



**PORT ORANGE CITY COUNCIL**

**SPECIAL MEETING/WORKSHOP**

**Council Chambers**

**Tuesday, March 22, 2022 @ 5:30 PM**

Pursuant to Section 3.06 of the Charter of the City of Port Orange, the Mayor has called a **Special Meeting/Workshop** of the City Council to be held for the following purposes:

**A. OPENING**

1. Silent Invocation
2. Pledge of Allegiance
3. Roll Call

**B. JOINT SPECIAL MEETING WITH TOWN CENTER CRA**

4. Approval of Contract for Sale of Riverwalk Properties to Bristol

**C. DISCUSSION ITEM**

5. Debt Financing Discussion

**D. ADJOURNMENT**

**NOTICES** — PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.



FOR SPECIAL ACCOMMODATIONS, PLEASE NOTIFY THE CITY CLERK'S OFFICE (PHONE: 386-506-5563) AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING DATE.



HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM. RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

**IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA)**, IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, [CITYCLERK@PORT-ORANGE.ORG](mailto:CITYCLERK@PORT-ORANGE.ORG), AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

ANY INVOCATION THAT IS OFFERED BEFORE THE OFFICIAL START OF THE CITY COUNCIL MEETING SHALL BE THE VOLUNTARY OFFERING OF A PRIVATE PERSON, TO AND FOR THE BENEFIT OF THE CITY COUNCIL. THE VIEWS OR BELIEFS EXPRESSED BY THE INVOCATION SPEAKER HAVE

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NOT BEEN PREVIOUSLY REVIEWED OR APPROVED BY THE CITY COUNCIL OR THE CITY STAFF, AND THE CITY IS NOT ALLOWED BY LAW TO ENDORSE THE RELIGIOUS BELIEFS OR VIEWS OF THIS, OR ANY OTHER SPEAKER. PERSONS IN ATTENDANCE AT THE CITY COUNCIL MEETING ARE INVITED TO STAND DURING THE OPENING INVOCATION AND PLEDGE OF ALLEGIANCE. HOWEVER, SUCH INVITATION SHALL NOT BE CONSTRUED AS A DEMAND, ORDER, OR ANY OTHER TYPE OF COMMAND. NO PERSON IN ATTENDANCE AT THE MEETING SHALL BE REQUIRED TO PARTICIPATE IN ANY OPENING INVOCATION THAT IS OFFERED. A PERSON MAY EXIT THE CITY COUNCIL CHAMBERS AND RETURN UPON COMPLETION OF THE OPENING INVOCATION IF A PERSON DOES NOT WISH TO PARTICIPATE IN OR WITNESS THE OPENING INVOCATION.



# CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 3/22/2022

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**SUBJECT:** (B4) Approval of Contract for Sale of Riverwalk Properties to Bristol

**DEPARTMENT:** City Attorney

**GOAL:** 4 - Economic Development

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**RECOMMENDED MOTION: Council motion:** Move to approve the attached contract for the sale of 3 Riverwalk properties to Bristol Development Group LLC, authorizing the Mayor and City Clerk to execute all documents necessary to complete the conveyance of said property and authorizing the City Manager to execute all necessary documents that may be required for inspections and applications in furtherance of the sale of said properties.

**CRA motion:** Move to approve the attached contract for the sale of 3 Riverwalk properties to Bristol Development Group LLC, authorizing the Chairman to execute all documents necessary to complete the conveyance of said property and authorizing the City Manager to execute all necessary documents that may be required for inspections and applications in furtherance of the sale of said properties.

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**SUMMARY:** The proposed contract establishes the timeline and conditions for closing the sale of three separate parcels in the Riverwalk area from the City (and Town Center CRA) to Bristol Development Group ("Bristol"). This will pave the way for a transformative mixed-use destination development project that will include commercial and multi-family elements. The three parcels are described as follows: Parcel A - Southern Riverwalk 10-acres; Parcel B - Dave's Pest Control; and Parcel C - Arthaus. The total purchase price for all three parcels is \$9 million (Parcel A - \$7.5 million; Parcel B - \$1 million; and Parcel C - \$500,000); however, if Bristol chooses not to close on either Parcel B or Parcel C, the purchase price for Parcel A will be increased to \$8.25 million.

