



VILLAGE OF KEY BISCAYNE

Office of the Village Manager

MEMORANDUM

Village Council
Mayra P. Lindsay, *Mayor*
Franklin H. Caplan, *Vice Mayor*
Luis F. de La Cruz
Theodore Holloway
Michael E. Kelly
Edward London
James Taintor

Village Manager
John C. Gilbert

DATE: December 1, 2015

TO: Honorable Mayor and Members of the Village Council

FROM: John C. Gilbert, Village Manager

RE: Land Acquisition Committee Recommendation to Purchase
401 Hampton Lane

On November 23, 2015, the Land Acquisition Committee met and made a motion to purchase 401 Hampton Lane for use as a park. This motion passed unanimously.

I have reviewed the attached Assignment and Assumption Agreement and agree with the Committees recommendation for the purchase of this property as a passive neighborhood park.

Reviewed by Mr. Stephen Helfman from Weiss Serota Helfman Cole & Bierman as to form and legal sufficiency.

ASSIGNMENT AND ASSUMPTION AGREEMENT

This is an Assignment and Assumption Agreement (the "Agreement") made this 24 day of November, 2015 between Scott J. Hardie (the "Assignor") and the Village of Key Biscayne, Florida (the "Assignee").

RECITALS

1. The Assignor has entered into an "As Is" Residential Contract for Sale and Purchase (the "Contract") with TH Henderson, III for the purchase of the real property and improvements located at 401 Hampton Lane, Key Biscayne, Florida 33149 (the "Property"). A copy of the Contract is attached to this Agreement as Exhibit "A."
2. Under the terms of the Contract, Assignor represents that he has the right to unconditionally assign the Contract.
3. Assignor wishes to assign the Contract to the Assignee subject to the terms of this Agreement and Assignee wishes to accept the assignment and assume all obligations of Assignor under the terms of the Contract and this Agreement.
4. The parties wish to enter into this Agreement to confirm their various understandings and set forth their respective rights and obligations.

TERMS

1. **Recitals.** The foregoing recitals are true, correct and are incorporated herein.
2. **Assignment and Assumption.** Assignor hereby fully assigns, transfers and conveys to Assignee all of his right, title and interest in and to the Contract and the right to purchase the Property. Assignee by its execution of this Agreement agrees to fully assume and perform all Assignor's obligations under the Contract.
3. **Council Approval.** Assignor understands and acknowledges that this Agreement and the purchase of the Property is absolutely conditioned upon the approval by the Key Biscayne Village Council and shall only become effective after such approval by resolution of the Village Council. In the event the Village Council fails to approve this Agreement on or before December 20, 2015, this Agreement shall automatically expire without any liability to the Village. *19th J.H.H.*
4. **Consideration.** In consideration for the assignment by Assignor, Assignee agrees to assume all obligations under the Contract including the payment of the \$100,000 deposit due under the Contract.

Assignor Initials
Seller: _____
Buyer: _____

5. **Brokers.** Assignor represents that there are no real estate brokers involved in procuring this Agreement nor in the actual sale of the Property and that no commission is due to any broker.

6. **Time is of Essence.** Time is of the absolute essence with respect to this Agreement and each of the obligations of the parties hereunder and under the Contract.

7. **Electronic Signatures/Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

8. **Applicable Law & Attorney Fees.** This Agreement and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided therein or performance shall be governed or interpreted in accordance with the laws of the State of Florida. In the event of any dispute arising in connection with this Agreement, the prevailing party will be entitled, in addition to any other rights or remedies provided by Florida law, to recover such party's costs and expenses and reasonable attorney's fees and other costs from the non-prevailing party.

9. **Notices.** Except when specifically provided otherwise herein, any notices required to be given hereunder must be in writing. Notice shall be deemed delivered upon receipt or refusal if deposited in the United States Mail, Certified Mail, Return Receipt Requested, postage prepaid, properly addressed to the party to be served. Notice shall also be deemed given if delivered to the address for service of notice shown below by Federal Express, UPS or other nationally recognized overnight carrier service, with no signature or receipt required. Each party warrants that its correct mailing address for service of notice is shown below. A party may change its address for service of notice by giving the other party written notice of the change of address.

Assignor: Scott J. Hardie
155 Sunrise Dr.
Apt 2C.
Key Biscayne, Florida, 33144
Telephone:
Email: MiamiIndustrial@aol.com

Assignee: Village of Key Biscayne
c/o Village Manager
88 West McIntyre Street
Key Biscayne, Florida 33149
Telephone: 305-365-5506

Initials
Assignor Seller [Signature]
Buyer [Signature]

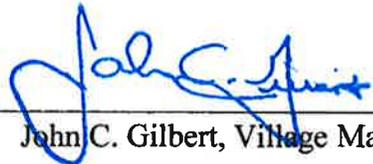
With copies to: Stephen J. Helfman
Weiss Serota Helfman Cole & Bierman, P.L.
2525 Ponce de Leon Boulevard, Suite 700
Coral Gables, Florida 33134
Telephone: 305-854-0800
Email: shelfman@wsh-law.com

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Signature: 

Scott J. Hardie, Assignor

**VILLAGE OF KEY BISCAYNE, Florida,
Assignee**

Signature: 

John C. Gilbert, Village Manager

Date: November 24th, 2015

Date: November 24, 2015

Assignor
Seller: 
Buyer: 

EXHIBIT A

"AS IS" Residential Contract
For Sale And Purchase
THIS FORM HAS BEEN APPROVED BY
THE FLORIDA REALTORS AND THE FLORIDA BAR

1 PARTIES: T H Henderson III ("Seller"),
2 and Scott J. Hardie, and/or assigns ("Buyer"),
3 agree that Seller shall sell and Buyer shall buy the following described Real Property and Personal Property
4 (collectively "Property") pursuant to the terms and conditions of this AS IS Residential Contract For Sale And
5 Purchase and any riders and addenda ("Contract"):

- 6 1. PROPERTY DESCRIPTION:
7 (a) Street address, city, zip: 401 Hampton Lane, Key Biscayne, FL. 33149
8 (b) Property is located in: Dade County, Florida. Real Property Tax ID No.: 24-4232-004-0550
9 (c) Real Property: The legal description is 32 54 42 & 5-55 42, PB 50-72, Tropical Isle Homes Sub 1st addn, Lot
10 17 Block 5, Lot Size 84.4 x 100, CF 74R78129

11 together with all existing improvements and fixtures, including built-in appliances, built-in furnishings and
12 attached wall-to-wall carpeting and flooring ("Real Property") unless specifically excluded in Paragraph 1(e) or
13 by other terms of this Contract.

- 14 (d) Personal Property: Unless excluded in Paragraph 1(e) or by other terms of this Contract, the following items
15 which are owned by Seller and existing on the Property as of the date of the initial offer are included in the
16 purchase: range(s)/oven(s), refrigerator(s), dishwasher(s), disposal, ceiling fan(s), intercom, light fixture(s),
17 drapery rods and draperies, blinds, window treatments, smoke detector(s), garage door opener(s), security
18 gate and other access devices, and storm shutters/panels ("Personal Property").
19 Other Personal Property items included in this purchase are:

20 Personal Property is included in the Purchase Price, has no contributory value, and shall be left for the Buyer.

- 21 (e) The following items are excluded from the purchase:

PURCHASE PRICE AND CLOSING

22 2. PURCHASE PRICE (U.S. currency): \$ 2,090,000.00

- 23 (a) Initial deposit to be held in escrow in the amount of (checks subject to COLLECTION) \$ 100,000.00
24 The initial deposit made payable and delivered to "Escrow Agent" named below
25 (CHECK ONE): (i) [] accompanies offer or (ii) [X] is to be made within 30 (if left
26 blank, then 3) days after Effective Date. IF NEITHER BOX IS CHECKED, THEN
27 OPTION (ii) SHALL BE DEEMED SELECTED.

