

**MEMORANDUM**

**TO:** MAYOR AND CITY COMMISSION

**FROM:** CITY ATTORNEY'S OFFICE

**DATE:** June 20, 2022

**RE:** **Loan Agreement with Impeccable Construction, Inc. for the Construction of a Single-Family Detached Home Located at 836 Vermont Ave. and Three Single-Family Attached Homes Located at 834 Vermont Ave.**

Attached hereto for your consideration is a Loan Agreement with Impeccable Construction, Inc., for the construction and delivery of a new single-family detached home located at 836 Vermont Ave., and three single-family attached homes located at 834 Vermont Ave., to be sold or rented to income qualified affordable housing buyers or renters as part of the Infill Line of Credit Incentive Program. The program is funded by both the Community Redevelopment Agency (CRA) and State Housing Initiative Program (SHIP).

On January 13, 2022, the Housing Division, through the Purchasing Department, issued two Requests for Proposals (RFP) offering construction financing through the Infill Line of Credit Incentive Program. The first RFP (RFP 2034a) offered \$250,000 in SHIP funding for the development of new single-family homes to serve households with incomes at 80% or below the Area Median Income (AMI). Currently, 80% AMI is \$54,000 for a family of four (4). The second RFP (RFP 2034) offered \$300,000 of CRA funding available for construction of affordable single-family homes within the Midtown CRA district to serve households with incomes at 120% AMI or below. Currently, 120% AMI is \$81,000 for a family of four (4). The funding for both RFP's is due back with interest to the City of Lakeland upon sale of the homes to income-qualified buyers.

The City of Lakeland received three responses to RFP 2034 for a total requested amount of \$450,000 and received no responses for RFP NO. 2034a. After consulting with the Purchasing Department, it was determined that all three responses qualified for both RFPs and Housing Division staff proceeded to prepare funding Agreements with each of the three builders that submitted a proposal.

| Builder                           | No. of Units |          | SHIP<br>(RFP2034a) | MidTown CRA<br>(RFP 2034) |
|-----------------------------------|--------------|----------|--------------------|---------------------------|
|                                   | SF           | SFA      |                    |                           |
| Impeccable Construction           | 1            | 3        |                    | \$250,000                 |
| Lakeland Home Inspection Services | 1            |          | \$100,000          |                           |
| Property Scholars                 | 1            |          | \$100,000          |                           |
| <b>Total</b>                      | <b>3</b>     | <b>3</b> | <b>\$200,000</b>   | <b>\$250,000</b>          |

Under the terms of these Agreements, the property must be under contract for sale or rent to an affordable homebuyer or renter within eighteen (18) months of the date of closing of awarded funding.

It is recommended that the appropriate City officials be authorized to execute the attached Agreement with Impeccable Construction, Inc. and all associated documents for the construction and delivery of a single-family detached home located at 836 Vermont Ave. and three single-family attached homes located at 834 Vermont Ave., to income qualified affordable buyers or renters.

Attachments

## LOAN AGREEMENT

THIS LOAN AGREEMENT (this "Agreement") dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Between: THE CITY OF LAKELAND HOUSING DIVISION (the "Lender") and  
IMPECCABLE CONSTRUCTION, INC (the "Borrower")

IN CONSIDERATION OF the loaning certain monies (the "Loan") to the Borrower repaying the Loan to the Lender, both parties agree to keep, perform and fulfill the promises and conditions set out in this Agreement:

### **Loan Amount**

1. The Lender promises to loan \$250,000 USD to the Borrower and the Borrower promises to repay this principal amount to the Lender, with interest calculated at 2% Annual Percentage Rate (APR) payable on the unpaid balance.

### **Payment**

2. This Loan will be repaid as follows: \$100,000 plus interest calculated at 2% APR will be due upon sale and closing of newly constructed home located at: 836 Vermont Ave, Lakeland, FL 33805; and \$50,000 plus interest calculated at 2% APR will be due upon sale and closing of each of the three (3) newly constructed townhouse units located at: 834 Vermont Ave, Lakeland, FL 33805. In any event the loan will be paid in full no later than eighteen (18) months from the date hereof.

### **Default**

3. Notwithstanding anything to the contrary in this Agreement, if the Borrower defaults in the performance of any obligation under the Agreement, then the Lender may declare the principle amount owing and interest due under this agreement at that time to be immediately due and payable.

### **Governing Law**

4. This Agreement will be construed in accordance with and governed by the laws of the State of Florida.

### **Costs**

5. All costs, expenses and expenditures including, without limitation, the complete legal costs incurred by enforcing this Agreement as a result of any default by the Borrower, will be added to the principle then outstanding and will immediately be paid by the Borrower.

**Binding Effect**

6. This Agreement will pass to the benefit of and be binding upon the respective heirs, executors, administrators, successors and permitted assigns of the Borrower and Lender. The Borrower waives presentment for payment, notice of non-payment, protest, and notice of protest.

**Amendments**

7. This Agreement may only be amended or modified by a written instrument executed by both the Borrower and the Lender.

**Severability**

8. The clauses and paragraphs contained in this Agreement are intended to be read and construed independently of each other. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, it is the parties' intent that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable and the remainder of the provisions of this Agreement will in no way be affected, impaired or invalidated as a result.

**General Provisions**

9. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

**Entire Agreement**

10. This Agreement constitutes the entire agreement between the parties and there are no further items or provisions, either oral or otherwise.

LENDER: CITY OF LAKE LAND

BY: \_\_\_\_\_

BORROWER: \_\_\_\_\_

BY: \_\_\_\_\_

Prepared By and Return to:  
Abel A. Putnam, Esquire  
Putnam, Creighton & Airth, P.A.  
P.O. Box 3545  
Lakeland, Florida 33802-3545

## COMMERCIAL MORTGAGE AND SECURITY AGREEMENT

*Florida documentary stamp tax required by law in the amount of \$420.00 and intangibles taxes in the amount of \$240.00, are being paid with the recording of this Mortgage.*

This Mortgage and Security Agreement (hereinafter referred to as this **■Mortgage●**) is made and entered into as of this \_\_\_ day of \_\_\_, 2022, by and between IMPECCABLE CONSTRUCTION INC., a Florida corporation (hereinafter referred to as **■Mortgagor●**), and CITY OF LAKE LAND, its present and future affiliates and their successors and assigns (hereinafter referred to as **■Lender●**) in order to secure the indebtedness of Mortgagor in the combined amount of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) on a debt, note or other obligation dated of even date herewith (which indebtedness is hereinafter referred to as the **■Note●**). The term **■Mortgagor●** and **■Obligor●** shall refer to the Mortgagor herein.

