

CONTRACT FOR SALE OF REAL PROPERTY

THIS CONTRACT FOR SALE OF REAL PROPERTY ("Contract"), dated as of the \_\_\_\_ day of \_\_\_\_\_, 2008, by and between THE CITY OF LEESBURG, FLORIDA, 501 West Meadow Street, Leesburg, Florida 34748 ("Seller") and \_\_\_\_\_, having an address of \_\_\_\_\_, ("Buyer"), provides that Seller shall sell and Buyer shall buy the following described real property (the "Property") upon the following terms and conditions:

1. **PROPERTY DESCRIPTION:** The real property located in the Leesburg, Lake County, Florida, together with and including the structures, improvements, and appurtenances located thereon or related thereto, subject to Seller's right to remove any and all personal property and certain buildings and structures as more fully described below (including, without limitation, all right, title and interest of Seller in and to any and all adjacent streets, roads, alleys or rights-of-way); such real property being more particularly described on Exhibit A attached hereto and made a part hereof.

All items of personal property owned by Seller which are located on the above described real Property, including without limitation all wastewater disposal infrastructure, spray guns, pipes, drains, and other equipment, are not included in this Contract. Further, Seller reserves the right, but not obligation, to remove any and all of these items prior to Closing.

Buyer is advised that in the Deed, Seller will reserve unto itself certain easements over the Property for utilities and ingress/egress, as described more particularly in Exhibit "A" attached.

2. **PURCHASE PRICE:** The purchase price is \$ \_\_\_\_\_ in U.S. Dollars ("Purchase Price"). Upon full execution hereof, Buyer shall deposit with McLin & Burnsed P.A. ("Escrow Agent") the sum of Twenty Five Thousand Dollars (\$25,000.00) (the "Earnest Money") to be held in escrow pending the Closing (as hereinafter defined). The Earnest Money shall be applied to the Purchase Price or otherwise paid to Seller or Buyer as provided for herein. At the Closing, Buyer shall pay the balance of the Purchase Price in full, subject to adjustments and prorations set forth herein, to the Closing Agent (as hereinafter defined) for the benefit of Seller, in cash or in immediately available Federal funds. The Closing Agent shall hold such amount in trust for the benefit of Seller pending the recordation of the Deed, and upon such recordation, shall disburse the full amount of the Purchase Price, as adjusted, to Seller immediately.

3. **TIME FOR ACCEPTANCE; EFFECTIVE DATE:** If this Contract is not executed by all parties, and the fact and notice of execution communicated in writing within twenty (20) days of the date of the award to Buyer as the successful bidder on the Property, this offer shall be deemed withdrawn and shall be null and void and the Earnest Money shall be returned immediately to Buyer. The effective date of this Contract ("Effective Date") shall be the date last in time appearing on the execution page herein when this Contract shall have been fully executed by and become binding upon both Seller and Buyer, following approval by the Leesburg City Commission at a public meeting at which this Contract was placed on the agenda for consideration and approval.

4. **CLOSING:** (a) The Closing shall be held in the offices of Escrow Agent, which in that capacity shall serve as the "Closing Agent". Any time period provided for herein which shall end on a Saturday, Sunday, or legal holiday shall extend to 5:00 p.m. of the next business day.

(b) At the Closing, against performance by Buyer of its obligations under Paragraph 4(c) hereof, Seller shall deliver to Closing Agent a Special Warranty Deed (the "Deed"), duly executed and acknowledged by Seller, granting and conveying the Property, subject to the conditions and restrictions in Paragraphs 7, 15 and 16(e), reserving to Seller those easements described on Exhibit "A" hereto, along with an affidavit substantially in the form as attached Exhibit B, the same more specifically defined in Paragraph 13 hereof and a Certificate of Non-foreign Status that is substantially in the form as attached Exhibit C.

(c) At Closing, against performance by Seller of its obligations under Paragraph 4(b) hereof, Buyer shall pay to Closing Agent the balance (after payment to Seller of the Earnest Money) of the Purchase Price, to be held in trust for the benefit of Seller pending recordation of the Deed, and shall accept the Deed.

5. **BUYER'S REQUIREMENTS:** Buyer shall undertake all reasonable efforts to remove the conditions to closing contained in Paragraph 16 of this Contract. Seller agrees to reasonably cooperate with Buyer with respect to Buyer's efforts to obtain all relevant information pertaining to the Property and the permitted uses thereof and to satisfy all conditions set forth in Paragraph 16. In the event such conditions cannot reasonably be removed, satisfied or met, Buyer may terminate this Contract. In the event Buyer does not notify Seller of the failure of a condition within Sixty (60) days of the Effective Date of this Contract (the "Buyer's Inspection Period"), all conditions herein shall be deemed satisfied and the Closing shall occur on or before the thirtieth (30th) day following the removal or deemed satisfaction of all such conditions. If this Contract is terminated as provided for in this paragraph and provided Buyer is not then in default under the provisions of this Contract, the full amount of Earnest Money will be returned to Buyer immediately, whereupon Buyer and Seller shall be relieved as to one another of all obligations and liability under this Contract, except as otherwise provided herein.