28 Escrow Agent Information: Name:
29 Address:
30 Phone: E-mail: Fax:

- 31 (b) Additional deposit to be delivered to Escrow Agent within (if left blank, then 10)
32 days after Effective Date \$
33 (All deposits paid or agreed to be paid, are collectively referred to as the "Deposit")

34 (c) Financing: Express as a dollar amount or percentage ("Loan Amount") see Paragraph 8.

35 (d) Other: \$

36 (e) Balance to close (not including Buyer's closing costs, prepaids and prorations) by wire
37 transfer or other COLLECTED funds \$ 1,990,000.00

38 NOTE: For the definition of "COLLECTION" or "COLLECTED" see STANDARD S.

39 3. TIME FOR ACCEPTANCE OF OFFER AND COUNTER-OFFERS; EFFECTIVE DATE:

- 40 (a) If not signed by Buyer and Seller, and an executed copy delivered to all parties on or before
41 this offer shall be deemed withdrawn and the Deposit, if any, shall be returned
42 to Buyer. Unless otherwise stated, time for acceptance of any counter-offers shall be within 2 days after the
43 day the counter-offer is delivered.
44 (b) The effective date of this Contract shall be the date when the last one of the Buyer and Seller has signed or
45 initialed and delivered this offer or final counter-offer ("Effective Date").

46 4. CLOSING DATE: Unless modified by other provisions of this Contract, the closing of this transaction shall occur
47 and the closing documents required to be furnished by each party pursuant to this Contract shall be delivered
48 ("Closing") on 120 from Effective Date(after 12-31-2016) ("Closing Date"), at the time established by the Closing Agent.

Handwritten initials and date: 5/21/15

53 **5. EXTENSION OF CLOSING DATE:**

- 54 (a) If Paragraph 8(b) is checked and Closing funds from Buyer's lender(s) are not available on Closing Date due
55 to Consumer Financial Protection Bureau Closing Disclosure delivery requirements ("CFPB Requirements"),
56 then Closing Date shall be extended for such period necessary to satisfy CFPB Requirements, provided such
57 period shall not exceed 10 days.
58 (b) If extreme weather or other condition or event constituting "Force Majeure" (see STANDARD G) causes: (i)
59 disruption of utilities or other services essential for Closing or (ii) Hazard, Wind, Flood or Homeowners'
60 insurance, to become unavailable prior to Closing, Closing shall be extended a reasonable time up to 3 days
61 after restoration of utilities and other services essential to Closing and availability of applicable Hazard, Wind,
62 Flood or Homeowners' insurance. If restoration of such utilities or services and availability of insurance has
63 not occurred within _____ (if left blank, then 14) days after Closing Date, then either party may terminate
64 this Contract by delivering written notice to the other party, and Buyer shall be refunded the Deposit, thereby
65 releasing Buyer and Seller from all further obligations under this Contract.

66 **6. OCCUPANCY AND POSSESSION:**

- 67 (a) Unless the box in Paragraph 6(b) is checked, Seller shall, at Closing, deliver occupancy and possession of
68 the Property to Buyer free of tenants, occupants and future tenancies. Also, at Closing, Seller shall have
69 removed all personal items and trash from the Property and shall deliver all keys, garage door openers,
70 access devices and codes, as applicable, to Buyer. If occupancy is to be delivered before Closing, Buyer
71 assumes all risks of loss to the Property from date of occupancy, shall be responsible and liable for
72 maintenance from that date, and shall be deemed to have accepted the Property in its existing condition as of
73 time of taking occupancy.
74 (b) **CHECK IF PROPERTY IS SUBJECT TO LEASE(S) OR OCCUPANCY AFTER CLOSING.** If Property is
75 subject to a lease(s) after Closing or is intended to be rented or occupied by third parties beyond Closing, the
76 facts and terms thereof shall be disclosed in writing by Seller to Buyer and copies of the written lease(s) shall
77 be delivered to Buyer, all within 5 days after Effective Date. If Buyer determines, in Buyer's sole discretion,
78 that the lease(s) or terms of occupancy are not acceptable to Buyer, Buyer may terminate this Contract by
79 delivery of written notice of such election to Seller within 5 days after receipt of the above items from Seller,
80 and Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under
81 this Contract. Estoppel Letter(s) and Seller's affidavit shall be provided pursuant to STANDARD D. If Property
82 is intended to be occupied by Seller after Closing, see Rider U. POST-CLOSING OCCUPANCY BY SELLER.

- 83 **7. ASSIGNABILITY: (CHECK ONE):** Buyer may assign and thereby be released from any further liability under
84 this Contract; may assign but not be released from liability under this Contract; or may not assign this
85 Contract.

86 **FINANCING**

87 **8. FINANCING:**

88 (a) Buyer will pay cash for the purchase of the Property at Closing. There is no financing contingency to
89 Buyer's obligation to close. If Buyer obtains a loan for any part of the Purchase Price of the Property, Buyer
90 acknowledges that any terms and conditions imposed by Buyer's lender(s) or by CFPB Requirements shall not
91 affect or extend the Buyer's obligation to close or otherwise affect any terms or conditions of this Contract.

92 (b) This Contract is contingent upon Buyer obtaining a written loan commitment for a conventional FHA
93 VA or other _____ (describe) loan on the following terms within _____ (if left blank, then 45)
94 days after Effective Date ("Loan Commitment Date") for (CHECK ONE): fixed, adjustable, fixed or
95 adjustable rate loan in the Loan Amount (See Paragraph 2(c)), at an initial interest rate not to exceed _____ %
96 (if left blank, then prevailing rate based upon Buyer's creditworthiness), and for a term of _____ (if left blank,
97 then 30) years ("Financing").

98 Buyer shall make mortgage loan application for the Financing within _____ (if left blank, then 5) days after
99 Effective Date and use good faith and diligent effort to obtain a written loan commitment for the Financing ("Loan
100 Commitment") and thereafter to close this Contract. Buyer shall keep Seller and Broker fully informed about the
101 status of mortgage loan application and Loan Commitment and authorizes Buyer's mortgage broker and Buyer's
102 lender to disclose such status and progress to Seller and Broker.
103

104 Upon Buyer's receipt of Loan Commitment, Buyer shall provide written notice of same to Seller. If Buyer does not
105 receive Loan Commitment by Loan Commitment Date, then thereafter either party may cancel this Contract up to
106 the earlier of:

Buyer's Initials SM
FloridaRealtors/FloridaBar-ASIS-4

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Seller's Initials JW

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- 107 (i.) Buyer's delivery of written notice to Seller that Buyer has either received Loan Commitment or elected
- 108 to waive the financing contingency of this Contract; or
- 109 (ii.) 7 days prior to the Closing Date specified in Paragraph 4, which date, for purposes of this Paragraph
- 110 8(b) (ii), shall not be modified by Paragraph 5(a).

111 If either party timely cancels this Contract pursuant to this Paragraph 8 and Buyer is not in default under the terms
 112 of this Contract, Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further
 113 obligations under this Contract. If neither party has timely canceled this Contract pursuant to this Paragraph 8,
 114 then this financing contingency shall be deemed waived by Buyer.