WITNESSETH, that in consideration of the premises and in order to secure the payment of both the principal of, and interest and any other sums payable on the Note as defined herein or this Mortgage and the performance and observance of all of the provisions hereof and of said note, Mortgagor hereby grants, sells, warrants, conveys, assigns, transfers, mortgages and sets over the and confirms unto Lender, all of Mortgagor's estate, right, title and interest in to and under all that certain real property situated at 834 & 836 Vermont Ave, Lakeland, Polk County, Florida, and more particularly described on Exhibit **■A●**, attached hereto and made a part hereof by reference.

TOGETHER WITH all improvements now or hereafter located on said real property and all fixtures, appliances, apparatus, equipment, furnishings, heating and air conditioning equipment, machinery and articles of personal property and replacement thereof (other than those owned by lessees of said real property) now or hereafter affixed to, attached to, placed upon, or used in any way in connection with the complete and comfortable use, occupancy, or operation of the said real property, all licenses and permits used or required in connection with the use of said real property, all leases and sales contracts of said real property now or hereafter entered into and all right, title and interest of Mortgagor thereunder, including without limitation, cash or securities deposited thereunder pursuant to said leases or sales contracts, and all rents, issues, proceeds, and profits accruing from said real property and together with all proceeds of the conversion, voluntary or involuntary of any of the foregoing into cash or liquidated claims, including without limitation, proceeds of insurance and condemnation awards (the foregoing said real property, tangible and intangible personal property hereinafter referred to collectively as the **■Mortgaged Property●**). Mortgagor hereby grants to Lender a security interest in the foregoing described tangible and intangible personal property.

TO HAVE AND TO HOLD the Mortgaged Property, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining and the reversion and reversions thereof and all the estate, right, title, interest, homestead, dower and right of dower, separate estate, possession, claim and demand whatsoever, as well in law as in equity, of Mortgagor and unto the same, and every part thereof, with the appurtenances of Mortgagor in and to the same, and every part and parcel thereof unto Lender.

This Mortgage secures, in addition to the indebtedness evidenced by the Note (a) all advances made by Lender to protect or preserve the Mortgaged Property or the lien hereof on the Mortgaged Property, or to pay taxes or premiums for insurance on the Mortgaged Property, or to repair or maintain the Mortgaged Property, or to complete improvements on the Mortgaged Property (whether or not the original Mortgagor remains the owner of the Mortgaged Property at the time of such advances), (b) all payments and other obligations owing by an Obligor under any loan agreement, guaranty, security or pledge agreement, assignment or other agreement executed in connection with the Note, (c) all other and future indebtedness which is now or may hereafter be owed by any Mortgagor to Lender, whether individually or jointly with others not parties hereto, and whether direct or indirect, absolute or contingent, as maker, endorser, guarantor, surety, or otherwise, (d) all extensions, renewals, modifications and refinancings of the Note and the indebtedness and other obligations described in the preceding clauses (a) through (c), and (e) all costs of collection, including attorneys' fees.

If the Note evidences a revolving credit loan, the principal amount of which may be advanced, repaid and re-advanced in accordance with the terms of the Note, then notwithstanding the reduction to a zero (\$0) balance of the outstanding principal amount of the Note, the lien and security title of this Mortgage shall not be released or extinguished by operation of law or the implied intent of the parties, and this Mortgage and the Note shall remain in full force and effect as to any subsequent advances under the Note made after any such zero balance until all indebtedness secured by this Mortgage is paid in full and satisfied, all agreements of Lender to make additional advances have been terminated, and this Mortgage has been canceled of record.

Should the indebtedness secured by this Mortgage be paid according to the terms and effect thereof when the same shall become due and payable, and should Mortgagor perform all covenants herein contained in a timely manner, then this Mortgage shall be canceled and surrendered.

**FUTURE ADVANCES.** This Mortgage shall secure not only existing indebtedness, but also such future advances made at the option of Lender, as are made within twenty (20) years from the date hereof to the same extent as if such future advances were made on the date of the execution of this Mortgage, but such secured indebtedness shall not exceed at any time the maximum principal amount of \$300,000.00, plus interest thereon, and any disbursements made for the payment of taxes, levies or insurance on the Mortgaged Property with interest on such disbursements. Any such future advances, may be made either prior to or after the due dates of the Note(s) secured by this Mortgage. This Mortgage is given for the specific purpose of securing any and all indebtedness by the Obligor and Mortgagor to Lender (but in no event shall the secured indebtedness exceed at any time the maximum principal amount set forth in this paragraph) in whatever manner this indebtedness may be evidenced or represented until this Mortgage is satisfied of record. All covenants and agreements contained in this Mortgage shall be applicable to all further advances made by Lender to Obligor or Mortgagor under this future advance clause.

Mortgagor hereby further covenants and agrees with Lender as follows:

#### ARTICLE I

1.01. Payment of Indebtedness. The Note shall be paid according to the terms thereof and all other sums now or hereafter secured hereby promptly as the same shall become due.

1.02. Taxes, Liens and Other Charges. (a) In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of debts secured by deeds to secure debt or the manner of collecting taxes so as to adversely affect Lender or if it is determined that tax or additional tax is due on the underlying Note or this Mortgage, Mortgagor shall promptly pay any such tax. If Mortgagor fails to make such prompt payment or if, in the opinion of Lender, any such state, federal, municipal, or other governmental law,

order, rule or regulation prohibits Mortgagor from making such payment or would penalize Lender if Mortgagor makes such payment or if, in the opinion of Lender, the making of such payment might result in the imposition of interest beyond the maximum amount permitted by applicable law, then the indebtedness secured by this Mortgage shall, at the option of Lender, become immediately due and payable. (b) Mortgagor shall pay promptly, or cause to be paid promptly, before the same becomes delinquent, all taxes, liens, assessments and charges of every character including all utility charges, whether public or private, levied or assessed upon or against the Mortgaged Property; and upon demand shall furnish Lender receipted bills evidencing such payment. (c) Mortgagor shall not suffer any mechanic's, materialman's, laborer's, statutory or any other lien to be created and to remain outstanding upon all or any part of the Mortgaged Property for longer than ten (10) days.