6. **SELLER DOCUMENTS:** Seller agrees to deliver to Buyer as soon as reasonably possible after the Effective Date, copies of all surveys, plats, covenants, deeds, and easements relating to the Property and in possession of Seller. Buyer shall return promptly to Seller such documents if the Closing does not occur.

7. **INSURABLE TITLE:** Notwithstanding anything contained herein to the contrary, Buyer shall have the right, but not obligation, to terminate this Contract and receive a full refund of the Earnest Money if Seller is unable or unwilling to convey the Property at Closing with title to the Property insurable at reasonable and normal rates. Such title at Closing shall be subject to the following conditions and restrictions: (i) any encumbrances, exceptions, or qualifications as herein noted, (ii) any exceptions, restrictions, easements, encumbrances or qualifications that appear of record as of the Effective Date, subject to Buyer's right to object as specified in Paragraph 8, (iii) any exceptions, encumbrances, restrictions, easements or qualifications shown on a recorded plat or that would be disclosed by a current American Land Title Association ("ALTA") survey of the Property, including location of all utilities as per Table A, Optional ALTA Services, Item 11, which is a Buyer requirement as set forth in paragraph 16. (f), (iv) any zoning, restrictions, prohibitions or other requirements imposed by governmental authority, (v) the ad valorem taxes for the year of Closing which are not yet due and payable, and (vi) any exceptions, encumbrances or qualifications that are otherwise acceptable to Buyer. All deeds of trust, liens (except liens for ad valorem taxes not yet due and payable) and other charges against the Property, not assumed by Buyer in writing, must be paid and canceled by Seller at or before closing. Since Seller is a tax exempt governmental entity, Buyer shall pay all State documentary stamps or deed taxes assessed with respect to the Deed, all intangible and transfer taxes related to the Deed, all costs associated with financing obtained by Buyer, and all costs of recording any corrective instruments with respect to the Deed.

8. **EVIDENCE OF TITLE:** Within twenty-one (21) days from the Effective Date, Seller shall, at its expense, shall obtain and deliver to Buyer a title insurance commitment, issued by Attorneys' Title Insurance Fund, Inc., showing fee simple title in Seller, issued by Escrow Agent. Following Closing and the recording of the Deed, such insurer, at Seller's expense, shall issue to Buyer an owner's title insurance policy in the amount of the Purchase Price. The title insurance commitment and owner's title insurance policy shall be subject only to liens, encumbrances, exceptions or qualifications set forth in this Contract or otherwise acceptable to Buyer, and in the case of the title insurance commitment, those items which are required to be discharged by Seller pursuant to the provisions of this Contract at or before Closing. Buyer shall have ten (10) days from date of receiving the title commitment to examine same. If title is found objectionable, Buyer shall notify Seller in writing, within ten (10) days from date of receiving the title commitment specifying the objection(s). If said objection(s) renders title uninsurable, Seller will have thirty (30) days from receipt of such notice within which to attempt to remove such objection(s); provided, however, in no event shall Seller be required to spend an amount it deems unreasonable to correct any such objections. If Seller is unsuccessful in removing such objection(s) within said time, then

Buyer shall have the option of (i) extending such time period for one (1) additional thirty day period of time within which time period Seller shall continue to attempt to remove any objection(s), (ii) accepting the title as it then is, or (iii) rescinding this Contract and demanding a reimbursement of Earnest Money; such shall be repaid immediately to Buyer by Escrow Agent and thereupon Buyer and Seller shall be released, as to one another, of all further obligations and all damages arising under this Contract.

9. PRORATIONS: Since Seller is tax exempt, there are no ad valorem taxes due on the Property while vested in Seller. Upon the recording of the Deed the Property will become taxable and Buyer will be responsible for all ad valorem taxes levied against it post Closing. Any interest earned on the Earnest Money required hereunder shall be credited to Buyer at Closing, or otherwise shall be paid to the party to whom the Earnest Money is awarded under this Contract.

10. SPECIAL ASSESSMENT LIENS: All certified, confirmed special assessment liens as of date of the Closing are to be paid in full by Seller. At closing, Seller shall be charged an amount equal to the last assessment estimate by the public body responsible for such assessments. If the estimate is ultimately determined to be erroneous, the party hereto who has benefited from such erroneous estimate shall reimburse the other party for the difference between the estimate and the actual assessed amount as finally determined.