115 If Buyer delivers written notice of receipt of Loan Commitment to Seller and this Contract does not thereafter
 116 close, the Deposit shall be paid to Seller unless failure to close is due to: (1) Seller's default; (2) Property related
 117 conditions of the Loan Commitment have not been met (except when such conditions are waived by other
 118 provisions of this Contract); (3) appraisal of the Property obtained by Buyer's lender is insufficient to meet terms
 119 of the Loan Commitment; or (4) the loan is not funded due to financial failure of Buyer's lender, in which event(s)
 120 the Deposit shall be returned to Buyer, thereby releasing Buyer and Seller from all further obligations under this
 121 Contract.

- 122 (c) Assumption of existing mortgage (see rider for terms).
- 123 (d) Purchase money note and mortgage to Seller (see riders; addenda; or special clauses for terms).

124 **CLOSING COSTS, FEES AND CHARGES**

125 **9. CLOSING COSTS; TITLE INSURANCE; SURVEY; HOME WARRANTY; SPECIAL ASSESSMENTS:**

126 (a) **COSTS TO BE PAID BY SELLER:**

- 127 • Documentary stamp taxes and surtax on deed, if any
- 128 • Owner's Policy and Charges (if Paragraph 9(c) (i) is checked)
- 129 • Title search charges (if Paragraph 9(c) (iii) is checked)
- 130 • Municipal lien search (if Paragraph 9(c) (i) or (iii) is checked)
- HOA/Condominium Association estoppel fees
- Recording and other fees needed to cure title
- Seller's attorneys' fees
- Other: _____

131 If, prior to Closing, Seller is unable to meet the AS IS Maintenance Requirement as required by Paragraph 11
 132 a sum equal to 125% of estimated costs to meet the AS IS Maintenance Requirement shall be escrowed at
 133 Closing. If actual costs to meet the AS IS Maintenance Requirement exceed escrowed amount, Seller shall
 134 pay such actual costs. Any unused portion of escrowed amount(s) shall be returned to Seller.

135 (b) **COSTS TO BE PAID BY BUYER:**

- 136 • Taxes and recording fees on notes and mortgages
- 137 • Recording fees for deed and financing statements
- 138 • Owner's Policy and Charges (if Paragraph 9(c)(ii) is checked)
- 139 • Survey (and elevation certification, if required)
- 140 • Lender's title policy and endorsements
- 141 • HOA/Condominium Association application/transfer fees
- 142 • Municipal lien search (if Paragraph 9(c) (ii) is checked)
- 143 • Other: _____
- Loan expenses
- Appraisal fees
- Buyer's Inspections
- Buyer's attorneys' fees
- All property related insurance
- Owner's Policy Premium (if Paragraph 9 (c) (iii) is checked.)

144 (c) **TITLE EVIDENCE AND INSURANCE:** At least _____ (if left blank, then 15, or if Paragraph 8(a) is checked,
 145 then 5) days prior to Closing Date ("Title Evidence Deadline"), a title insurance commitment issued by a
 146 Florida licensed title insurer, with legible copies of instruments listed as exceptions attached thereto ("Title
 147 Commitment") and, after Closing, an owner's policy of title insurance (see STANDARD A for terms) shall be
 148 obtained and delivered to Buyer. If Seller has an owner's policy of title insurance covering the Real Property,
 149 a copy shall be furnished to Buyer and Closing Agent within 5 days after Effective Date. The owner's title
 150 policy premium, title search and closing services (collectively, "Owner's Policy and Charges") shall be paid, as
 151 set forth below. The title insurance premium charges for the owner's policy and any lender's policy will be
 152 calculated and allocated in accordance with Florida law, but may be reported differently on certain federally
 153 mandated closing disclosures and other closing documents.

154 **(CHECK ONE):**

- 155 (i) Seller shall designate Closing Agent and pay for Owner's Policy and Charges, and Buyer shall pay the
 156 premium for Buyer's lender's policy and charges for closing services related to the lender's policy,
 157 endorsements and loan closing, which amounts shall be paid by Buyer to Closing Agent or such other
 158 provider(s) as Buyer may select; or
- 159 (ii) Buyer shall designate Closing Agent and pay for Owner's Policy and Charges and charges for closing
 160 services related to Buyer's lender's policy, endorsements and loan closing; or
- 161 (iii) **[MIAMI-DADE/BROWARD REGIONAL PROVISION]:** Seller shall furnish a copy of a prior owner's
 162 policy of title insurance or other evidence of title and pay fees for: (A) a continuation or update of such title

evidence, which is acceptable to Buyer's title insurance underwriter for reissue of coverage; (B) tax search; and (C) municipal lien search. Buyer shall obtain and pay for post-Closing continuation and premium for Buyer's owner's policy, and if applicable, Buyer's lender's policy. Seller shall not be obligated to pay more than \$ _____ (if left blank, then \$200.00) for abstract continuation or title search ordered or performed by Closing Agent.

(d) **SURVEY:** On or before Title Evidence Deadline, Buyer may, at Buyer's expense, have the Real Property surveyed and certified by a registered Florida surveyor ("Survey"). If Seller has a survey covering the Real Property, a copy shall be furnished to Buyer and Closing Agent within 5 days after Effective Date.

(e) **HOME WARRANTY:** At Closing, Buyer Seller N/A shall pay for a home warranty plan issued by _____ at a cost not to exceed \$ _____. A home warranty plan provides for repair or replacement of many of a home's mechanical systems and major built-in appliances in the event of breakdown due to normal wear and tear during the agreement's warranty period.

(f) **SPECIAL ASSESSMENTS:** At Closing, Seller shall pay: (i) the full amount of liens imposed by a public body ("public body" does not include a Condominium or Homeowner's Association) that are certified, confirmed and ratified before Closing; and (ii) the amount of the public body's most recent estimate or assessment for an improvement which is substantially complete as of Effective Date, but that has not resulted in a lien being imposed on the Property before Closing. Buyer shall pay all other assessments. If special assessments may be paid in installments (**CHECK ONE**):

(a) Seller shall pay installments due prior to Closing and Buyer shall pay installments due after Closing. Installments prepaid or due for the year of Closing shall be prorated.

(b) Seller shall pay the assessment(s) in full prior to or at the time of Closing.

IF NEITHER BOX IS CHECKED, THEN OPTION (a) SHALL BE DEEMED SELECTED.

This Paragraph 9(f) shall not apply to a special benefit tax lien imposed by a community development district (CDD) pursuant to Chapter 190, F.S., which lien shall be prorated pursuant to STANDARD K.

DISCLOSURES

10. DISCLOSURES:

(a) **RADON GAS:** Radon is a naturally occurring radioactive gas that, when it is accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

(b) **PERMITS DISCLOSURE:** Except as may have been disclosed by Seller to Buyer in a written disclosure, Seller does not know of any improvements made to the Property which were made without required permits or made pursuant to permits which have not been properly closed.

(c) **MOLD:** Mold is naturally occurring and may cause health risks or damage to property. If Buyer is concerned or desires additional information regarding mold, Buyer should contact an appropriate professional.