The due diligence period will commence upon approval and execution of the contract and will continue for 90 days. Thereafter, Bristol will have 180 days to obtain the Government approvals necessary to complete the proposed development including any zoning amendments, master development agreement, conceptual plan, site plan, and subdivision, if applicable. Also, within the Government approvals timeline, the parties will come to terms on an economic incentive agreement including Ch. 20 incentives and TIF sharing consistent with current policy and past practice. The Government approvals deadline may be extended (up to two additional 45 day periods) if Bristol is able to obtain additional properties in the Riverwalk area that would necessitate a modification to the site layout and design, or for a delay in permitting not caused by Bristol.

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Closing shall take place within 30 days after Bristol has obtained all Government approvals necessary to commence construction of the approved development. Closing may be extended for two additional 30-day terms under very limited circumstances including a documented shortage in labor or materials outside Bristol's control that would prevent Bristol from commencing construction.

The contract also acknowledges two important terms for the City. 1) a reversionary interest clause to be contained within the MDA and stated within the warranty deed which shall serve as an assurance that construction will commence promptly and will be diligently pursued; and 2) the reservation of a perpetual easement for the continuation of the Riverwalk pedestrian trail, the location of which will be identified in the MDA.

Bristol has reviewed and executed the attached contract and has already begun due diligence activities on the site including survey work.

PRESENTER: Matthew Jones

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**ATTACHMENTS:**

|    |                                |                                                                                     |
|----|--------------------------------|-------------------------------------------------------------------------------------|
| 1. | Bristol Contract with exhibits | Bristol Contract Draft - Final 3.11.22 w dates & CRA chair filled in & exhibits.pdf |
|----|--------------------------------|-------------------------------------------------------------------------------------|

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|               |                              |
|---------------|------------------------------|
| Robin Fenwick | Created/Initiated - 3/7/2022 |
| Matthew Jones | Approved - 3/16/2022         |
| John McKinney | Approved - 3/17/2022         |
| John McKinney | Approved - 3/17/2022         |
| Wayne Clark   | Approved - 3/17/2022         |
| Robin Fenwick | Final Approval - 3/17/2022   |

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## CONTRACT FOR SALE AND PURCHASE OF REAL PROPERTY

**THIS CONTRACT FOR SALE AND PURCHASE OF REAL PROPERTY**, hereinafter, the "Contract" is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, between **City of Port Orange, Florida**, a municipal corporation, and **Port Orange Town Center Community Redevelopment Agency**, both with a mailing address of c/o City Manager, 1000 City Center Circle, Port Orange FL 32129-4144 hereinafter referred to as "Seller"; and Bristol Development Group, LLC, a \_\_\_\_\_ limited liability company, mailing address 381 Mallory Station Road, Suite 204, Franklin, TN 37067, hereinafter referred to as "Purchaser".

### WITNESSETH

**WHEREAS**, Seller owns certain real property comprised of three (3) separate parcels totaling approximately +/- 12.2 acres located in the City of Port Orange, Volusia County, Florida, as more particularly described hereinbelow; and

**WHEREAS**, Purchaser is an experienced developer that was selected by the Seller as part of a competitive process in which multiple prospective developers made offers which included conceptual development plans for consideration by the Seller; and

**WHEREAS**, Purchaser desires to purchase the Property, defined hereinbelow, for the purpose of developing and constructing thereon a transformative mixed-use destination development described in that agreement for development ("Master Development Agreement") and as depicted in a site plan, all of which shall be subject to the terms and conditions set forth herein, including, final approval by the Seller and; and

**WHEREAS**, Purchaser agrees to complete said development in a timely manner in accordance with the Master Development Agreement and understands failure to do so may result in the exercise by the Seller of its reversionary interest in the Property; and

**WHEREAS**, Seller desires to sell the Property and any and all improvements thereon to Purchaser, pursuant to the terms and conditions set forth herein.