11. PROCEEDS OF SALE; CLOSING PROCEDURE: The Deed shall be recorded upon clearance of funds and satisfactory evidence of title continuing to show title in Seller, subject only to those exceptions enumerated at Paragraph 7 herein, and those items to be discharged by Seller at closing without any encumbrances or change which would render Seller's title unmarketable or uninsurable from the date and time of the title insurance commitment. Except as provided herein, pending such recordation, the proceeds of the sale shall be held in escrow by the Escrow Agent. The escrow and closing procedure required by this paragraph may be waived in the event the Escrow Agent, title agent or closing agent insures or certifies against such adverse matters rendering Seller's title uninsurable. If prior to Deed recordation, Seller's title is rendered uninsurable, Buyer shall notify Seller in writing of the defect and Seller shall have ten (10) business days from date of receipt of such notification to cure such defect during which period the proceeds of the sale shall be held in escrow. In the event Seller fails to cure such defect within such time, all monies paid hereunder shall, upon written demand therefor and within five (5) days thereafter, be returned to Buyer and, simultaneously with such repayment, Buyer shall vacate the Property and reconvey the same to Seller by Special Warranty Deed.

12. RISK OF LOSS: All risk of loss to the Property shall remain with Seller prior to Closing. If the Property is damaged prior to Closing and Seller is either unable or unwilling to restore the Property to the condition it was as of the Effective Date, at Buyer's sole option, Buyer may (i) elect to terminate this Contract or (ii) elect to take the Property as it then is, together with any insurance proceeds payable by virtue of such loss or damage. If Buyer elects to terminate this Contract, the full amount of the Earnest Money shall be returned immediately to Buyer, whereupon Buyer and Seller shall be released, as to one another, of all obligations and liabilities under this Contract.

13. LIENS: Seller shall furnish to Buyer at Closing an affidavit substantially in the form as attached Exhibit B, attesting to the absence of (i) any financing statements, (ii) claims of lien or potential lienors known to Seller, and (iii) that there have been no improvements to the Property within one hundred twenty (120) days immediately preceding the date of closing. If the Property has been improved or repaired within such time, Seller shall deliver releases or lien waivers executed by all general contractors, subcontractors, laborers, and suppliers, performing such work and warrant that all bills for work to the Property which could serve as a basis for a construction or materialmen's lien have been paid or will be paid at Closing.

14. LEGAL PROCEEDINGS: Seller represents and warrants that there is no action, suit, or proceeding pending, or to Seller's actual knowledge and belief, threatened or contemplated against or affecting, either directly or indirectly, the Property.

15. DEED RESTRICTIONS: For a period of thirty (30) years from the date of recordation of the Deed, Buyer, as Grantee in the Deed, its successors and assigns, shall not use or permit the occupancy or use of any space upon the Property for the purposes set forth herein and shall not use or permit the occupancy or use of any space upon any adjoining real property that makes use of the Property for access, parking or as part of a larger unified development for the purposes set forth herein, said purposes as follows:

- (A) dry cleaning plant,
- (B) cinema or theater,
- (C) gymnasium, skating rink, bowling alley, discotheque, dance hall, nightclub, amusement gallery, pool room, or health spa,
- (D) adult entertainment facility, massage parlor, or adult book store,
- (E) pin ball or electronic game room,
- (F) a so-called "head shop",
- (G) funeral parlor,
- (H) flea market,
- (I) bingo parlor,
- (J) sale, rental or lease of automobiles, trucks, other motorized vehicles, or trailers, or car wash,
- (K) no loudspeakers, television sets, phonographs, radios or other devices shall be used in a manner so as to constitute a nuisance to surrounding property,
- (L) the following types of sales shall not be conducted on the Property: sales using the auction method of selling, fire sales; and closing out, lost lease, moving, going out of business or any similar sales,
- (M) cocktail lounge or other business selling or offering alcoholic beverages
- (N) a church or school,
- (O) Concrete, asphalt, or aggregate plant, or any kind of recycling facility
- (P) The sale, rental, other exchange or exhibition of any sexually explicit materials.
- (Q) A gas station or convenience store.

The above items are a material part of the consideration and shall be binding upon the Property described herein. The Deed incorporating these restrictions shall be recorded as a part of and simultaneously with the Closing.

16. BUYER'S INSPECTION PERIOD: This transaction contemplated herein is conditioned upon Buyer determining, at its sole cost, the items set forth herein within Buyer's Inspection Period, except as otherwise provided. Any item not objected to in writing within Buyer's Inspection Period shall be deemed satisfied. In the event Buyer terminates this Contract because of the failure of any condition herein, subject to Seller's Option to Mitigate in Paragraph 19, Buyer and Seller shall be released, as to one another, of all further obligations and liabilities under this Contract, except for the indemnifications set forth in Subparagraphs (d) and (e), and the confidentiality obligation in Subparagraph (g).

(a) Buyer's reasonable determination that it can obtain all necessary governmental approval for its intended use. Buyer understands and acknowledges Seller's role as the local government with primary land use jurisdiction over the Property, and nothing in this Contract shall be construed to waive or relinquish, in whole or in part, any of the rights and obligations of Seller as the governmental entity having land use and permitting jurisdiction over the Property, to insure that all proposed use and development of the Property complies fully with all applicable statutes, ordinances, codes, rules and regulations as to which Seller has any right or obligation with regard to enforcement, nor shall anything in this Contract be construed to obligated Seller to grant or consider the granting of any variance, special exception or other discretionary land use, building or zoning permit or approval, except as Seller would otherwise be obligated to do so upon application by any ordinary citizen or landowner not having any contractual relationship with Seller.