(d) **FLOOD ZONE; ELEVATION CERTIFICATION:** Buyer is advised to verify by elevation certificate which flood zone the Property is in, whether flood insurance is required by Buyer's lender, and what restrictions apply to improving the Property and rebuilding in the event of casualty. If Property is in a "Special Flood Hazard Area" or "Coastal Barrier Resources Act" designated area or otherwise protected area identified by the U.S. Fish and Wildlife Service under the Coastal Barrier Resources Act and the lowest floor elevation for the building(s) and /or flood insurance rating purposes is below minimum flood elevation or is ineligible for flood insurance coverage through the National Flood Insurance Program or private flood insurance as defined in 42 U.S.C. §4012a, Buyer may terminate this Contract by delivering written notice to Seller within _____ (if left blank, then 20) days after Effective Date, and Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract, failing which Buyer accepts existing elevation of buildings and flood zone designation of Property. The National Flood Insurance Program may assess additional fees or adjust premiums for pre-Flood Insurance Rate Map (pre-FIRM) non-primary structures (residential structures in which the insured or spouse does not reside for at least 50% of the year) and an elevation certificate may be required for actuarial rating.

(e) **ENERGY BROCHURE:** Buyer acknowledges receipt of Florida Energy-Efficiency Rating Information Brochure required by Section 553.996, F.S.

(f) **LEAD-BASED PAINT:** If Property includes pre-1978 residential housing, a lead-based paint disclosure is mandatory.

(g) **HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE: BUYER SHOULD NOT EXECUTE THIS CONTRACT UNTIL BUYER HAS RECEIVED AND READ THE HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE, IF APPLICABLE.**

- 219 (h) **PROPERTY TAX DISCLOSURE SUMMARY:** BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT
220 PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED
221 TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY
222 IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN
223 HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT
224 THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.
- 225 (i) **FIRPTA TAX WITHHOLDING:** Seller shall inform Buyer in writing if Seller is a "foreign person" as defined by
226 the Foreign Investment in Real Property Tax Act ("FIRPTA"). Buyer and Seller shall comply with FIRPTA,
227 which may require Seller to provide additional cash at Closing. If Seller is not a "foreign person", Seller can
228 provide Buyer, at or prior to Closing, a certification of non-foreign status, under penalties of perjury, to inform
229 Buyer and Closing Agent that no withholding is required. See STANDARD V for further information pertaining
230 to FIRPTA. Buyer and Seller are advised to seek legal counsel and tax advice regarding their respective
231 rights, obligations, reporting and withholding requirements pursuant to FIRPTA.
- 232 (j) **SELLER DISCLOSURE:** Seller knows of no facts materially affecting the value of the Real Property which
233 are not readily observable and which have not been disclosed to Buyer. Except as provided for in the
234 preceding sentence, Seller extends and intends no warranty and makes no representation of any type, either
235 express or implied, as to the physical condition or history of the Property. Except as otherwise disclosed in
236 writing Seller has received no written or verbal notice from any governmental entity or agency as to a
237 currently uncorrected building, environmental or safety code violation.

238 **PROPERTY MAINTENANCE, CONDITION, INSPECTIONS AND EXAMINATIONS**

- 239 **11. PROPERTY MAINTENANCE:** Except for ordinary wear and tear and Casualty Loss, Seller shall maintain the
240 Property, including, but not limited to, lawn, shrubbery, and pool, in the condition existing as of Effective Date ("AS
241 IS Maintenance Requirement").
- 242 **12. PROPERTY INSPECTION; RIGHT TO CANCEL:**
- 243 (a) **PROPERTY INSPECTIONS AND RIGHT TO CANCEL:** Buyer shall have 30 (if left blank, then 15)
244 days after Effective Date ("Inspection Period") within which to have such inspections of the Property
245 performed as Buyer shall desire during the Inspection Period. If Buyer determines, in Buyer's sole
246 discretion, that the Property is not acceptable to Buyer, Buyer may terminate this Contract by
247 delivering written notice of such election to Seller prior to expiration of Inspection Period. If Buyer
248 timely terminates this Contract, the Deposit paid shall be returned to Buyer, thereupon, Buyer and
249 Seller shall be released of all further obligations under this Contract; however, Buyer shall be
250 responsible for prompt payment for such inspections, for repair of damage to, and restoration of, the
251 Property resulting from such inspections, and shall provide Seller with paid receipts for all work done
252 on the Property (the preceding provision shall survive termination of this Contract). Unless Buyer
253 exercises the right to terminate granted herein, Buyer accepts the physical condition of the Property
254 and any violation of governmental, building, environmental, and safety codes, restrictions, or
255 requirements, but subject to Seller's continuing AS IS Maintenance Requirement, and Buyer shall be
256 responsible for any and all repairs and improvements required by Buyer's lender.
- 257 (b) **WALK-THROUGH INSPECTION/RE-INSPECTION:** On the day prior to Closing Date, or on Closing Date
258 prior to time of Closing, as specified by Buyer, Buyer or Buyer's representative may perform a walk-through
259 (and follow-up walk-through, if necessary) inspection of the Property solely to confirm that all items of
260 Personal Property are on the Property and to verify that Seller has maintained the Property as required by the
261 AS IS Maintenance Requirement and has met all other contractual obligations.
- 262 (c) **SELLER ASSISTANCE AND COOPERATION IN CLOSE-OUT OF BUILDING PERMITS:** If Buyer's
263 inspection of the Property identifies open or needed building permits, then Seller shall promptly deliver to
264 Buyer all plans, written documentation or other information in Seller's possession, knowledge, or control
265 relating to improvements to the Property which are the subject of such open or needed Permits, and shall
266 promptly cooperate in good faith with Buyer's efforts to obtain estimates of repairs or other work necessary to
267 resolve such Permit issues. Seller's obligation to cooperate shall include Seller's execution of necessary
268 authorizations, consents, or other documents necessary for Buyer to conduct inspections and have estimates
269 of such repairs or work prepared, but in fulfilling such obligation, Seller shall not be required to expend, or
270 become obligated to expend, any money.

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(d) **ASSIGNMENT OF REPAIR AND TREATMENT CONTRACTS AND WARRANTIES:** At Buyer's option and cost, Seller will, at Closing, assign all assignable repair, treatment and maintenance contracts and warranties to Buyer.

ESCROW AGENT AND BROKER

13. ESCROW AGENT: Any Closing Agent or Escrow Agent (collectively "Agent") receiving the Deposit, other funds and other items is authorized, and agrees by acceptance of them, to deposit them promptly, hold same in escrow within the State of Florida and, subject to **COLLECTION**, disburse them in accordance with terms and conditions of this Contract. Failure of funds to become **COLLECTED** shall not excuse Buyer's performance. When conflicting demands for the Deposit are received, or Agent has a good faith doubt as to entitlement to the Deposit, Agent may take such actions permitted by this Paragraph 13, as Agent deems advisable. If in doubt as to Agent's duties or liabilities under this Contract, Agent may, at Agent's option, continue to hold the subject matter of the escrow until the parties agree to its disbursement or until a final judgment of a court of competent jurisdiction shall determine the rights of the parties, or Agent may deposit same with the clerk of the circuit court having jurisdiction of the dispute. An attorney who represents a party and also acts as Agent may represent such party in such action. Upon notifying all parties concerned of such action, all liability on the part of Agent shall fully terminate, except to the extent of accounting for any items previously delivered out of escrow. If a licensed real estate broker, Agent will comply with provisions of Chapter 475, F.S., as amended and FREC rules to timely resolve escrow disputes through mediation, arbitration, interpleader or an escrow disbursement order. Any proceeding between Buyer and Seller wherein Agent is made a party because of acting as Agent hereunder, or in any proceeding where Agent interpleads the subject matter of the escrow, Agent shall recover reasonable attorney's fees and costs incurred, to be paid pursuant to court order out of the escrowed funds or equivalent. Agent shall not be liable to any party or person for mis-delivery of any escrowed items, unless such mis-delivery is due to Agent's willful breach of this Contract or Agent's gross negligence. This Paragraph 13 shall survive Closing or termination of this Contract.

