

MEMORANDUM

TO: MAYOR AND CITY COMMISSION

FROM: CITY ATTORNEY'S OFFICE

DATE: January 6, 2020

RE: **Fifth Amendment to Purchase and Sale Agreement between the City of Lakeland and Lake Wire Development Company, LLC**

Attached for your consideration is a Fifth Amendment to the Purchase and Sale Agreement between the City of Lakeland and Lake Wire Development Company, LLC for the sale to Lake Wire Development Company of an approximately 2.3-acre triangular-shaped City-owned property located immediately south of the intersection of Kathleen Road and George Jenkins Boulevard. The Agreement also provides for the sale to Lake Wire Development of the right-of-way for Old Kathleen Road, which runs east to west immediately south of the City's property and will connect the City's parcel with the old Florida Tile site to the south, previously purchased by Lake Wire Development. This portion of Old Kathleen Road is still under the jurisdiction of the Florida Department of Transportation (FDOT), creating the delay.

The parties have now completed negotiations for the exchange of maintenance easements FDOT needs for the right-of-way for Old Kathleen Road and FDOT is in the process of preparing a deed for the transfer of Old Kathleen Road to the City. The City should be in possession of the deed in the near future. The attached Fifth Amendment extends the Purchaser's initial inspection period under the Agreement to April 15, 2020, allowing time for the transfer of Old Kathleen Road to the City. The initial inspection period is currently scheduled to expire January 15, 2020. The Fifth Amendment has no effect on the final inspection period under the Agreement, which continues to expire on July 20, 2023.

It is recommended that the City Commission approve the attached Fifth Amendment to Purchase and Sale Agreement with Lake Wire Development Company, LLC to extend the initial inspection period under the Agreement to April 15, 2020 and authorize the appropriate City officials to execute the Amendment.