(b) Buyer's reasonable determination that the Property has full, free, and adequate ingress and egress from public highways and roads. Seller hereby warrants that it has no knowledge of any fact

or condition which would result in the termination of any existing access. However, since County Road 470 is not under the jurisdiction of Seller, Buyer is advised that it must approach Lake County to determine where and to what extent Lake County would permit construction of an access point or points onto CR 470, and to determine what improvements (e.g. turn lanes, acceleration and deceleration lanes, signalization etc.) would be required. Buyer is also advised that Lake County has expressed its intent at some time in the future to widen and improve CR 470 and possibly realign it, and Buyer is advised to consult with Lake County on these issues as well.

(c) Buyer's reasonable determination that all utilities reasonably necessary for Buyer's intended use are available to the Property.

(d) Buyer's reasonable determination, through the use of engineering, environmental and related tests, percolation tests, geotechnical studies and soil borings, (the "Site Investigation") that the Property is satisfactory for Buyer's use. Seller hereby grants to Buyer the right to enter the Property for the purpose of conducting, to the extent possible, the Site Investigation. Buyer agrees to defend, indemnify and hold Seller harmless from and against any and all claims for any unpaid work and any and all actions or causes of action for property damage or bodily injury directly or indirectly caused by the Site Investigation performed by Buyer, its consultants, or agents. Notwithstanding anything to the contrary contained herein, this indemnification shall survive the Closing and the purchase and sale of the Property as contemplated herein or the termination of this Contract as provided for herein. Buyer, at its cost and expense, shall provide and maintain a comprehensive liability insurance policy designating Seller as an additional insured and covering damages or injury to persons or property by reason of any inspections or other activities conducted by or on behalf of Buyer on or about the Property with a good and solvent insurance company and with limits reasonably satisfactory to Seller and shall deliver to Seller prior to the commencement of any such inspections on the Property, a duplicate original or a certificate evidencing such insurance. Upon Seller's request, Buyer shall provide Seller immediately with a copy of any reports or studies which Buyer has performed on or about the Property under this subparagraph.

(e) Buyer may, but is not required to, engage the services of an engineer or other third party to inspect the Property. EXCEPT AS OTHERWISE SPECIFIED HEREIN, BUYER HEREBY ACKNOWLEDGES AND AGREES THAT BUYER SHALL RELY SOLELY UPON THE INSPECTION, EXAMINATION AND EVALUATION OF THE PROPERTY BY BUYER OR ITS REPRESENTATIVE(S). IN THE EVENT OF THE PURCHASE AND SALE OF THE PROPERTY HEREUNDER, SELLER SHALL SELL THE PROPERTY TO BUYER, AND BUYER AGREES THAT IT IS PURCHASING THE PROPERTY FROM SELLER "AS IS", "WHERE IS" AND "WITH ALL FAULTS". FURTHER, BUYER EXPRESSLY ACKNOWLEDGES THAT EXCEPT AS OTHERWISE SPECIFIED HEREIN, SELLER MAKES NO WARRANTY OR REPRESENTATION OF THE PROPERTY, EXPRESS, IMPLIED OR ARISING BY OPERATION OF LAW, INCLUDING BUT IN NO WAY LIMITED TO ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IT IS FURTHER EXPRESSLY AGREED THAT SELLER DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED OR ARISING BY OPERATION OF LAW, REGARDING SOLID WASTE AS DEFINED IN ANY APPLICABLE STATE REGULATIONS OR STATUTES, OR AS DEFINED IN THE U. S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AT 40 C.F.R., PART 261, OR THE DISPOSAL OR EXISTENCE IN, ON OR EMANATING FROM THE PROPERTY, OF ANY HAZARDOUS SUBSTANCE, AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED, AND REGULATIONS PROMULGATED THEREUNDER. Upon Seller's request, Buyer will promptly provide Seller with a copy of any and all reports or studies which Buyer has performed on or about the Property under this subparagraph. Buyer's inspection rights set forth herein shall also be subject to the same indemnification obligations set forth in Subparagraph (d) above.

(f) Buyer, at its expense, shall obtain an American Land Title Association ("ALTA") survey of the Property, including location of all utilities as per Table A, Optional ALTA Services - Item 11, within thirty (30) days from the Effective Date, Such survey to show the as-built condition of the Property. The survey shall be prepared by a surveyor registered in the state in which the Property is located and shall be dated and currently certified to Buyer, Seller, Escrow Agent and Attorneys' Title Insurance Fund, Inc.