14. PROFESSIONAL ADVICE; BROKER LIABILITY: Broker advises Buyer and Seller to verify Property condition, square footage, and all other facts and representations made pursuant to this Contract and to consult appropriate professionals for legal, tax, environmental, and other specialized advice concerning matters affecting the Property and the transaction contemplated by this Contract. Broker represents to Buyer that Broker does not reside on the Property and that all representations (oral, written or otherwise) by Broker are based on Seller representations or public records. **BUYER AGREES TO RELY SOLELY ON SELLER, PROFESSIONAL INSPECTORS AND GOVERNMENTAL AGENCIES FOR VERIFICATION OF PROPERTY CONDITION, SQUARE FOOTAGE AND FACTS THAT MATERIALLY AFFECT PROPERTY VALUE AND NOT ON THE REPRESENTATIONS (ORAL, WRITTEN OR OTHERWISE) OF BROKER.** Buyer and Seller (individually, the "Indemnifying Party") each individually indemnifies, holds harmless, and releases Broker and Broker's officers, directors, agents and employees from all liability for loss or damage, including all costs and expenses, and reasonable attorney's fees at all levels, suffered or incurred by Broker and Broker's officers, directors, agents and employees in connection with or arising from claims, demands or causes of action instituted by Buyer or Seller based on: (i) Inaccuracy of information provided by the Indemnifying Party or from public records; (ii) Indemnifying Party's misstatement(s) or failure to perform contractual obligations; (iii) Broker's performance, at Indemnifying Party's request, of any task beyond the scope of services regulated by Chapter 475, F.S., as amended, including Broker's referral, recommendation or retention of any vendor for, or on behalf of Indemnifying Party; (iv) products or services provided by any such vendor for, or on behalf of, Indemnifying Party; and (v) expenses incurred by any such vendor. Buyer and Seller each assumes full responsibility for selecting and compensating their respective vendors and paying their other costs under this Contract whether or not this transaction closes. This Paragraph 14 will not relieve Broker of statutory obligations under Chapter 475, F.S., as amended. For purposes of this Paragraph 14, Broker will be treated as a party to this Contract. This Paragraph 14 shall survive Closing or termination of this Contract.

DEFAULT AND DISPUTE RESOLUTION

15. DEFAULT:

(a) **BUYER DEFAULT:** If Buyer fails, neglects or refuses to perform Buyer's obligations under this Contract, including payment of the Deposit, within the time(s) specified, Seller may elect to recover and retain the Deposit for the account of Seller as agreed upon liquidated damages, consideration for execution of this Contract, and in full settlement of any claims, whereupon Buyer and Seller shall be relieved from all further obligations under this Contract, or Seller, at Seller's option, may, pursuant to Paragraph 16, proceed in equity to enforce Seller's rights under this Contract. The portion of the Deposit, if any, paid to Listing Broker upon

326 default by Buyer, shall be split equally between Listing Broker and Cooperating Broker; provided however,
327 Cooperating Broker's share shall not be greater than the commission amount Listing Broker had agreed to
328 pay to Cooperating Broker.

- 329 (b) **SELLER DEFAULT:** If for any reason other than failure of Seller to make Seller's title marketable after
330 reasonable diligent effort, Seller fails, neglects or refuses to perform Seller's obligations under this Contract,
331 Buyer may elect to receive return of Buyer's Deposit without thereby waiving any action for damages resulting
332 from Seller's breach, and, pursuant to Paragraph 16, may seek to recover such damages or seek specific
333 performance.

334 This Paragraph 15 shall survive Closing or termination of this Contract.

- 335 **16. DISPUTE RESOLUTION:** Unresolved controversies, claims and other matters in question between Buyer and
336 Seller arising out of, or relating to, this Contract or its breach, enforcement or interpretation ("Dispute") will be
337 settled as follows:

338 (a) Buyer and Seller will have 10 days after the date conflicting demands for the Deposit are made to attempt to
339 resolve such Dispute, failing which, Buyer and Seller shall submit such Dispute to mediation under Paragraph
340 16(b).

341 (b) Buyer and Seller shall attempt to settle Disputes in an amicable manner through mediation pursuant to Florida
342 Rules for Certified and Court-Appointed Mediators and Chapter 44, F.S., as amended (the "Mediation Rules").
343 The mediator must be certified or must have experience in the real estate industry. Injunctive relief may be
344 sought without first complying with this Paragraph 16(b). Disputes not settled pursuant to this Paragraph 16
345 may be resolved by instituting action in the appropriate court having jurisdiction of the matter. This Paragraph
346 16 shall survive Closing or termination of this Contract.

- 347 **17. ATTORNEY'S FEES; COSTS:** The parties will split equally any mediation fee incurred in any mediation permitted
348 by this Contract, and each party will pay their own costs, expenses and fees, including attorney's fees, incurred in
349 conducting the mediation. In any litigation permitted by this Contract, the prevailing party shall be entitled to
350 recover from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting
351 the litigation. This Paragraph 17 shall survive Closing or termination of this Contract.

352 **STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS")**

- 353 **18. STANDARDS:**

354 **A. TITLE:**

355 (i) **TITLE EVIDENCE; RESTRICTIONS; EASEMENTS; LIMITATIONS:** Within the time period provided in
356 Paragraph 9(c), the Title Commitment, with legible copies of instruments listed as exceptions attached thereto,
357 shall be issued and delivered to Buyer. The Title Commitment shall set forth those matters to be discharged by
358 Seller at or before Closing and shall provide that, upon recording of the deed to Buyer, an owner's policy of title
359 insurance in the amount of the Purchase Price, shall be issued to Buyer insuring Buyer's marketable title to the
360 Real Property, subject only to the following matters: (a) comprehensive land use plans, zoning, and other land
361 use restrictions, prohibitions and requirements imposed by governmental authority; (b) restrictions and matters
362 appearing on the Plat or otherwise common to the subdivision; (c) outstanding oil, gas and mineral rights of
363 record without right of entry; (d) unplatted public utility easements of record (located contiguous to real property
364 lines and not more than 10 feet in width as to rear or front lines and 7 1/2 feet in width as to side lines); (e) taxes
365 for year of Closing and subsequent years; and (f) assumed mortgages and purchase money mortgages, if any (if
366 additional items, attach addendum); provided, that, none prevent use of Property for **RESIDENTIAL PURPOSES**.
367 If there exists at Closing any violation of items identified in (b) - (f) above, then the same shall be deemed a title
368 defect. Marketable title shall be determined according to applicable Title Standards adopted by authority of The
369 Florida Bar and in accordance with law.