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

1. Purchase and Sale.

(a) Seller agrees to sell and Purchaser agrees to purchase the following

described real estate:

- i. **Parcel A**, consisting of approximately +/-10 acres, formerly known as "Southern Riverwalk 10 Acres",
- ii. **Parcel B**, consisting of approximately +/-1.4 acres, formerly known as the "Dave's Pest Control", and
- iii. **Parcel C** consisting of approximately +/-0.8 acres, formerly known as "Arthaus",

Parcels A, B and C are located in Port Orange, County of Volusia, State of Florida, and are generally depicted on the aerial image attached as **Exhibit "A"**, and more particularly described in **Exhibit "B"**, attached hereto and made a part hereof by reference (hereinafter "Property". As noted in paragraph 2(b), below, Purchaser may elect not to close on Parcels B and C (the "Optional Property"). In the event Purchaser does not choose to close on the Optional Property, all references herein to "Property" shall be read to exclude the Optional Property.

(b) The Property is conveyed AS IS WHERE IS with NO WARRANTIES other than those set forth in the Special Warranty Deed. Sale is contingent upon compliance with conditions precedent set forth hereinbelow.

(c) Seller and Purchaser agree that a final legal description of the property shall be prepared by a surveyor engaged and paid for by Purchaser. Once the final legal description is completed and approved by Seller and Buyer, it shall be attached as an updated **Exhibit "B"**.

This Contract shall be subject to the Standards for Real Estate Transactions ("the Title Standards") set forth on the form contract approved by The Florida Bar and The Florida Association of Realtors, Inc., attached hereto as **Exhibit "C."** In the event of a conflict between the terms of the Contract and the terms contained in **Exhibit "C,"** this Contract shall control.

2. Purchase Price and Method of Payment. The purchase price payable to Seller is as follows:

- (a) The total Purchase Price for the Property is Nine Million and NO/100 Dollars (\$9,000,000.00) all-cash transaction, as further detailed in the following price per parcel allocations:

**Parcel A** = Seven Million and NO/100 Dollars (\$7,500,000.00)

**Parcel B** = One Million and NO/100 Dollars (\$1,000,000.00)

**Parcel C** = Five Hundred Thousand and NO/100 Dollars (\$500,000.00); and

- (b) In the event that the Purchaser, for any reason, chooses not to close on either Parcel B or Parcel C, or both of said parcels, the Purchaser shall have the option to purchase only Parcel A at an increased price of Eight Million Two Hundred Fifty Thousand and NO/100 Dollars (\$8,250,000.00). If the Purchaser fails to close, for any reason, on Parcel A, the Seller shall not be separately obligated to sell either Parcel B or Parcel C to the Purchaser.

- (c) A good faith deposit of Fifty Thousand and NO/100 Dollars (\$50,000.00)

("Initial Deposit") shall be submitted within three (3) business days of acceptance of this offer by the City Council. Purchaser's Initial Deposit shall be paid to and held in trust by Columbia Title Research Corporation Trust Account, 200 Forest Lake Boulevard, Daytona Beach, FL 32119; referred to as "Escrow Agent," pending the closing of this transaction and to be delivered to Seller at the time of closing. Said account for deposit is a non-interest-bearing account.

- (d) At the end of the Due Diligence Period, if Purchaser elects to continue forward with closing, an additional deposit of One Hundred Fifty Thousand and NO/100 Dollars (\$150,000.00) ("Additional Deposit") shall be submitted to the Escrow Agent within three (3) business days.. The balance of the Purchase Price shall be paid at closing as set forth herein. The Initial Deposit and Additional Deposit are collectively referenced as "Deposit".
- (d) The total Purchase Price, which includes the Purchaser's Initial Deposit and Additional Deposit, less expenses and prorations as provided in Paragraph 13 and Standard L of the Title Standards, delivered by wire transfer to the Escrow Agent, payable to the order of Seller, to be delivered at the time of closing.

3. Title.

- (a) Marketable Title. Seller shall convey to Purchaser marketable title to the Property, determined according to the Title Standards adopted by authority of the Florida Bar and in accordance with Florida law. The matters contained in the deed as described in Paragraph 9 shall not constitute defects in the marketability of the title.
- (b) Title Insurance and Survey. Within forty-five (45) days of the Effective Date of this Contract, at Seller's expense, Seller shall provide a title commitment for owner's title insurance issued by the title insurance company of Seller's choice, issued by a Florida licensed title insurer, covering the Property, together with legible copies of all recorded documents referenced therein and a special assessment and real property tax search (the "Commitment"), by which Commitment the title company shall agree to issue to Purchaser, upon recording the deed for the Property, an Owner's ALTA policy in the amount of the full Purchase Price.