Buyer shall have ten (10) days from the date of receiving the survey to examine the same. If the survey shows an encroachment, overlap, gore or other objectionable condition, (collectively, the "defect(s)"), Buyer shall notify Seller in writing specifying the defect(s). Seller shall have thirty (30) days from receipt of notice within which to remove or cure the defect(s). If Seller is unsuccessful in curing such defect(s) within said time, Buyer shall have the option of (i) extending such time period, (ii) accepting the Property as the survey then shows, or (iii) rescinding this Contract and demanding a return of the Earnest Money, such shall be paid immediately to Buyer by Escrow Agent.

(g) Buyer agrees to keep and hold confidential any and all reports, summaries, studies or test results that are the product of an inspection under this Paragraph 16, and not to disclose such information to third-parties without Seller's written consent or unless required to do so by applicable law. Buyer acknowledges and agrees that any reports, summaries, studies, or test results are not certified to Buyer, and that Seller is providing Buyer with a copy of such reports without representation or warranty as to the accuracy or completeness of such reports. Further, Buyer agrees to return said reports to Seller no later than the expiration of the Buyer's Inspection Period, as that term is defined in the Contract.

17. REPAIR AND MAINTENANCE: Between the Effective Date and the date of Closing, Seller shall maintain the Property, with respect to all material components, in substantially the same condition the Property was in on the Effective Date and shall perform routine and customary maintenance to the Property. Further, Seller agrees not to enter into, extend, or renew beyond Closing any agreement covering any portion of the Property without the prior written approval of Buyer.

18. ENVIRONMENTAL WARRANTIES: Seller represents and warrants that to its actual knowledge, information and belief, no unlawful toxic substances, hazardous substances or hazardous waste materials regulated under any applicable Federal, state, or local laws have been produced, used, stored or disposed upon the Property in violation of applicable laws and regulations. Buyer has permission to commission a Phase I Environmental Site Assessment (the "ESA") of the Property under the provisions of Paragraph 16(d), the scope of which will be determined by Buyer. If the ESA indicates that the Property presents any matters that require remediation, Buyer shall notify Seller under the terms and conditions in Paragraph 19.

19. OPTION TO MITIGATE: If the ESA indicates that the Property presents any matters that require remediation, Buyer shall first advise Seller in writing ("Buyer's Notice") of those items identified in the ESA of which Buyer requires remediation, and allow Seller its Option to Mitigate hereunder prior to exercising any termination of this Contract. Within two (2) weeks of receipt of Buyer's Notice, Seller shall advise Buyer in writing ("Seller's Response") whether or not it shall remedy some or all of the items specified in Buyer's Notice. Seller shall have up to one hundred twenty (120) days to remedy those items, if it so chooses, at its sole cost and expense, during which time this Contract shall remain in effect. At the end of the earlier of one hundred twenty (120) days or upon Seller's written notification to Buyer that it has completed the remediation, Buyer shall have twenty (20) days to either satisfy itself that the items in Buyer's Notice have been remedied or to advise Seller that it is terminating this Contract. If Seller's Response advises Buyer that it will not correct some or all of the items specified in Buyer's Notice then Buyer, within one (1) week after receipt of Seller's Response, shall advise Seller in writing that it shall (i) accept such items "AS IS" and/or correct them itself after the Closing, all without reduction in the Purchase Price, or (ii) elect to terminate this Contract.

20. INDEMNIFICATION: Buyer agrees to indemnify, defend and hold Seller, its officers, employees, and agents harmless from any and all claims, damages, penalties, fines, costs or losses (including those of an environmental nature, and reasonable fees for attorneys, consultants and experts) that arise (i) directly or indirectly from the activities of Buyer, its agents, employees and contractors on or related to the Property after the date of Closing, and (ii) from the presence or suspected presence, release or suspected release, of any petroleum substance, hazardous substance or hazardous waste materials regulated under any applicable Federal, State or local laws in or on the Property, migrating from the Property, or transported from the Property, that is related directly or indirectly to the activities of Buyer, its agents, employees, and contractors after the date of Closing. This provision shall survive after the date of Closing.