1.03. Insurance. (a) Mortgagor shall procure for, deliver to and maintain for, or cause to be procured for the benefit of Lender during the term of this Mortgage, original paid up insurance policies of insurance companies acceptable to Lender and in amounts, form and substance and with expiration dates acceptable to Lender and containing non-contributory standard mortgage clauses or their equivalent or a satisfactory lender loss payable endorsement in favor of Lender, and waiver of subrogation clauses, providing the following types of insurance on the Mortgaged Property: (i) insurance against loss or damage by fire, lightning, vandalism and malicious mischief and against such other hazards as are presently included in so-called "extended coverage" and against such other insurable hazards as, under good insurance practices, from time to time are insured against for properties of similar character and location; the amount of which insurance shall be not less than the balance of the indebtedness evidenced by the Note nor less than one hundred percent (100%) of the full replacement cost of the Mortgaged Property without deduction for depreciation; and which policies of insurance shall contain satisfactory replacement cost endorsements; (ii) such other insurance on the Mortgaged Property or any replacements or substitutions therefor and in such amounts as may from time to time be reasonably required by Lender against other insurable-casualties which at the time are commonly insured against for similar premises. (b) Lender is hereby authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies maintained pursuant hereto, and to collect and receive the proceeds from any policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender, instead of to Mortgagor and Lender jointly. In the event any insurance company fails to disburse directly and solely to Lender but disburses instead either solely to Mortgagor or to Mortgagor and Lender jointly, Mortgagor agrees to immediately endorse and transfer such proceeds to Lender. Upon the failure of Mortgagor to endorse and transfer such proceeds as aforesaid, Lender may execute such endorsements or transfer for and in the name of Mortgagor and Mortgagor hereby irrevocably appoints Lender as Mortgagor's agent and attorney-in-fact so to do. After deducting from said insurance proceeds all of its expenses incurred in the collection and administration of such sums, including attorney's fees, Lender may apply the net proceeds or any part thereof in its sole reasonable discretion, (i) to the payment of the indebtedness hereby secured, whether or not due and in whatever order Lender elects, together with any prepayment premiums, fees, or charges herein or in the Note provide, (ii) to the repair and/or restoration of the Mortgaged Property, or (iii) for any other purposes or objects for which Lender is entitled to advance funds under this Mortgage; all without affecting the lien of this Mortgage or any obligation secured hereby; and any balance of such proceeds then remaining shall be paid to Mortgagor. Lender shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure. Lender may require Mortgagor to deposit with Lender such additional sum or sums as may be required in order for Lender to pay taxes and assessments and insurance premiums in full. Upon any default in the provisions of this Mortgage or the Note, Lender may, at its option, apply any money in the fund resulting from said deposits to the payment of the indebtedness secured hereby in such manner as it may elect. The above notwithstanding, provided no continuing event of Default exists, Lender shall, at the request of Mortgagor, make available to Mortgagor all insurance proceeds (less Lender's expenses incurred in the collection and administration of such sums, including attorney's fees) received by Lender for the purposes of restoration of the Mortgaged Property provided, however, that Lender may impose reasonable requirements upon Mortgagor to ensure that such proceeds are applied to such restoration and that the lien of Lender upon the Mortgaged Property is not impaired.

1.04. Condemnation. If all or any portion of the Mortgaged Property shall be damaged or taken through condemnation (which term when used in this Mortgage shall include any damage or taking by any governmental authority and any transfer by private sale in lieu thereof), either temporarily or permanently, then the entire indebtedness secured hereby shall, at the option of Lender, become immediately due and payable, without notice to Mortgagor or any other person or entity, or at Lender's further option, Lender may require Mortgagor to apply all compensation, awards, proceeds, or other payments from such condemnation to the restoration and repair of the Mortgaged Property as may be necessary to cure the injury to the Mortgaged Property occasioned by such condemnation. Lender shall be entitled to receive all compensation, awards, proceeds, and other payments or relief relating to or payable as a result of such condemnation. Lender is hereby authorized, at its option, to commence, appear in and prosecute, in its own or in Mortgagor's name, any action or proceeding relating to any condemnation, and to settle or compromise any claim in connection therewith. All such compensation, awards, damage, claims, rights of action and proceeds and the right thereto are hereby assigned by Mortgagor to Lender. After deducting from said condemnation proceeds all of its expenses incurred in the collection and administration of such sums, including attorneys' fees, Lender may apply the net proceeds or any part thereof, at its option, (a) to the payment of the indebtedness hereby secured, whether or not due and in whatever order Lender elects, together with any prepayment premiums, fees, or charges herein or in the Note provided, (b) to the repair and/or restoration of the Mortgaged Property, or (c) for any other purposes or objects for which Lender is entitled to advance funds under this Mortgage, all without affecting the lien of this Mortgage; and any balance of such monies then remaining shall be paid to Mortgagor. Mortgagor agrees to execute such further assignment of any compensation, awards, damages, claims, rights of action and proceeds as Lender may require.

1.05. Care of Mortgaged Property. Mortgagor shall keep the buildings, parking areas, roads and walkways, recreational facilities, landscaping and all other improvements of any kind now or hereafter erected on the Mortgaged Property or any part thereof in good condition and repair, shall not commit or suffer any waste and shall not do or suffer to be done anything which will increase the risk of fire or other hazard to the Mortgaged Property or any part thereof. If the Mortgaged Property or any part thereof is damaged by fire or any other cause, Mortgagor shall give immediate written notice thereof to Lender. Lender or its representative is hereby authorized to enter upon and inspect the Mortgaged Property at any time during normal business hours. Mortgagor shall promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Mortgaged Property or any part thereof. If all or any part of the Mortgaged Property shall be damaged by fire or other casualty, Mortgagor shall promptly restore the Mortgaged Property to the equivalent of its original condition; and if a part of the Mortgaged Property shall be damaged through condemnation, Mortgagor shall promptly restore, repair or alter the remaining portions of the Mortgaged Property in a manner satisfactory to Lender. Mortgagor shall not be obligated to so restore unless in each instance, Lender agrees to make available to Mortgagor (pursuant to a procedure satisfactory to Lender) any net insurance or condemnation proceeds actually received by Lender hereunder in connection with such casualty loss or condemnation, to the extent such proceeds are required to defray the expenses of such restoration; provided, however, that the insufficiency of any such insurance or condemnation proceeds to defray the entire expense of restoration shall in no way relieve Mortgagor of its obligation to restore. In the event all or any portion of the Mortgaged Property shall be damaged or destroyed by fire or other casualty or by condemnation, Mortgagor shall promptly deposit with Lender a sum equal to the amount by which the estimated cost of the restoration of the Mortgaged Property (as determined by Lender in its good faith judgment) exceeds the actual net insurance or condemnation proceeds received by Lender in connection with such damage or destruction.