attachments



GRAPHIC SCALE

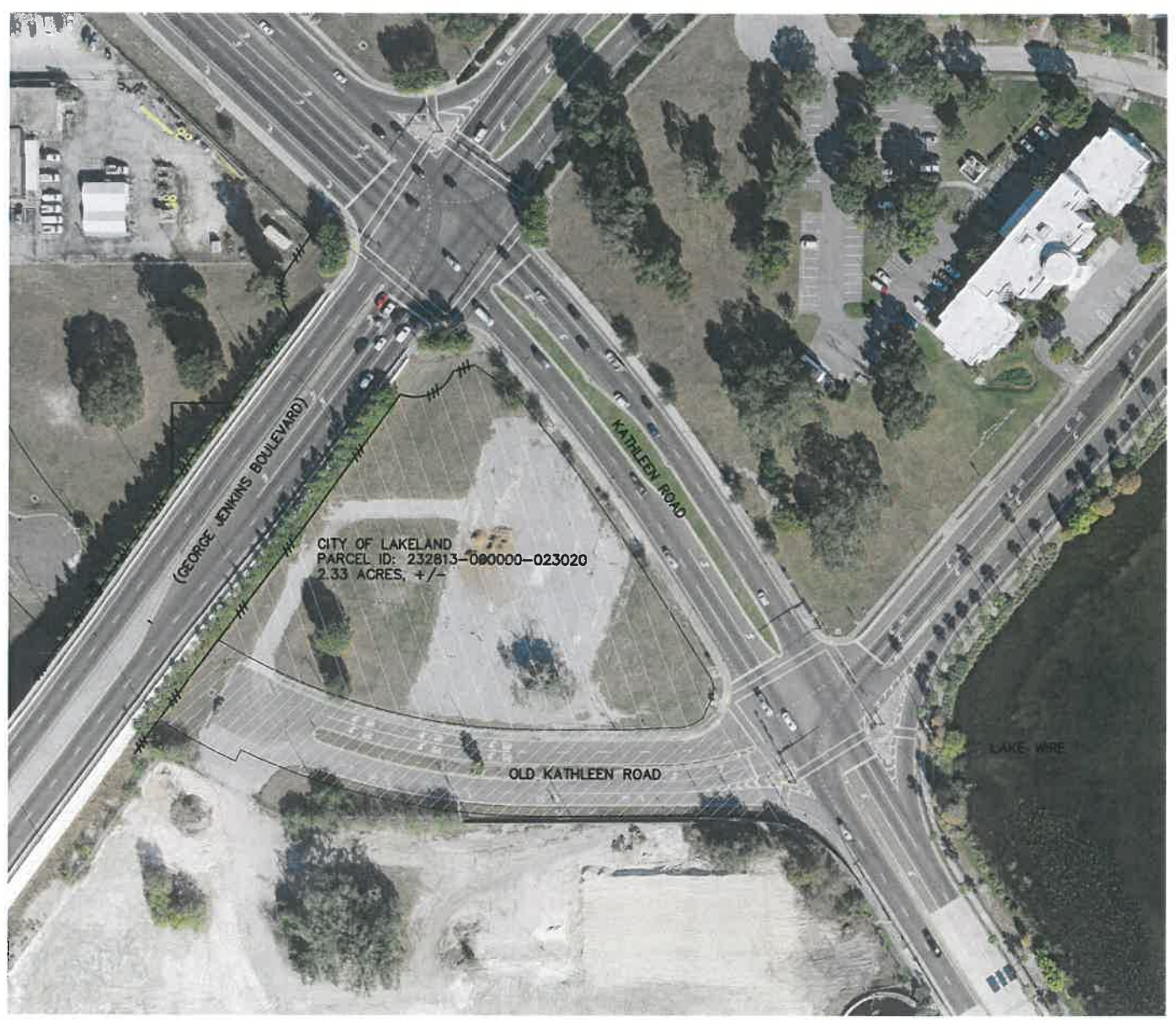


(IN FEET)
1 inch = 150 ft.

LEGEND:

\\ \\ = CITY OF LAKELAND 2.33 +/- ACRE PARCEL

/// = RIGHT OF WAY TO BE VACATED



**FIFTH AMENDMENT TO
PURCHASE AND SALE AGREEMENT**

THIS FIFTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this “Amendment”) is made effective on the ____ day of January, 2020 (“Effective Date”), by and between CITY OF LAKELAND, a municipal corporation existing under the laws of the State of Florida, by and through its City Commission, having its address at 228 South Massachusetts Avenue, Lakeland, Florida 33801 (the “Seller”), and LAKE WIRE DEVELOPMENT COMPANY, LLC, a Florida limited liability company having its address at 415 South Kentucky Avenue, Lakeland, FL 33801 (the “Purchaser”).

RECITALS

A. Seller and Purchaser are parties to that certain Purchase and Sale Agreement dated July 20, 2018, as amended by First Amendment to Purchase and Sale Agreement dated effective November 30, 2018, Second Amendment to Purchase and Sale Agreement dated February 7, 2019, Third Amendment to Purchase and Sale Agreement dated May 9, 2019 and Fourth Amendment to Purchase and Sale Agreement dated November 4, 2019 (collectively, “Agreement”), concerning the purchase and sale of certain real property as more particularly described in the Agreement.

B. Seller and Purchaser have agreed to extend the Initial Inspection Period in accordance with the terms and conditions set forth in this Amendment.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, as well as other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals; Capitalized Terms. The foregoing recitals are true and correct and are incorporated herein by this reference. Unless otherwise indicated, all capitalized terms used herein shall have the same meaning as given to such terms in the Agreement.

2. Extension of Initial Inspection Period. The first sentence of paragraph 4 of the Agreement shall be deleted and replaced with the following:

“Purchaser shall have an initial inspection period beginning on the Effective Date and ending on April 15, 2020 (“Initial Inspection Period”) and Purchaser shall have a second inspection period commencing on the end of the Initial Inspection Period and ending on July 20, 2023 (“Final Inspection Period”) (the Initial Inspection Period and the Final Inspection Period will be referred to herein collectively as “Inspection Period”) to evaluate all matters deemed relevant by Purchaser with respect to the Property and to determine, in Purchaser’s sole discretion, whether or not it will be suitable to Purchaser.”

3. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original instrument, but all such

counterparts together shall constitute one and the same instrument. Signature and acknowledgment pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one document. Facsimile or electronic copies (PDF) of this Amendment and the signatures thereon shall have the same force and effect as if the same were original.

4. Effective Date and Ratification. This Amendment shall be effective on the Effective Date. Except as expressly modified herein, the Agreement shall remain in full force and effect, and the terms thereof are hereby ratified and confirmed.

IN WITNESS WHEREOF, each party hereto has caused this Amendment to be duly executed on its behalf on the day and year first above written.

"SELLER"

Signed in the presence of the following two witnesses:

CITY OF LAKELAND,
a municipal corporation existing under the laws of the State of Florida

Print Name: _____

By: _____

Print Name: _____

as Mayor

Print Name: _____

Attest:

KELLY S. KOOS, City Clerk

Approved as to form and correctness:

Palmer C. Davis, Interim City Attorney

Dated: January ____, 2020

"PURCHASER"

Signed in the presence of the following two witnesses:

LAKE WIRE DEVELOPMENT COMPANY, LLC,
a Florida limited liability company

Print Name: _____

By: _____
David F. Bunch, Manager

Print Name: _____

By: _____
Harold W. Tinsley, Manager

Dated: January ____, 2020