370 (ii) **TITLE EXAMINATION:** Buyer shall have 5 days after receipt of Title Commitment to examine it and notify
371 Seller in writing specifying defect(s), if any, that render title unmarketable. If Seller provides Title Commitment and
372 it is delivered to Buyer less than 5 days prior to Closing Date, Buyer may extend Closing for up to 5 days after
373 date of receipt to examine same in accordance with this STANDARD A. Seller shall have 30 days ("Cure Period")
374 after receipt of Buyer's notice to take reasonable diligent efforts to remove defects. If Buyer fails to so notify
375 Seller, Buyer shall be deemed to have accepted title as it then is. If Seller cures defects within Cure Period, Seller
376 will deliver written notice to Buyer (with proof of cure acceptable to Buyer and Buyer's attorney) and the parties
377 will close this Contract on Closing Date (or if Closing Date has passed, within 10 days after Buyer's receipt of
378 Seller's notice). If Seller is unable to cure defects within Cure Period, then Buyer may, within 5 days after
379 expiration of Cure Period, deliver written notice to Seller: (a) extending Cure Period for a specified period not to
380 exceed 120 days within which Seller shall continue to use reasonable diligent effort to remove or cure the defects
381 ("Extended Cure Period"); or (b) electing to accept title with existing defects and close this Contract on Closing

STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

382 Date (or if Closing Date has passed, within the earlier of 10 days after end of Extended Cure Period or Buyer's
383 receipt of Seller's notice), or (c) electing to terminate this Contract and receive a refund of the Deposit, thereby
384 releasing Buyer and Seller from all further obligations under this Contract. If after reasonable diligent effort, Seller
385 is unable to timely cure defects, and Buyer does not waive the defects, this Contract shall terminate, and Buyer
386 shall receive a refund of the Deposit, thereby releasing Buyer and Seller from all further obligations under this
387 Contract.

388 **B. SURVEY:** If Survey discloses encroachments on the Real Property or that improvements located thereon
389 encroach on setback lines, easements, or lands of others, or violate any restrictions, covenants, or applicable
390 governmental regulations described in STANDARD A (i)(a), (b) or (d) above, Buyer shall deliver written notice of
391 such matters, together with a copy of Survey, to Seller within 5 days after Buyer's receipt of Survey, but no later
392 than Closing. If Buyer timely delivers such notice and Survey to Seller, such matters identified in the notice and
393 Survey shall constitute a title defect, subject to cure obligations of STANDARD A above. If Seller has delivered a
394 prior survey, Seller shall, at Buyer's request, execute an affidavit of "no change" to the Real Property since the
395 preparation of such prior survey, to the extent the affirmations therein are true and correct.

396 **C. INGRESS AND EGRESS:** Seller represents that there is ingress and egress to the Real Property and title to
397 the Real Property is insurable in accordance with STANDARD A without exception for lack of legal right of
398 access.

399 **D. LEASE INFORMATION:** Seller shall, at least 10 days prior to Closing, furnish to Buyer estoppel letters from
400 tenant(s)/occupant(s) specifying nature and duration of occupancy, rental rates, advanced rent and security
401 deposits paid by tenant(s) or occupant(s) ("Estoppel Letter(s)"). If Seller is unable to obtain such Estoppel Letter(s)
402 the same information shall be furnished by Seller to Buyer within that time period in the form of a Seller's affidavit
403 and Buyer may thereafter contact tenant(s) or occupant(s) to confirm such information. If Estoppel Letter(s) or
404 Seller's affidavit, if any, differ materially from Seller's representations and lease(s) provided pursuant to
405 Paragraph 6, or if tenant(s)/occupant(s) fail or refuse to confirm Seller's affidavit, Buyer may deliver written notice
406 to Seller within 5 days after receipt of such information, but no later than 5 days prior to Closing Date, terminating
407 this Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from all further obligations
408 under this Contract. Seller shall, at Closing, deliver and assign all leases to Buyer who shall assume Seller's
409 obligations thereunder.

410 **E. LIENS:** Seller shall furnish to Buyer at Closing an affidavit attesting (i) to the absence of any financing
411 statement, claims of lien or potential lienors known to Seller and (ii) that there have been no improvements or
412 repairs to the Real Property for 90 days immediately preceding Closing Date. If the Real Property has been
413 improved or repaired within that time, Seller shall deliver releases or waivers of construction liens executed by all
414 general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth
415 names of all such general contractors, subcontractors, suppliers and materialmen, further affirming that all
416 charges for improvements or repairs which could serve as a basis for a construction lien or a claim for damages
417 have been paid or will be paid at Closing.

418 **F. TIME:** Calendar days shall be used in computing time periods. **Time is of the essence in this Contract.**
419 Other than time for acceptance and Effective Date as set forth in Paragraph 3, any time periods provided for or
420 dates specified in this Contract, whether preprinted, handwritten, typewritten or inserted herein, which shall end or
421 occur on a Saturday, Sunday, or a national legal holiday (see 5 U.S.C. 6103) shall extend to 5:00 p.m. (where the
422 Property is located) of the next business day.

423 **G. FORCE MAJEURE:** Buyer or Seller shall not be required to perform any obligation under this Contract or be
424 liable to each other for damages so long as performance or non-performance of the obligation is delayed, caused
425 or prevented by Force Majeure. "Force Majeure" means: hurricanes, earthquakes, floods, fire, acts of God,
426 unusual transportation delays, wars, insurrections, and acts of terrorism, and which, by exercise of reasonable
427 diligent effort, the non-performing party is unable in whole or in part to prevent or overcome. All time periods,
428 including Closing Date, will be extended for the period that the Force Majeure prevents performance under this
429 Contract, provided, however, if such Force Majeure continues to prevent performance under this Contract more
430 than 14 days beyond Closing Date, then either party may terminate this Contract by delivering written notice to
431 the other and the Deposit shall be refunded to Buyer, thereby releasing Buyer and Seller from all further
432 obligations under this Contract.

433 **H. CONVEYANCE:** Seller shall convey marketable title to the Real Property by statutory warranty, trustee's,
434 personal representative's, or guardian's deed, as appropriate to the status of Seller, subject only to matters
435 described in STANDARD A and those accepted by Buyer. Personal Property shall, at request of Buyer, be
436 transferred by absolute bill of sale with warranty of title, subject only to such matters as may be provided for in
437 this Contract.