1.06. Security Agreement. Insofar as the machinery, apparatus, equipment, fittings, fixtures, building supplies and materials, and articles of personal property either, referred to or described in this Mortgage, or in any way connected with the use and enjoyment of the Mortgaged Property is concerned, this Mortgage is hereby made and declared to be a security agreement, and Mortgagor grants a security interest in each and every item



of personal property described herein, in compliance with the provisions of the Uniform Commercial Code as enacted in the State of Florida. Mortgagor will execute and allow or cause to be filed of record, such financing statements, fixture notice filings, and other documents and instruments as Lender may request in order to properly perfect the Lender's security interest in such personal property. The remedies for any violation of the covenants, terms and conditions of the security agreement herein contained shall be (i) as prescribed herein, or (ii) as prescribed by general law, or (iii) as prescribed by the specific statutory consequences now or hereafter enacted as specified in said Uniform Commercial Code, all at Lender's sole election. Mortgagor and Lender agree that the filing of any financing statement(s) in the records normally having to do with personal property shall never be construed as in anywise derogating from or impairing this declaration and hereby stated intention of Mortgagor and Lender that everything used in connection with the production of income from the Mortgaged Property and/or adapted for use therein and/or which is described or reflected in this Mortgage, is, and at all times and for all purposes and in all proceedings both legal and equitable shall be, regarded as part of the real estate irrespective of whether (a) any such item is physically attached to the improvements, (b) serial numbers are used for the better identification of certain items capable of being thus identified in a recital contained herein, or (c) any such item is referred to or reflected in any such financing statement(s) so filed at any time.

Mortgagor further covenants and agrees that all of the aforementioned personal property shall be owned by Mortgagor and, except as disclosed to and approved by Lender in writing, shall not be the subject matter of any lease or other instrument, agreement or transaction whereby the ownership or beneficial interest thereof or therein shall be held by any person or entity other than Mortgagor; nor shall Mortgagor create or cause to be created any security interest covering any such property, other than (i) the security interest created herein in favor of Lender, and (ii) the rights of tenants lawfully occupying the Mortgaged Property.

1.07. Further Assurance; After Acquired Property. At any time, and from time to time, upon request by Lender, Mortgagor shall make, execute and deliver or cause to be made, executed and delivered, to Lender and, where appropriate, cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by Lender, any and all such other and further mortgages, security agreements, financing statements, continuation statements, instruments of further assurances, certificates and other documents as may, in the opinion of Lender, be necessary or desirable in order to effectuate, complete, or perfect or to continue and preserve (a) the obligations described in the Note and under this Mortgage and (b) the priority of the lien of this Mortgage upon and security title in and to all of the Mortgaged Property, whether now owned or hereafter acquired by Mortgagor. Upon any failure by Mortgagor to do so Lender may make, execute, record, file, re-record and/or refile any and all such mortgages, security agreement, financing statements, continuation statements, instruments, certificates, and documents for and in the name of Mortgagor and Mortgagor hereby irrevocably appoints Lender the agent and attorney-in-fact of Mortgagor so to do. The lien hereof shall automatically attach, without further act, to all after acquired property attached to and/or used in the operation of the Mortgaged Property or any part thereof.

1.08. Expenses. Mortgagor shall pay or reimburse Lender, upon demand therefor, for all attorneys' fees costs and expenses incurred by Lender in any suit, action, legal proceeding or dispute of any kind in which Lender is made a party or appears as party plaintiff or defendant, affecting the indebtedness secured hereby, this Mortgage or the interest created herein, or the Mortgaged Property, including, but not limited to, the exercise of the power contained in this Mortgage, any condemnation action involving the Mortgaged Property or any action to protect the security hereof; and any such amounts paid by Lender shall be added to the indebtedness secured by the lien of this Mortgage.

1.09. Subrogation. Lender shall be subrogated to the claims and liens of all parties whose claims or liens are discharged or paid with the proceeds of the indebtedness secured hereby or otherwise discharged or paid by Lender. Mortgagor waives all rights of subrogation until all obligations secured hereby are paid in full.

1.10. Transfer of the Mortgaged Property. Mortgagor shall not sell, transfer, pledge, encumber, create a security interest in, or otherwise hypothecate all or any part of the Mortgaged Property without Lender's prior written consent. The consent by Lender to any sale, transfer, pledge, encumbrance, creation of a security interest in, or other hypothecation of the Mortgaged Property shall not be deemed to constitute a novation or a consent to any further sale, transfer, pledge, encumbrance, creation of a security interest in, or other hypothecation or to waiver Lender's right, at its option, to declare the indebtedness secured hereby immediately due and payable, without notice to Mortgagor or any other person or entity, upon any such sale, transfer, pledge, encumbrance, creation of security interest, or other hypothecation to which it shall not have consented.

1.11. Limit of Validity. If from any circumstances whatsoever fulfillment of any provision of this Mortgage or of the Note, at the time performance of such provision shall be due, shall involve transcending the limit of validity presently prescribed by any application usury statute or any other applicable law, with regard to obligations of like character and amount, then ipso facto the obligation to be fulfilled shall be reduced to the limit of such validity, so that in no event shall any exaction be possible under this Mortgage or under the Note that is in excess of the applicable limit of such validity, but such obligation shall be fulfilled to the limit of such validity. The provisions of this paragraph 1.11 shall control every other provision of this Mortgage and the Note.