Within forty-five (45) days of the Effective Date of this Contract, Purchaser, at Purchaser's expense, may obtain a survey of the Property (the "Survey") prepared by a duly licensed land surveyor licensed in the State of Florida and depicting the Property and all plottable exceptions to the Commitment. The Survey shall be prepared in accordance with the minimum technical requirements for surveys in the State of Florida. Purchaser shall have until the end of the Due Diligence Inspection Period, defined hereinbelow, to examine the condition of the Seller's title to the Property.

If the Commitment or Survey reflects that title to the Property is subject to exceptions or survey matters that the Purchaser finds unacceptable, then

the Purchaser shall, prior to the expiration of the Due Diligence Inspection Period, give written notice of the specific title defects ("Title Objections"). If Purchaser does not timely object to the exceptions listed in the Commitment, then Purchaser shall be deemed to have waived any right to disapprove of any exceptions contained therein, and said exceptions shall be deemed to be permitted exceptions ("Permitted Exceptions"). If Purchaser gives such notice of Title Objections, Seller shall have thirty (30) days from the receipt of such notice to cure the Title Objections so specified (the "Curative Period") or to provide notice that it has declined to cure such matters. If Seller is unable, or unwilling, to correct such objections within the Curative Period, then Purchaser shall have the option to accept the title in its existing condition or terminate this Contract by sending written notice of termination prior to the end of the Curative Period. and proceed with the transaction. In such instance, the Initial Deposit provided in Section 2(b) to the Escrow Agent shall be released forthwith to the Purchaser and neither party shall have any further obligations under this Contract, except which expressly survive termination.

If Purchaser gives notice of Title Objections and the Curative Period is utilized to cure said title objections and said period is beyond the expiration of the Due Diligence Inspection Period, said inspection period shall be extended to allow Seller a reasonable opportunity to cure said Title Objections, but not to exceed thirty (30) days.

4. Due Diligence Inspection Period.

- (a) For the period beginning with the Effective Date and continuing until 5:00 PM Eastern Standard time on the date that is ninety (90) days after the Effective Date, said date being June 20, 2022, ("Due Diligence Inspection Period"), Seller hereby grants to Purchaser the right to make or obtain any and all investigations, test studies, evaluations, assessments and reports Purchaser deems necessary or desirable with respect to the Property.
- (b) During the Due Diligence Inspection Period, Seller hereby grants to Purchaser and its agents, employees, contractors, and representatives, a right of entry upon the Property, for the purpose of making any and all inspections and investigations of the condition of the Property which it may deem necessary, including, but not limited to, soil borings, percolation tests, engineering, and topographical studies, environmental audits, wetland jurisdictional surveys, and investigations of the availability of utilities, all of which inspections and investigations shall be undertaken at Purchaser's sole cost and expense. If, after completing its inspection of the Property and review of the title matters thereto, Purchaser determines, in Purchaser's sole and absolute discretion, that the Property is not suitable or feasible for Purchaser's intended purposes, prior to the expiration of the Due Diligence Inspection Period, Purchaser may terminate this Contract by providing written notice thereof to Seller before the expiration of the Due Diligence Inspection Period. In such instance, the Deposit provided in Section 2(b) to the Escrow Agent shall be released forthwith to the

Purchaser and neither party shall have any further obligations under this Contract except with respect to those matters which expressly survive termination. If Purchaser elects to terminate this Contract in accordance with this Paragraph, Purchaser shall leave the Property in the condition existing on the Effective Date.

- (c) Purchaser assumes liability for all acts of its agents who enter onto the Property and agrees to indemnify and hold harmless the Seller from any loss, damage, cost or expense incurred by Seller as a result of such acts by the Purchaser and its agents that cause injury to person or damage to property.
- (d) Upon acceptance of the condition of the Property and the title thereto, and not later than the expiration of the Due Diligence Inspection Period, Purchaser shall, within three (3) business days, deposit with the Escrow Agent the Additional Deposit in accordance with the provisions set forth in Section 2(c), hereinabove.