438 **I. CLOSING LOCATION; DOCUMENTS; AND PROCEDURE:**

STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

439 (i) **LOCATION:** Closing will take place in the county where the Real Property is located at the office of the
440 attorney or other closing agent ("Closing Agent") designated by the party paying for the owner's policy of title
441 insurance, or, if no title insurance, designated by Seller. Closing may be conducted by mail or electronic means.
442 (ii) **CLOSING DOCUMENTS:** Seller shall at or prior to Closing, execute and deliver, as applicable, deed, bill of
443 sale, certificate(s) of title or other documents necessary to transfer title to the Property, construction lien
444 affidavit(s), owner's possession and no lien affidavit(s), and assignment(s) of leases. Seller shall provide Buyer
445 with paid receipts for all work done on the Property pursuant to this Contract. Buyer shall furnish and pay for, as
446 applicable the survey, flood elevation certification, and documents required by Buyer's lender.
447 (iii) **PROCEDURE:** The deed shall be recorded upon **COLLECTION** of all closing funds. If the Title Commitment
448 provides insurance against adverse matters pursuant to Section 627.7841, F.S., as amended, the escrow closing
449 procedure required by STANDARD J shall be waived, and Closing Agent shall, **subject to COLLECTION of all**
450 **closing funds**, disburse at Closing the brokerage fees to Broker and the net sale proceeds to Seller.
451 **J. ESCROW CLOSING PROCEDURE:** If Title Commitment issued pursuant to Paragraph 9(c) does not provide
452 for insurance against adverse matters as permitted under Section 627.7841, F.S., as amended, the following
453 escrow and closing procedures shall apply: (1) all Closing proceeds shall be held in escrow by the Closing Agent
454 for a period of not more than 10 days after Closing; (2) if Seller's title is rendered unmarketable, through no fault
455 of Buyer, Buyer shall, within the 10 day period, notify Seller in writing of the defect and Seller shall have 30 days
456 from date of receipt of such notification to cure the defect; (3) if Seller fails to timely cure the defect, the Deposit
457 and all Closing funds paid by Buyer shall, within 5 days after written demand by Buyer, be refunded to Buyer and,
458 simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and re-
459 convey the Property to Seller by special warranty deed and bill of sale; and (4) if Buyer fails to make timely
460 demand for refund of the Deposit, Buyer shall take title as is, waiving all rights against Seller as to any intervening
461 defect except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale.
462 **K. PRORATIONS; CREDITS:** The following recurring items will be made current (if applicable) and prorated as
463 of the day prior to Closing Date, or date of occupancy if occupancy occurs before Closing Date: real estate taxes
464 (including special benefit tax assessments imposed by a CDD), interest, bonds, association fees, insurance, rents
465 and other expenses of Property. Buyer shall have option of taking over existing policies of insurance, if
466 assumable, in which event premiums shall be prorated. Cash at Closing shall be increased or decreased as may
467 be required by prorations to be made through day prior to Closing. Advance rent and security deposits, if any, will
468 be credited to Buyer. Escrow deposits held by Seller's mortgagee will be paid to Seller. Taxes shall be prorated
469 based on current year's tax with due allowance made for maximum allowable discount, homestead and other
470 exemptions. If Closing occurs on a date when current year's millage is not fixed but current year's assessment is
471 available, taxes will be prorated based upon such assessment and prior year's millage. If current year's
472 assessment is not available, then taxes will be prorated on prior year's tax. If there are completed improvements
473 on the Real Property by January 1st of year of Closing, which improvements were not in existence on January 1st
474 of prior year, then taxes shall be prorated based upon prior year's millage and at an equitable assessment to be
475 agreed upon between the parties, failing which, request shall be made to the County Property Appraiser for an
476 informal assessment taking into account available exemptions. A tax proration based on an estimate shall, at
477 either party's request, be readjusted upon receipt of current year's tax bill. This STANDARD K shall survive
478 Closing.
479 **L. ACCESS TO PROPERTY TO CONDUCT APPRAISALS, INSPECTIONS, AND WALK-THROUGH:** Seller
480 shall, upon reasonable notice, provide utilities service and access to Property for appraisals and inspections,
481 including a walk-through (or follow-up walk-through if necessary) prior to Closing.
482 **M. RISK OF LOSS:** If, after Effective Date, but before Closing, Property is damaged by fire or other casualty
483 ("Casualty Loss") and cost of restoration (which shall include cost of pruning or removing damaged trees) does
484 not exceed 1.5% of Purchase Price, cost of restoration shall be an obligation of Seller and Closing shall proceed
485 pursuant to terms of this Contract. If restoration is not completed as of Closing, a sum equal to 125% of estimated
486 cost to complete restoration (not to exceed 1.5% of Purchase Price), will be escrowed at Closing. If actual cost of
487 restoration exceeds escrowed amount, Seller shall pay such actual costs (but, not in excess of 1.5% of Purchase
488 Price). Any unused portion of escrowed amount shall be returned to Seller. If cost of restoration exceeds 1.5% of
489 Purchase Price, Buyer shall elect to either take Property "as is" together with the 1.5%, or receive a refund of the
490 Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract. Seller's sole obligation
491 with respect to tree damage by casualty or other natural occurrence shall be cost of pruning or removal.
492 **N. 1031 EXCHANGE:** If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneously with
493 Closing or deferred) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party shall
494 cooperate in all reasonable respects to effectuate the Exchange, including execution of documents; provided,

STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

496 however, cooperating party shall incur no liability or expense related to the Exchange, and Closing shall not be
497 contingent upon, nor extended or delayed by, such Exchange.

498 **O. CONTRACT NOT RECORDABLE; PERSONS BOUND; NOTICE; DELIVERY; COPIES; CONTRACT**
499 **EXECUTION:** Neither this Contract nor any notice of it shall be recorded in any public records. This Contract shall
500 be binding on, and inure to the benefit of, the parties and their respective heirs or successors in interest.
501 Whenever the context permits, singular shall include plural and one gender shall include all. Notice and delivery
502 given by or to the attorney or broker (including such broker's real estate licensee) representing any party shall be
503 as effective as if given by or to that party. All notices must be in writing and may be made by mail, personal
504 delivery or electronic (including "pdf") media. A facsimile or electronic (including "pdf") copy of this Contract and
505 any signatures hereon shall be considered for all purposes as an original. This Contract may be executed by use
506 of electronic signatures, as determined by Florida's Electronic Signature Act and other applicable laws.

507 **P. INTEGRATION; MODIFICATION:** This Contract contains the full and complete understanding and agreement
508 of Buyer and Seller with respect to the transaction contemplated by this Contract and no prior agreements or
509 representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or
510 change in this Contract shall be valid or binding upon Buyer or Seller unless in writing and executed by the parties
511 intended to be bound by it.

512 **Q. WAIVER:** Failure of Buyer or Seller to insist on compliance with, or strict performance of, any provision of this
513 Contract, or to take advantage of any right under this Contract, shall not constitute a waiver of other provisions or
514 rights.

515 **R. RIDERS; ADDENDA; TYPEWRITTEN OR HANDWRITTEN PROVISIONS:** Riders, addenda, and typewritten
516 or handwritten provisions shall control all printed provisions of this Contract in conflict with them.

517 **S. COLLECTION or COLLECTED:** "COLLECTION" or "COLLECTED" means any checks tendered or
518 received, including Deposits, have become actually and finally collected and deposited in the account of
519 Escrow Agent or Closing Agent. Closing and disbursement of funds and delivery of closing documents
520 may be delayed by Closing Agent until such amounts have been COLLECTED in Closing Agent's
521 accounts.

522 **T. LOAN COMMITMENT:** "Loan Commitment" means a statement by the lender setting forth the terms and
523 conditions upon which the lender is willing to make a particular mortgage loan to a particular borrower. Neither a
524 pre-approval letter nor a prequalification letter shall be deemed a Loan Commitment for purposes of this Contract.

525 **U. APPLICABLE LAW AND VENUE:** This Contract shall be construed in accordance with the laws of the State
526 of Florida and venue for resolution of all disputes, whether by mediation, arbitration or litigation, shall lie in the
527 county where the Real Property is located.

528 **V. FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT ("FIRPTA"):** If a seller of U.S. real property is a
529 "foreign person" as defined by FIRPTA, Section 1445 of the Internal Revenue Code requires the buyer of the real
530 property to withhold 10% of the amount realized by the seller on the transfer and remit the withheld amount to the
531 Internal Revenue Service (IRS) unless an exemption to the required withholding applies or the seller has obtained a
532 Withholding Certificate from the IRS authorizing a reduced amount of withholding. Due to the complexity and
533 potential risks of FIRPTA, Buyer and Seller should seek legal and tax advice regarding compliance, particularly if
534 an "exemption" is claimed on the sale of residential property for \$300,000 or less.

535 (i) No withholding is required under Section 1445 if the Seller is not a "foreign person," provided Buyer accepts
536 proof of same from Seller, which may include Buyer's receipt of certification of non-foreign status from Seller,
537 signed under penalties of perjury, stating that Seller is not a foreign person and containing Seller's name, U.S.
538 taxpayer identification number and home address (or office address, in the case of an entity), as provided for in
539 26 CFR 1.1445-2(b). Otherwise, Buyer shall withhold 10% of the amount realized by Seller on the transfer and
540 timely remit said funds to the IRS.