## ARTICLE II

2.01. Events of Default. The terms ■Default, ■Defaults, ■Event of Default or ■Events of Default, wherever used in this Mortgage shall mean any one or more of the following events (unless cured within any applicable cure periods provided in a loan agreement relative to the indebtedness secured hereby): (a) Failure to pay as and when due and payable any installment of principal or interest secured by this Mortgage as and when due; or (b) Failure by Mortgagor to duly observe or perform any term, covenant, condition or agreement of this Mortgage or the Note; or (c) Any representation or warranty of Mortgagor contained in this Mortgage or of any Obligor in any other instrument, document, transfer, conveyance, assignment or loan agreement given by any Obligor with respect to the indebtedness secured hereby, proves to be untrue or misleading in any material respect to; or (d) Any sale, transfer, pledge, encumbrance, creation of a security interest in, or other hypothecation of all or any part of the Mortgaged Property to which Lender shall not have first consented in writing; or (e) The filing of any federal or state tax lien or judgment lien against the Mortgaged Property; or (f) The filing by an Obligor of a voluntary petition in bankruptcy or the adjudication of an Obligor as a bankrupt or insolvent, or the filing by or against an Obligor of any petition seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors, or an Obligor's seeking or consenting to or acquiescing in the appointment of any trustee, receiver or liquidator of an Obligor or of substantially all of an Obligor's property or of any or all of the rents, issues, profits or revenues thereof, or the making by an Obligor of any general assignment for the benefit of creditors, or the admission in writing by an Obligor of its inability to pay its debts generally as they become due; or (g) The entry by a court of competent jurisdiction of an order, judgment or decree approving a petition filed against an Obligor seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the appointment of any trustee, receiver or liquidator of an Obligor or of substantially all of an Obligor's property or of any or all of the rents, issues, profits or revenues thereof without the consent or acquiescence of an Obligor; or (h) The filing by any person or entity of any claim in any legal or equitable proceeding challenging the validity or priority of the lien of this Mortgage, or (i) If any fact shall occur or condition shall exist pursuant to the terms of any other deed to secure debt, mortgage, or another instrument imposing a lien on the Mortgaged Property or any portion thereof (whether such lien is senior or junior to the security title and lien granted by this Mortgage) the occurrence or existence of which causes, or allows the holder

of any obligation secured thereby to cause, any obligation secured thereby to become due prior to its maturity or prior to its regularly scheduled dates of payment, or if any such obligation is not otherwise paid when due.

2.02. Acceleration of Maturity. If any Event of Default shall have occurred and be continuing, subject to any applicable cure periods provided in the loan agreement relative to the indebtedness secured hereby, then the entire indebtedness secured hereby shall, at the option of Lender, immediately become due and payable without notice or demand, which are hereby expressly waived, time being of the essence of this Mortgage, and no omission on the part of Lender to exercise such option when entitled to do so shall be construed as a waiver of such right; provided, however, upon the occurrence of any Event of Default set forth above in Section 2.01(f) or (g), any indebtedness secured hereby shall automatically and simultaneously therewith become due and payable without notice or demand.

2.03. Lender's Right to Enter and Take Possession, Operate and Apply Revenues. If default be made in payment, when due, of any indebtedness secured hereby, or in performance of any of Mortgagor's obligations, covenants or agreement hereunder or under any other Loan Document: (a) Lender is authorized at any time, without notice, in its sole discretion to enter upon and take possession of the Mortgaged Property or any part thereof, to perform any acts Lender deems necessary or proper to conserve the security and to collect and receive all rents, issues and profits thereof, including those past due as well as those accruing thereafter; (b) Lender shall be entitled, as a matter of strict right, without notice and ex parte, and without regard to the value or occupancy of the security, or the solvency of Mortgagor, or the adequacy of the Mortgaged Property as security for the Note, to have a receiver appointed to enter upon and take possession of the Mortgaged Property, collect the rents and profits therefrom and apply the same as the court may direct, such receiver to have all the rights and powers permitted under the laws of Florida.

In either such case, Lender or the receiver may also take possession of, and for these purposes use, any and all personal property which is a part of the Mortgaged Property and used by Mortgagor in the rental or leasing thereof or any part thereof. The expense (including receiver's fees, counsel fees, costs and agent's compensation) incurred pursuant to the powers herein contained shall be secured hereby. Lender shall (after payment of all costs and expenses incurred) apply such rents, issues and profits received by it on the indebtedness secured hereby in such order as Lender determines. The right to enter and take possession of the Mortgaged Property, to manage and operate the same, and to collect the rents, issues and profits thereof, whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. If Lender obtains possession of rents, issues or profits either as receiver or otherwise, Lender shall be liable to account only for such rents, issues and profits actually received, waived or compromised by Lender and all expenses incurred in connection with such receivership. (c) For the purpose of carrying out the provisions of this paragraph 2.03, Grantor hereby irrevocably constitutes and appoints Grantee the true and lawful attorney-in-fact of Grantor to do and perform, from time to time, any and all actions necessary and incidental to such purpose and does, by these presents, ratify and confirm any and all action of said attorney-in-fact in the premises. This power of attorney is coupled with an interest.

2.04. Performance by Lender of Defaults by Mortgagor. If Mortgagor shall default in the payment, performance or observance of any term, covenant, or condition of this Mortgage, Lender may, at its option, pay, perform or observe the same, and all reasonable payments made or reasonable costs or expenses incurred by Lender in connection therewith, shall be secured hereby and shall be, without demand, immediately repaid by Mortgagor to Lender with interest thereon at the default rate provided in the Note. Lender shall be the sole judge of the necessity for any such actions and of the amounts to be paid. Lender is hereby empowered to enter and to authorize others to enter upon the Mortgaged Property or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to Mortgagor or

any person in possession holding under Mortgagor. Mortgagor expressly acknowledges and agrees, however, that notwithstanding anything contained in this Paragraph 2.04 to the contrary, Lender shall not be obligated under this Paragraph 2.04 to incur any expense or to perform any act whatsoever.

2.05. Receiver. If an Event of Default shall have occurred, Lender, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right without notice and without regard to the occupancy or value of any security for the indebtedness secured hereby or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Mortgaged Property and to collect and apply the rents, issues, profits and revenues thereof. The receiver shall have all of the rights and powers permitted under the laws of the State of Florida. Mortgagor shall pay to Lender upon demand all expenses, including receiver's fees, attorney's fees, costs and agent's compensation, incurred pursuant to the provisions of this Paragraph 2.05; and all such expense shall be secured by this Mortgage.

2.06. Application of Proceeds of Sale. In the event of a foreclosure sale, the proceeds of said sale shall be applied, first, to the expenses of such sale and of all proceedings in connection therewith, including attorney's fees as provided hereinabove, then to insurance premiums, liens, assessments, taxes and charges, including utility charges, advanced by Lender, then to accrued interest, then to payment of the outstanding principal balance due of the indebtedness secured hereby, together with any prepayment premiums, fees, or charges herein or in the Note provided, and finally the remainder, if any, shall be paid to Mortgagor.