5. Government Approvals.

- (a) Purchaser shall have a succeeding period of One Hundred Eighty Days (180) days from the expiration of the Due Diligence Inspection Period, and continuing until 5:00 PM Eastern Standard time on the date that is One Hundred Eighty (180) days after the expiration of said inspection period, said date being December 17, 2022 (hereinafter the "Governmental Approval Period"), to prepare a final site plan and obtain all governmental approvals from the City and other governmental agencies necessary to obtain a development order for the development of the Property for its Intended Use described in Section 15 hereinbelow. Governmental Approvals shall not include permits and other approvals required for marina or dock related improvements, except as may be required to permit bulkhead or seawall improvements that are necessary to support the upland portions of the Intended Use.
- (b) Government Approvals required prior to closing shall include the following (collectively "Government Approvals"):
  - i. Approval of zoning amendments covering the Property, if any;
  - ii. Approval of a Master Development Agreement and Conceptual Development Plan, as defined by Chapter 17, Section 30 of the City's Land Development Code for Planned Community - Port Orange Riverwalk (PC-R) District rezoning, relating to Purchaser's development of the Property for the intended use as described in Section 15, hereinbelow, which Master Development Agreement and Conceptual Development Plan shall be subject to approval by City Council and the Port Orange Town Center Community Redevelopment Agency, executed and recorded prior to the Closing Date.
  - iii. Approval of a site plan and potential subdivision or replatting for the development of the Property in accordance with the City of Port Orange Land Development Code, as evidenced by the issuance of a Development Order (as defined by the City's Land Development Code);
  - iv. Approval of the site plan and potential subdivision or replatting

by City Council which shall be discretionary in nature rather than approval as a regulatory body. Subsequent to City Council approval of the site plan, any changes to the site plan will not require additional City Council approval. However, in addition to the applicable staff review and approval generally required site plan modification pursuant to the Land Development Code, changes that require a site plan modification shall also require City Manager approval which shall be discretionary in nature rather than a regulatory approval. Within the sole discretion of the City Manager, if he determines that the proposed site plan modification substantially and materially modifies the site plan approved by City Council, he may bring said modification to City Council for approval;

- v. Approval of the Economic Development Incentive Agreement which shall contain the terms and conditions concerning economic incentives including Tax Increment Rebates and Chapter 20 Incentives
- vi. All required permits and approvals from ancillary governmental agencies necessary to obtain a development order for development of the Property with the Intended Use, other than building permits and permits or approvals for marina or dock related improvements, except as may be required to permit bulkhead or seawall improvements that are necessary to support the upland portions of the Intended Use.

The Master Development Agreement will contain such terms as are necessary for the orderly development of the Property and, in any event, shall address the matters described in Section 15, herein. Purchaser acknowledges and agrees that they shall actively and diligently pursue the Government Approvals referenced herein, recognizing that time is of the essence in closing this transaction. In the event that Government Approvals are not obtained by the end of the Governmental Approval Period and said time period is not otherwise extended as provided herein or by mutual agreement of the Seller and Purchaser, then this Agreement shall automatically terminate, and the Deposit shall be refunded to Purchaser and neither party shall have any further obligations under this Contract, except with respect to those matters which expressly survive termination.

- (c) Purchaser shall direct the process of obtaining the Government Approvals and Seller agrees to cooperate with Purchaser in all applications for Government Approvals and other permits or approvals that may be necessary. Seller, to the best of its ability, will make available any documentation related to the Property that may be requested by Purchaser. In the event the Government Approvals are not obtained within the Government Approval Period despite Purchaser's diligent pursuit of such approvals during that period or as a result of additional property being added to the proposed development by Purchaser, Purchaser may extend the Government Approval Period by no more than two (2) periods of up to forty-five (45) days each. In order to extend the Government Approval Period, Purchaser shall provide Seller with written notice of its intent to exercise

such extension, together with supporting materials regarding its diligent effort to obtain the Government Approvals or evidence of additional property being added to the proposed development prior to the expiration of the Government Approval Period.

- (d) Except as otherwise agreed, Purchaser shall be responsible for all costs associated with obtaining the required Government Approvals.
- (e) Final issuance of Government Approvals shall be deemed to occur only when all of the Government Approvals, both regulatory and discretionary, contained in Section 6(a), hereinabove, have been issued or granted by the City's council, commissions, boards, staff and all other applicable government agencies.

7. Taxes and assessments. Seller agrees to pay before delinquency all taxes, assessments, and utility charges, if any, which may be due currently or may hereafter become due on the premises until and including the day of closing. All taxes and other assessments shall be pro-rated between the Seller and Purchaser as of the date of Closing.