21. **POSSESSION:** Possession of the Property shall be given to Buyer at Closing.
22. **NON-RECORDING:** Buyer shall not record this Contract and any such recording shall be a material default by Buyer hereunder and make this Contract voidable by Seller.
23. **SELLER'S FAILURE TO PERFORM:** If for any reason other than failure of Seller, after diligent effort to render its title marketable or insurable at normal rates, Seller fails, neglects or refuses to perform its obligations under this Contract, then Buyer may seek specific performance or may elect to receive a return of the Earnest Money.
24. **ATTORNEY FEES: COSTS:** In connection with any litigation arising out of this Contract, the prevailing party shall be entitled to recover reasonable attorney's fees and costs at both the trial and appellate levels, as well as in any proceedings to enforce or collect a judgment rendered, and any proceedings in bankruptcy or insolvency.
25. **CONDEMNATION:** In the event of the institution, prior to Closing, of any proceedings, judicial, administrative or otherwise, which relate to a proposed taking of any portion of the Property by eminent domain, Seller shall immediately notify Buyer thereof. In the event such proposed taking is of a material nature, in Buyer's reasonable opinion, Buyer shall have the right and option to terminate this Contract by giving Seller written notice within fifteen (15) days after receipt by it of such notice. In such event, the full amount of Earnest Money shall be returned to Buyer immediately, whereupon Buyer and Seller shall be relieved of all obligations and liability under this Contract.
26. **BUYER'S FAILURE TO PERFORM:** If Buyer fails to perform under this Contract within the time specified, the Earnest Money may be retained by or for the account of Seller as liquidated damages, in consideration for the execution of this Contract and in full settlement of all claims, whereupon Buyer and Seller shall be relieved, as to one another, of all obligations and liabilities under this Contract, or Seller may elect to seek equitable enforcement of Buyer's obligations under this Contract.
27. **BROKERS. AGENTS. AND ATTORNEYS:** Each party represents to the other that it has not retained or used the services of a broker or agent in connection with this transaction. Each party agrees to indemnify and hold the other harmless from any claims of brokers or agents for fees or commissions arising out this Contract. In addition, each party agrees to pay its own attorney's fees in connection with this Contract and Closing.
28. **"LIKE-KIND" EXCHANGE:** Each party agrees to cooperate in structuring and completing this transaction for the other as part of a deferred like-kind exchange described in Section 1031 of the Internal Revenue Code (the "Exchange"); provided, however, that Seller shall not be required to take title to land other than the Property, and provided further that the accommodating party incurs no additional cost or time delays related to the Exchange.
29. **CONSTRUCTION OF THE CONTRACT:** This Contract shall be construed without regard to the identity of the person or party that drafted the various provisions hereof. Moreover, each and every provision of this Contract shall be construed as though all parties hereof participated equally in the drafting thereof. As a result of the foregoing, any rule of construction that a document is to be construed against the drafting party shall not be applicable.
30. **NOTICES:** All notices required or permitted to be given pursuant to this Agreement shall be effective only if the same shall be in writing and sent by certified mail with postage prepaid, return receipt requested, or by a nationally recognized next day courier delivery service, addressed as follows:

Seller: City of Leesburg  
501 West Meadow Street  
Leesburg, FL 34748

Attention: Jay Evans, City Manager  
Telephone: (352) 728-9701  
Fax: (352) 728-9739

Copy To: Kenneth L. Thomas, MPA  
Director of Economic Development  
City of Leesburg  
600 Market Street  
Leesburg, FL 34748

And

Fred A. Morrison, City Attorney  
McLin & Burnsed P.A.  
1000 West Main Street  
Leesburg, Florida 34748  
Phone (352) 787 – 1241  
FAX (352) 326 – 2608

Buyer: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notice shall be sent either by United States Postal Service Certified Mail, Return Receipt Requested, by hand delivery, or by Federal Express, UPS or other widely recognized and reliable overnight delivery service. Notice sent by certified mail will be deemed given on the third business day after it is deposited with the United States Postal Service, all postage and fees prepaid. Notice via hand delivery shall be effective upon delivery. Notice by overnight delivery service shall be effective on the first business day following the date on which it is placed in the hands of the delivery service, duly and properly addressed.

31. **SEVERABILITY:** If any term, covenant, or condition of this Contract or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, then to the extent possible to do so without destroying the overall intent and effect of this Contract, the remainder of this Contract, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

32. **GOVERNING LAW:** This Contract shall be interpreted and enforced under the laws of Florida. Venue for any action or proceeding arising out of this Contract shall be in Lake County, Florida.

33. **COUNTERPARTS:** This Contract may be executed in one or more counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument. Fax or other electronically transmitted signatures shall be considered as fully binding as original signatures.

34. **PLAN APPROVAL:** Buyer agrees on behalf of itself, its successors and assigns to submit "Buyer's Plans", including and defined as: a dimensioned site plan showing Buyer's contemplated structural and parking improvements, including location of freestanding signage, and the height and size of such signage, any points of ingress and egress, to Seller for Seller's written review and approval, within the first fifty (50) days of the Buyer's Inspection Period. Buyer agrees to submit all plans to Seller prior to

proceeding with any permitting or proposed construction or reconstruction, including but not limited to copies of the plans and specifications for any and all site work and other improvements and any and all additions or modifications thereto that may be constructed or reconstructed by Buyer on the Property. This approval will facilitate the compatibility with Seller's adjacent land and uses of the design of such site work and other improvements that may be constructed or reconstructed by Buyer and will include, but not be limited to, location of building pad, architectural compatibility, location of the building, entrances, landscaping, parking lot design and circulation, and underground improvements. Further, Buyer agrees on behalf of itself, its successors and assigns to Secure Seller's written approval, which approval shall not be withheld, delayed or conditioned unreasonably, prior to granting any easements or right of ways which affect the Property.