2.07. Leases. Lender, at its option, is authorized to foreclose this Mortgage subject to the rights of any tenants of the Mortgaged Property, and the failure to make any such tenants parties to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by Mortgagor, a defense to any proceedings instituted by Lender to collect the sums secured hereby.

2.08. Discontinuance of Proceedings and Restoration of Parties. In case Lender shall have proceeded to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Lender, then and in every such case Mortgagor and Lender shall be restored to their former positions and rights hereunder without waiver of any default and without novation, and all rights, powers and remedies of Lender shall continue as if no proceeding had been taken.

2.09. Remedies Cumulative. No right, power or remedy conferred upon or reserved to Lender by this Mortgage is intended to be exclusive of any other right, power, or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

2.10. Waiver. (a) No delay or omission of Lender or of any holder of the Note to exercise any right, power or remedy accruing upon any Default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such Default, or acquiescence therein; and every right, power and remedy given by this Mortgage to Lender may be exercised from time to time and as often as may be deemed expedient by Lender. No consent or waiver, express or implied, by Lender to or of any breach or Default by Mortgagor in the performance of the obligations thereof hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or Default in the performance of the same or any other obligations of Mortgagor hereunder. Failure on the part of Lender to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Lender of its rights hereunder or impair any rights, powers or remedies consequent on any breach or Default by Mortgagor. (b) If Lender (i) grants forbearance or an extension of time for the payment of any sums secured hereby; (ii) takes other or additional security for the payment of any sums secured hereby; (iii) waives or does not exercise any right granted herein or in the Note; (iv) releases any part of the Mortgaged Property from the lien of this

Mortgage or otherwise changes any of the terms, covenants, conditions or agreements of the Note of this Mortgage; (v) consents to the filing of any map, plat or replat affecting the Mortgaged Property; (vi) consents to the granting of any easements or other right affecting the Mortgaged Property; or (vii) makes or consents to any agreement subordinating the lien hereof, any such act or omission shall not release, discharge, modify, change or affect the original liability under the Note, this Mortgage or any other obligation of Mortgagor or any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor; nor shall any such act or omission preclude Lender from exercising any right, power, or privilege herein granted or intended to be granted in the event of any default then made or of any subsequent default. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Mortgaged Property, Lender, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Mortgaged Property or the indebtedness secured hereby, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities, obligations or undertakings of Mortgagor.

2.11. Suits to Protect the Mortgaged Property. Lender shall have the power (a) to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or any violation of this Mortgage, (b) to preserve or protect its interest in the Mortgaged Property and in the rents, issues, profits and revenues arising therefrom, and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interest of Lender.

### ARTICLE III

3.01. Environmental Matters. To the best of Mortgagor's knowledge, no part of the Mortgaged Property has been used or allowed to exist in violation of any local, state or federal law, ordinance, regulation, judicial or regulatory determination or principle of common law relating to pollution, protection of the environment or public health and safety (collectively ■Environmental Laws●). Mortgagor covenants that no part of the Mortgaged Property will hereafter be used or allowed to exist in violation of Environmental Laws. Mortgagor will notify Lender immediately in writing upon learning of any facts or circumstances related to the Mortgaged Property that could lead to a violation of Environmental Laws. The Mortgagor(s), jointly and severally, agree to indemnify, defend and hold Lender harmless from and against any loss, liability, cost, injury, expense or damage (including damages to persons, property or the environment) that arise from or relate in any way to a violation of Environmental Laws, or the presence of any hazardous, toxic or petroleum-based substances, wastes or materials, as defined by or pursuant to Environmental Laws, on or under the Mortgaged Property during the term of this Mortgage. Such indemnification obligation should survive repayment of the indebtedness secured by this Mortgage, the cancellation of this Mortgage, the quit claim or release of all or any portion of the Mortgaged Property from this Mortgage, and the transfer of the Mortgaged Property, whether pursuant to foreclosure, deed in lieu of foreclosure or otherwise.

3.02. Consents and Waivers if Mortgagor is Not Obligor. If Mortgagor and Obligor are not identical persons or entities, then Mortgagor agrees that Lender may take any or all of the following actions without notice to or consent of the Mortgagor and with or without consideration: (a) Allow or cause any indebtedness secured by this Mortgage to be incurred; (b) Obtain or release persons or entities that are primarily or secondarily obligated upon any indebtedness secured by this Mortgage; (c) Extend or renew any indebtedness secured by this Mortgage for any period whether or not longer than the original term; (d) Release, compromise or modify any indebtedness secured by this Mortgage; (e) Release or accept substitute collateral for the Lender's security interest or lien in any real or personal property other than the Mortgaged Property which the Lender may at any time hold as collateral to secure repayment of any indebtedness secured by this Mortgage; and (f) Exercise its

rights hereunder without having first resorted to any property securing repayment of any indebtedness secured by this Mortgage other than the Mortgaged Property and without having first proceeded against or demanded payment from any person or entity primarily or secondarily obligated upon any indebtedness secured by this Mortgage.

3.03. Miscellaneous. This Mortgage shall inure to the benefit of and be binding upon Mortgagor and Lender and their respective legal representatives, successors and assigns. Whenever a reference is made in this Mortgage to Mortgagor or Lender such reference shall be deemed to include a reference to the legal representatives, successors and assigns of Mortgagor or Lender, whether so expressed or not.

All personal pronouns used in this Mortgage, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and Articles are for convenience only and neither limit or amplify the provisions of this Mortgage itself and all references herein to Articles, Paragraphs or subparagraphs thereof, shall refer to the corresponding Articles, Paragraphs or subparagraphs of this Mortgage unless specific reference is made to such Articles, Paragraphs or subparagraphs thereof of another document or instrument. The terms Mortgagor and Obligor shall be construed liberally to impose such obligation or obligations on each party to the extent such party is legally or equitably being bound by or discharging such obligation or obligations. If any provision of this Mortgage or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Mortgage and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

This Mortgage shall be interpreted, construed and enforced according to the laws of the State of Florida. In any action to enforce this Mortgage, Lender shall be entitled to recover its reasonable attorneys' fees against Mortgagor.

All notices, demands and requests provided for or permitted to be given pursuant to this Mortgage must be in writing and shall be deemed to have been properly given or served if delivered in person or sent by United States certified mail, postage prepaid, return receipt requested, and addressed to the following addresses:

Lender:  
City of Lakeland  
228 S. Massachusetts Ave.  
Lakeland, Florida 33801  
Attention: Annie Gibson

Mortgagor:  
Impeccable Construction Inc.  
122 E. Main St. #284  
Lakeland, Florida 33801  
Attention: Wardell R. Williams, Jr.

