50 LOTS 1 2 3 & 4 LESS RD R/W
- Parcel 24-28-18-200000-050080
 - BAKERS SUB PB 1 PG 53 BLK 50 LOTS 8 9 & 12
- Parcel 24-28-18-200000-050110
 - BAKERS SUB PB 1 PG 53 BLK 50 LOT 11
- Parcel 24-28-18-200000-050070
 - BAKERS SUB PB 1 PG 53 BLK 50 LOTS 7 & 10