35. ENTIRE AGREEMENT: This Contract sets forth the entire understanding of the parties with regard to its subject matter. It supersedes and takes precedence over any and all prior negotiations, representations and agreements, oral or written, all of which are deemed to have merged into this Contract and to have been extinguished except to the extent specifically set forth herein. This Contract may not be amended orally, by implication, by course of conduct, or in any other manner whatsoever than by way of a written instrument signed by both parties hereto or their lawful successors. This Contract shall be binding on the parties hereto, as well as on their lawful successors and assigns. Each party represents for the benefit of the other that it has not entered into this Contract in reliance on, or on the basis of, any promise, negotiation, representation, undertaking or agreement of the other party, oral or written, which is not specifically set forth within this Agreement.

36. ASSIGNMENT: This Contract may not be assigned in whole or in part by Buyer without the prior, written consent of Seller, as a condition of which Seller may request any information about the proposed assignee deemed relevant by Seller including but not limited to information pertaining to the financial condition and history of the assignee, its financial wherewithal to close this transaction, its experience and history in operating its business, and any civil or criminal proceedings involving the assignee or its principals or controlling equity owners. No such assignment shall be deemed to relieve Buyer of its obligations under this Contract unless Seller has duly executed a written release of Buyer herefrom, after approval thereof by the Leesburg City Commission. Under no circumstances shall any assignment be effectuated which in any manner bifurcates this Contract, the intention of the parties being that Seller shall be obligated only to convey the Property to a single purchaser at Closing, as a single tract of land.

37. ESCROW PROVISIONS:

(a) The Escrow Agent may from time to time invest the Escrow Funds in a an interest bearing for the benefit of the Buyer. Buyer's Federal Tax Identification Number is listed after its signature. The Escrow Agent shall not be responsible for any loss, diminution in value or failure to achieve a greater profit as a result of such investments. Also, the Escrow Agent assumes no responsibility for, nor shall said Agent be held liable for, any loss occurring which arises from (i) failure of the depository institution, (ii) the fact that some banking instruments, including without limitation repurchase agreements and letters of credit are not covered by the Federal Deposit Insurance Corporation, or (iii) the fact that the amount of the Escrow Deposit may cause the aggregate amount of any depositor's accounts to exceed \$100,000 and that such excess amount is not insured by the Federal Deposit Insurance Corporation.

(b) The Escrow Agent is not a trustee for any party for any purpose, and is merely acting as a depository and in a ministerial capacity hereunder with the limited duties herein prescribed.

(c) The Escrow Agent may conclusively rely upon and act in accordance with any certificate, instructions, notice, letter, telegram, cablegram other written instrument believed to be genuine and to have been signed or communicated by the proper party or parties. In the event of conflicting demands for the Earnest Money or any portion thereof, if the parties have not resolved their conflicts within thirty (30) days after such conflicting demands are first presented to Escrow Agent, then Escrow Agent may interplead the Earnest Money with the Circuit Court of the Fifth Judicial Circuit in Lake County, Florida, and shall be reimbursed for its court costs and reasonable attorneys' fees out of the Earnest Money at the

time it is deposited with the Court. Escrow Agent's role as City Attorney shall not be deemed for purposes of the interpleader action to render Escrow Agent an interested party so as to disqualify it from interpleading the Earnest Money, and following deposit of the Earnest Money with the Court (less those sums awarded as costs and fees), Escrow Agent shall not be disqualified from continuing to represent Seller in the litigation over entitlement to the Earnest Money.

(d) The Seller and Buyer shall indemnify, save, defend, keep and hold harmless the Escrow Agent from any and all loss, damage, cost, charge, liability, cost of litigation, or other expense, including without limitation attorney's fees and court costs, arising out of its obligations and duties, including but not limited to (i) disputes arising or concerning amounts of money to be paid, (ii) funds available for such payments, (iii) persons to whom payments should be made or (iv) any delay in the electronic wire transfer of funds, as Escrow Agent, unless Escrow Agent's actions constitute gross negligence or willful misconduct.

IN WITNESS WHEREOF, Seller and Buyer have each caused this Contract to be executed by authorized parties.

THE CITY OF LEESBURG, FLORIDA

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

Attest: \_\_\_\_\_  
CITY CLERK

Approved as to form and content:

\_\_\_\_\_  
CITY ATTORNEY

WITNESSES:  
:  
  
\_\_\_\_\_  
  
\_\_\_\_\_

BUYER: \_\_\_\_\_

BY: \_\_\_\_\_  
\_\_\_\_\_  
Type or print name and corporate title

PROPERTY DESCRIPTION

A Portion of the Southeast Quarter of Section 16, Township 20 South, Range 24 East, Lake County, Florida, being described as follows:

COMMENCE at the Southeast Corner of said Section 16; thence North 89°09'42" West along the South line of said Section 16 a distance of 20.00 feet to the POINT OF BEGINNING; thence continue North 89°09'42" West along said South line a distance of 1,428.30; thence North 00°49'11" East a distance of 2,601.52 feet to the Southerly right-of-way line of C.R. 470; thence South 88°56'32" East along said Southerly right-of-way line a distance of 487.31 feet; thence South 43°55'33" East a distance of 1,336.71 feet to a point on a line that is 20.00 feet West of, when measured at right angles, and parallel to the East line of the Southeast Quarter of said Section 16; thence South 00°49'11" West along said parallel line a distance of 1,650.57 feet to the POINT OF BEGINNING.