All notices, demands and requests shall be deemed given, if not sooner received, (i) if mailed, when received or three days after mailing, whichever is earlier; (ii) if telecopied, when transmitted; or (iii) if hand delivered, when delivered. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent. Mortgagor or Lender shall have the right from time to time and at any time during the term of this Mortgage to change their respective addresses by giving the other party hereto notice of such change of address.

**WAIVER OF TRIAL BY JURY. MORTGAGOR AND LENDER HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION, WHETHER IN CONTRACT OR TORT, AT LAW OR IN EQUITY, BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE AND ANY OTHER DOCUMENT OR INSTRUMENT CONTEMPLATED TO BE**

EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER WRITTEN OR VERBAL) OR ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER ACCEPTING THIS MORTGAGE. FURTHER, MORTGAGOR HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF LENDER, NOR THE LENDER'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT LENDER WOULD NOT, IN THE EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. NO REPRESENTATIVE OR AGENT OF THE LENDER, NOR LENDER'S COUNSEL HAS THE AUTHORITY TO WAIVE, CONDITION, OR MODIFY THIS PROVISION.

IN WITNESS WHEREOF, Mortgagor has executed and delivered this Mortgage under seal as of the date first above written.

Witnesses:  
Signed, sealed and delivered in the presence of:

Mortgagor  
  
IMECCABLE CONSTRUCTION INC.,  
a Florida corporation

\_\_\_\_\_  
Name: \_\_\_\_\_

\_\_\_\_\_  
By: Wardell R. Williams, Jr., President  
122 E. Main St. #284  
Lakeland, Florida 33801

\_\_\_\_\_  
Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing instrument was acknowledged before me by means of  physical presence  online notarization on this \_\_\_\_ day of May, 2020, by Wardell R. Williams, Jr., as President of IMPECCABLE CONSTRUCTION INC., a Florida corporation, for and on behalf of said Company, and who  is personally known to me or who  has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
My commission expires:

EXHIBIT "A"

Lot 2, Block 2, Richlawn Subdivision, a subdivision according to the plat thereof recorded in Plat Book 5, Page 32 in the Public Records of Polk County, Florida.  
A/K/A 836 N. Vermont Avenue, Lakeland

And

Lots 3 and 4, Block 2, Richlawn Subdivision, a subdivision According to the plat thereof recorded in Plat Book 5, Page 32 In the Public Records of Polk County, Florida.  
A/K/A 834 N. Vermont Avenue, Lakeland



## PROMISSORY NOTE

\$250,000.00

Effective Date: \_\_\_\_\_, 2022

Maturity Date: \_\_\_\_\_, 2023

FOR VALUE RECEIVED, the undersigned, IMPECCABLE CONSTRUCTION INC., a Florida corporation ("Borrower") promises to pay to the order of CITY OF LAKELAND, its successors or assigns ("Lender"), at any of its offices, or at such place as Lender may in writing designate, without offset in U.S. Dollars in immediately available funds, the principal sum of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00), or such amounts as may then be outstanding and unpaid, together with interest to be paid on the outstanding principal balance of this Note from the date hereof at the rate set forth below, (■Interest Rate●), to be paid as follows:

The entire unpaid principal and interest shall be due and payable on the earlier of (i) the Maturity Date, and (ii) the date of sale of the below Collateral.

Interest Rate. The interest rate will be fixed at two percent (2.00%) per annum. Interest shall be computed on the basis of 360 days per year, multiplied by the actual number of days the principal is outstanding

Collateral. Unless otherwise agreed in writing, any collateral pledged to Lender to secure any of the existing or future liabilities of the Borrower to Lender shall also secure this Note. This Note is secured by the following collateral and proceeds thereof: first priority mortgage and security agreement dated this date, upon the premises owned by Borrower, and located at 834 & 836 N. Vermont Ave., Lakeland, Polk County, Florida. All of the foregoing security is referred to collectively as the ■Collateral●. The Collateral is security for the payment of this Note and any other liability (including overdrafts and future advances) of the Borrower to Lender, however evidenced, now existing or hereafter incurred, matured or unmatured, direct or indirect, absolute or contingent, several, joint, or joint and several, including any extensions, modifications or renewals. The proceeds of any Collateral may be applied against the liabilities of the Borrower to Lender in such order as Lender deems proper.

Loan Purpose and Updated Financial Information Required. The Borrower warrants and represents that the loan evidenced by this Note is being made solely for the purpose of acquiring or carrying on a business, professional or commercial activity or acquiring real or personal property as an investment (other than a personal investment) or for carrying on an investment activity (other than a personal investment activity). The Borrower agrees to provide to Lender updated financial information, including, but not limited to, tax returns, current financial statements in form satisfactory to Lender, as well as additional information, reports or schedules (financial or otherwise), all as Lender may from time to time request pursuant to the loan agreement (the ■Loan Agreement●) of even date herewith.

Representations and Warranties. The execution of this Note by Borrower has been duly authorized by all necessary parties and no further action of any party is necessary. If the Borrower is other than an individual, the Borrower is duly organized and in good standing and qualified to do business in every jurisdiction where such qualification is necessary.

Default, Acceleration and Setoff. As used herein, the term ■Obligor● shall individually and collectively refer to the Borrower, any Guarantor, any person or entity that is primarily or secondarily liable on this Note and any person or entity that has conveyed or may hereafter convey any security interest or lien to Lender in any real or personal property to secure payment of this Note. An ■event of default● shall occur hereunder upon the occurrence of any one or more of the following events or conditions, subject to applicable cure periods as provided in the Loan Agreement:

1. The failure by any Obligor to pay when due, whether by acceleration or otherwise, any amounts owed under this Note;
2. The failure of any Obligor to perform any covenant, promise or obligation contained in this Note or any other agreement to which any Obligor and Lender are parties;
3. The breach of any of Obligor's representation or warranties contained in this Note or any other agreement with Lender;
4. The insolvency or inability to pay debts as they mature of any Obligor, the application for the appointment of a receiver for any Obligor, the filing of a petition or the commencement of a proceeding by or against any Obligor under any provision of any applicable Bankruptcy Code or other insolvency law, or statute, or any assignment for the benefit of creditors by or against any Obligor;
5. The entry of a judgment or the issuance or service of any attachment, levy or garnishment against any Obligor or the property of any Obligor or the repossession or seizure of property of any Obligor;
6. A determination by Lender that a material adverse change in the financial condition of any Obligor has occurred since the date of this Note;
7. Any Obligor commits fraud or makes a material misrepresentation at any time in connection with this Note or any Collateral;
8. Any deterioration or impairment of the Collateral or any decline or depreciation in the value of the Collateral which causes the Collateral in the judgment of Lender to become unsatisfactory as to character or value; or
9. Any other act or circumstances leading Lender to reasonably deem itself insecure.