541 (ii) If Seller has received a Withholding Certificate from the IRS which provides for reduced or eliminated
542 withholding in this transaction and provides same to Buyer by Closing, then Buyer shall withhold the reduced
543 sum, if any required, and timely remit said funds to the IRS.

544 (iii) If prior to Closing Seller has submitted a completed application to the IRS for a Withholding Certificate and
545 has provided to Buyer the notice required by 26 CFR 1.1445-1(c) (2)(i)(B) but no Withholding Certificate has been
546 received as of Closing, Buyer shall, at Closing, withhold 10% of the amount realized by Seller on the transfer
547 and, at Buyer's option, either (a) timely remit the withheld funds to the IRS or (b) place the funds in escrow, at
548 Seller's expense, with an escrow agent selected by Buyer and pursuant to terms negotiated by the parties, to be
549 subsequently disbursed in accordance with the Withholding Certificate issued by the IRS or remitted directly to
550 the IRS if the Seller's application is rejected or upon terms set forth in the escrow agreement.

551 (iv) In the event the net proceeds due Seller are not sufficient to meet the withholding requirement(s) in this
552 transaction, Seller shall deliver to Buyer, at Closing, the additional COLLECTED funds necessary to satisfy the

STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

552 applicable requirement and thereafter Buyer shall timely remit said funds to the IRS or escrow the funds for
 553 disbursement in accordance with the final determination of the IRS, as applicable.

554 (v) Upon remitting funds to the IRS pursuant to this STANDARD, Buyer shall provide Seller copies of IRS Forms
 555 8288 and 8288-A, as filed.

556 **W. RESERVED**

557 **X. BUYER WAIVER OF CLAIMS:** *To the extent permitted by law, Buyer waives any claims against Seller*
 558 *and against any real estate licensee involved in the negotiation of this Contract for any damage or*
 559 *defects pertaining to the physical condition of the Property that may exist at Closing of this Contract and*
 560 *be subsequently discovered by the Buyer or anyone claiming by, through, under or against the Buyer.*
 561 *This provision does not relieve Seller's obligation to comply with Paragraph 10(j). This Standard X shall*
 562 *survive Closing.*

ADDENDA AND ADDITIONAL TERMS

564 **19. ADDENDA:** The following additional terms are included in the attached addenda or riders and incorporated into
 565 this Contract (Check if applicable):

- | | | |
|--|---|---|
| <input type="checkbox"/> A. Condominium Rider | <input type="checkbox"/> K. RESERVED | <input type="checkbox"/> T. Pre-Closing Occupancy |
| <input type="checkbox"/> B. Homeowners' Assn. | <input type="checkbox"/> L. RESERVED | <input type="checkbox"/> U. Post-Closing Occupancy |
| <input type="checkbox"/> C. Seller Financing | <input type="checkbox"/> M. Defective Drywall | <input type="checkbox"/> V. Sale of Buyer's Property |
| <input type="checkbox"/> D. Mortgage Assumption | <input type="checkbox"/> N. Coastal Construction Control Line | <input type="checkbox"/> W. Back-up Contract |
| <input type="checkbox"/> E. FHA/VA Financing | <input type="checkbox"/> O. Insulation Disclosure | <input type="checkbox"/> X. Kick-out Clause |
| <input type="checkbox"/> F. Appraisal Contingency | <input type="checkbox"/> P. Lead Paint Disclosure (Pre-1978) | <input type="checkbox"/> Y. Seller's Attorney Approval |
| <input type="checkbox"/> G. Short Sale | <input type="checkbox"/> Q. Housing for Older Persons | <input type="checkbox"/> Z. Buyer's Attorney Approval |
| <input type="checkbox"/> H. Homeowners/Flood Ins. | <input type="checkbox"/> R. Rezoning | <input type="checkbox"/> AA. Licensee Property Interest |
| <input type="checkbox"/> J. Interest-Bearing Acct. | <input type="checkbox"/> S. Lease Purchase/ Lease Option | <input type="checkbox"/> BB. Binding Arbitration |

566 **20. ADDITIONAL TERMS:** _____

567 Buyer is a licensed Real Estate Broker.

568 _____

569 Buyer may not assign contract for financial gain.

570 _____

571 _____

572 _____

573 _____

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581 _____

582 _____

COUNTER-OFFER/REJECTION

584 Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and
 585 deliver a copy of the acceptance to Seller).

586 Seller rejects Buyer's offer.

587 **THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE**
 588 **ADVICE OF AN ATTORNEY PRIOR TO SIGNING.**

589 **THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR.**

590 *Approval of this form by the Florida Realtors and The Florida Bar does not constitute an opinion that any of the terms*
 591 *and conditions in this Contract should be accepted by the parties in a particular transaction. Terms and conditions*

Buyer's Initials Page 11 of 12 Seller's Initials
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592 should be negotiated based upon the respective interests, objectives and bargaining positions of all interested
593 persons.

594 AN ASTERISK (*) FOLLOWING A LINE NUMBER IN THE MARGIN INDICATES THE LINE CONTAINS A BLANK TO
595 BE COMPLETED.
596

597 Buyer: _____ Date: _____
598

599 Buyer: SMJ.M. Date: NOV 20th 2015
600

601 Seller: Theresa Hudson Johnson Date: 11/23/15
602

603 Seller: _____ Date: _____
604

605 Buyer's address for purposes of notice Seller's address for purposes of notice
606 _____
607 _____
608 _____

609 **BROKER:** Listing and Cooperating Brokers, if any, named below (collectively, "Broker"), are the only Brokers entitled
610 to compensation in connection with this Contract. Instruction to Closing Agent: Seller and Buyer direct Closing Agent
611 to disburse at Closing the full amount of the brokerage fees as specified in separate brokerage agreements with the
612 parties and cooperative agreements between the Brokers, except to the extent Broker has retained such fees from the
613 escrowed funds. This Contract shall not modify any MLS or other offer of compensation made by Seller or Listing
614 Broker to Cooperating Brokers.

615 N/A N/A
616 Cooperating Sales Associate, if any Listing Sales Associate

617 _____
618 Cooperating Broker, if any Listing Broker



APPENDUM TO CONTRACT

BETWEEN TH HENDERSON, III, SELLER
AND SCOTT J. HARDIE, AND/OR ASSIGNS, BUYER
FOR PROPERTY LOCATED AT 401 HAMPTON LN,
KEY BISCAYNE, FL 33149.

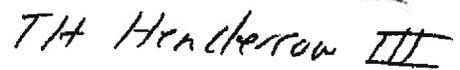
1. CLOSING DATE:

The closing shall take place no
later than January 31st, 2016 and no
earlier than January 15th, 2016.

Agreed & Accepted By.



Scott J. Hardie Buyer
and/or assigns


TH Henderson III
Seller.

November 23, 2015

DEAR MR. HENDERSON,

It has been a pleasure getting to know you during our negotiations for your property at the corner of Heather and Hampton. I look forward to the day in the near future when that property will become a Village of Key Biscayne Park, if the Village Council votes to approve the contract you have signed.

I will ask the Council to recognize you and your family (including your father) with an historic marker in the park that is similar to other historic markers in the Village. I will ask them to invite you to a dedication ("ribbon cutting") ceremony and I will ask the Islander News for press coverage.

However, I want to be just as clear now as I have been throughout our discussions. I will not ask nor would I expect the Village Council to grant you naming rights to the park. In fact, the sale is not contingent upon you being able to name the park.

I will, however, send this paper to the Village Attorney to let him know that you would like the Council to at least consider granting you naming rights.

If you agree with the above, please sign!