RESERVING UNTO THE SELLER easements for any utilities (above ground or underground) now located on the property, and an easement for ingress and egress over and across the property to reach lands owned by Seller adjacent to the property, together with the right to transfer such easements to any subsequent owners of the Seller's adjacent property or any portion thereof. Seller agrees to relocate any utilities which are on site at present but which would impede substantially the ability of Buyer to develop the property, provided that Buyer pays all expenses associated with such relocation including engineering and design as well as actual relocation and materials, and Seller will agree at or after closing to describe its ingress and egress agreement more specifically to utilize driveways or other passageways constructed by Buyer to facilitate its own use of the property in accordance with its approved development plans.

ALSO RESERVING for the benefit of Seller an easement over and across the Easterly side of the property which shall remain an undeveloped buffer area for the protection of adjacent residents and property owners, and which shall be maintained at the expense of Buyer in its natural vegetative state except for such modifications to the landscaping and vegetation as are part of Buyer's approved development plans.

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Exhibit B

SELLER'S AFFIDAVIT

STATE OF FLORIDA )  
COUNTY OF LAKE )

Personally appeared before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008, the undersigned City Manager of The City of Leesburg, Florida ("Seller"), who after being duly sworn deposes and states to the undersigned's actual knowledge:

(1) That this Affidavit is given in connection with the sale of real estate. Seller is the record owner of property being sold which is more particularly described on attached Exhibit A made a part hereof.

(2) There are no unpaid bills for labor performed or materials furnished on the improvements on the above described property; that there has been no labor performed or materials furnished on the premises within the past one hundred twenty (120) days.

(3) There are no liens, encumbrances, or easements against the said real or personal property that are not being satisfied at closing except the following: See attached Exhibit B made a part hereof.

(4) Seller is a tax exempt entity and there are no ad valorem taxes assessed or outstanding against the Property as of the date of this Affidavit.

(5) No one, other than Seller, is entitled to, or claims possession (as tenant or otherwise) of, the above described property.

(6) Seller has not filed a petition for bankruptcy or for similar proceedings for debtor relief; Seller does not intend to file for bankruptcy or similar proceedings for debtor relief with the next one hundred eighty (180) days.

Under penalties of perjury, I declare that I have examined this Affidavit and, to my actual knowledge and belief, it is true, correct and complete. The undersigned acknowledges having read and understood the within Affidavit.

\_\_\_\_\_  
JAY EVANS, City Manager

SWORN TO and subscribed before me  
on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, by  
Jay Evans, City Manager, who was either  
 personally known to me, or who  
 produced \_\_\_\_\_  
\_\_\_\_\_ as identification, and  
who did take an oath.

\_\_\_\_\_  
NOTARY PUBLIC SIGNATURE

\_\_\_\_\_  
Commission Number

\_\_\_\_\_  
Type or print name of Notary

\_\_\_\_\_  
Commission Expiration Date

Exhibit C

CERTIFICATION OF NON-FOREIGN STATUS

TO: [TRANSFEREE]  
FROM: THE CITY OF LEESBURG, FLORIDA [TRANSFEROR]

Section 1445 of the Internal Revenue Code provides that a Transferee of a U.S. Real Property interest must withhold tax if the Transferor is a foreign person. To inform the Transferee and the escrow agent that withholding of tax is not required upon Transferor's disposition of a U.S. Real Property interest, the undersigned hereby certifies the following on behalf of the Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations).
2. Transferor's U.S. Taxpayer Identification Number is \_\_\_\_\_.
3. Transferor's office address is: 501 West Meadow Street, Leesburg, FL 34748

Transferor understands that this Certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury I declare that I have examined this Certification and to my actual knowledge and belief, it is true, correct and complete.

THE CITY OF LEESBURG, FLORIDA

BY: \_\_\_\_\_  
JAY EVANS, City Manager

SWORN TO and subscribed before me  
on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, by  
Jay Evans, City Manager, who was either  
 personally known to me, or who  
 produced \_\_\_\_\_  
\_\_\_\_\_ as identification, and  
who did take an oath.

\_\_\_\_\_  
NOTARY PUBLIC SIGNATURE

\_\_\_\_\_  
Commission Number

\_\_\_\_\_  
Type or print name of Notary

\_\_\_\_\_  
Commission Expiration Date