If an event of default occurs, or in the event of non-payment of this Note in full at maturity (subject to any applicable cure periods), the entire unpaid balance of this Note shall, at the option of Lender, become immediately due and payable, without notice or demand. The entire unpaid balance of this Note shall automatically become immediately due and payable without notice or demand upon the occurrence of an event of default under section 4 above. Upon the occurrence of an event of default, Lender shall be entitled to interest on the unpaid balance at the highest rate allowed by law (the **Default Rate**), until paid in full. The remedies provided in this Note and any other agreements between Lender and Obligor are cumulative and not exclusive of any remedies provided by law.

Late Charges and Other Authorized Fees and Charges. If any portion of a payment is at least ten (10) days past due, the Borrower agrees to pay a late charge of 5% of the amount which is past due or \$10.00, whichever is greater. Unless prohibited by applicable law, the Borrower agrees to pay the fee established by Lender from time to time for returned checks if a payment is made on this Note with a check and the check is dishonored for any reason. In addition to any other amounts owed under the terms of this Note, the Borrower agrees to pay those fees and charges disclosed in the loan closing statement relative to the making of this loan and, as permitted by applicable law, the Borrower agrees to pay the following: (a) all expenses, including, without limitation, any and all costs incurred by Lender related to default, all court costs and out-of-pocket collection expenses, whether suit be brought or not, incurred in collecting this Note; (b) all costs incurred in evaluating, preserving or disposing of any Collateral granted as security for the payment of this Note, including the cost of any audits, appraisals, appraisal updates, reappraisals or environmental inspections which Lender from time to time in its sole discretion may deem necessary; (c) any premiums for property insurance purchased on behalf of the Borrower or on behalf of the owner(s) of any Collateral pursuant to any security instrument relating to any Collateral; (d) any expenses or costs incurred in defending any claim arising out of the execution of this Note or the obligation which it evidences, or otherwise involving the employment by Lender of attorneys with respect to this Note and the obligations it evidences; and (e) any other charges permitted by applicable law. The Borrower agrees to pay such authorized charges on demand or, at Lender's option, such charges may be added to the unpaid balance of the Note and shall accrue interest at the stated Rate.

Prepayment Provisions. This Note may be prepaid, in whole or in part, at any time and without penalty.

Waivers. The Borrower and each other Obligor waive presentment, demand, protest, notice of protest and notice of dishonor and waive all exemptions, whether homestead or otherwise, as to the obligations evidenced by this Note. The Borrower specifically waives his/her homestead rights under the laws and Constitution of the State of Florida. The Borrower and each other Obligor waive any rights to require Lender to proceed against any other Obligor or any Collateral before proceeding against the Borrower or any of them, or any other Obligor, and agree that without notice to any Obligor and without affecting any Obligor's liability, Lender, at any time or times, may grant extensions of the time for payment or other indulgences to any Obligor or permit the renewal or modification of this Note, or permit the substitution, exchange or release of any Collateral for this Note and may add or release any Obligor primarily or secondarily liable. The Borrower and each other Obligor agree that Lender may apply all monies made available to it from any part of the proceeds of the disposition of any Collateral or by exercise of the right of setoff either to the obligations under this Note or to any other obligations of any Obligor to Lender, as Lender may elect from time to time.

Waiver of Jury Trial. THE BORROWER AND LENDER HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION, WHETHER IN CONTRACT OR TORT, AT LAW OR IN EQUITY, BASED HEREON OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE AND ANY OTHER DOCUMENT OR INSTRUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION WITH THIS NOTE, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER ENTERING INTO OR ACCEPTING THIS NOTE. FURTHER, THE BORROWER HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF LENDER, NOR LENDER'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT LENDER WOULD NOT, IN THE EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION.

Miscellaneous. All amounts received by Lender shall be applied to expenses, late fees and interest before principal or in any other order as determined by Lender, in its sole discretion, as permitted by law. Any provision of this Note which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Note. No amendment, modification, termination or waiver of any provision of this Note, nor consent to any departure by the Borrower from any term of this Note, shall in any event be effective unless it is in writing and signed by an authorized employee of Lender, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. If the Interest Rate is tied to an external index and the index becomes unavailable during the term of this loan, Lender may, in its sole and absolute discretion, designate a substitute index with notice to the Borrower. No failure or delay on the part of Lender to exercise any right, power or remedy under this Note shall be construed as a waiver of the right to exercise the same or any other right at any time.

Liability, Successors and Assigns and Choice of Law. If more than one, each Borrower shall be jointly and severally obligated and liable on this Note. This Note shall apply to and bind each of the Borrower's heirs, personal representatives, successors and permitted assigns and shall inure to the benefit of Lender, its successors and assigns. Notwithstanding the foregoing, Borrower shall not assign Borrower's rights or obligations under this Note without Lender's prior written consent. This Note shall be governed by

applicable federal law and the internal laws of the State of Florida. The Borrower agrees that certain material events and occurrences relating to this Note bear a reasonable relationship to the laws of Florida and the validity, terms, performance and enforcement of this Note shall be governed by the laws of Florida which are applicable to the agreements which are negotiated, executed, delivered and performed solely in Florida.

Documentary and Intangible Taxes. The documentary stamp taxes due on this Note have been paid with the recording of the mortgage. In the event that any tax due from Lender to any state because of this execution or of holding of this Note (including but not limited to an intangible tax or documentary stamp tax), the Borrower shall, upon demand, reimburse Lender for any such tax paid.

By signing below under seal, the Borrower agrees to the terms of this Note and the disbursement of proceeds as described in the loan closing statement provided in connection with this transaction.

IMPECCABLE CONSTRUCTION INC.,  
a Florida corporation

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By: Wardell R. Williams, Jr., President