8. Risk of loss. Risk of loss or damage to the Property by fire or another casualty between the date of this Contract and Closing shall be and is assumed by Seller.

9. Deed. Seller agrees, on full payment of the purchase price in the manner herein specified, to make, execute and deliver to Purchaser a good and sufficient Special Warranty Deed to the Property subject to reversionary right and reservation interest as referenced hereinbelow.

10. Reversionary Right. The Special Warranty Deed and Master Development Agreement shall contain a provision for the reversion of the Property to Seller (the "Reversionary Right") on such terms as are negotiated and set forth in the Master Development Agreement and any incentive agreement negotiated between Purchaser and Seller.

11. Easement Reservation. The Special Warranty Deed shall contain a provision retaining and reserving to the City a perpetual easement for the of public for a public trail/park access and recreational use. The location of the public easement shall be generally along the waterfront of the Property and more specifically identified in the Master Development Agreement. The exact location and description of the public easement shall be determined prior to closing or shall be addressed in a post-closing agreement between Purchaser and Seller.

12. Closing. Closing shall take place in Volusia County, Florida at the office of the Escrow Agent referenced in section 2(b) within thirty (30) days after the Purchaser has secured all Government Approvals as set forth in Section 5, hereinabove. Purchaser shall be entitled to two (2) options to extend Closing by up to thirty (30) days each time, if Purchaser's commencement of construction will be delayed as a result of a documented shortage of necessary labor, construction materials or other supply chain related limitations outside of Purchaser's control and such shortage or limitation would prevent the Purchaser from commencing construction. The date of closing may otherwise be extended upon mutual written agreement of the parties. At the closing, Seller shall provide Purchaser with the deed to the premises and other documents in accordance with Title Standard J. Following closing, Purchaser shall have the right to exclusive possession of the Property.

13. Closing Costs. Seller shall pay closing costs for title insurance premium, costs of recording fees associated with the deed, and closing statement preparation costs. Costs for documentary stamp tax on the deed, environmental audits, surveys, and other inspections and any other fees associated with closing shall be paid by the Purchaser. All taxes and assessments shall be pro-rated as of the date of Closing.

14. Fees. Seller has utilized the services of a Florida Real Estate Broker for the sale and purchase of the Property. The Escrow Agent, referenced herein, is directed to disburse the full amount of the brokerage fees as specified in a separate brokerage agreement with the Seller. The Seller's Broker is Colliers International Florida, LLC and will be compensated by Seller pursuant to said brokerage agreement. Purchaser shall be responsible for appraisal report, if any, prepared at its request, and Purchaser shall be responsible for fees incurred for Purchaser's independent review of this proposal and application for government approvals incurred by Purchaser for attorneys and engineers and other professionals, if any.

15. Purchaser's Intended Use of the Property. Both parties acknowledge that Purchaser intends to construct improvements on the Property as will be more particularly described in the Master Development Agreement and Conceptual Development Plan, referenced Section 5, Government Approvals, in the form of a transformative mixed-use destination development project to include commercial and multi-family residential development ("Project").

16. Failure of Performance. If Purchaser fails, neglects, or refuses to perform Purchaser's obligations under this Contract, Seller shall 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 Purchaser and Seller shall be relieved from all further obligations under this Contract. If for any reason other than failure of Seller to make Seller's title marketable after diligent effort, Seller fails, neglects, or refuses to perform under this Contract, Purchaser may seek specific performance or elect to receive return of Purchaser's Deposit without thereby waiving any action for damages resulting from Seller's breach.

17. Access to Property. Seller agrees to allow Purchaser and Purchaser's employees, consultants, agents and representatives access to the Property upon execution of this Contract by Seller and extending to the time of closing for the purpose of conducting surveys, environmental audits and inspections of the premises. Purchaser assumes liability for all acts of its agents who enter onto the Property and agrees to indemnify and hold harmless the Seller from any loss, damage, cost or expense incurred by Seller as a result of such acts by the Purchaser and its agents that cause injury to person or damage to property.

18. Assignment. Neither party may assign or delegate its rights or obligations pursuant to this Contract without the prior written consent of the other. However, no consent is required for an assignment that occurs 1) to an entity in which the Purchaser or the Purchaser's principals hold a majority ownership interest; or 2) for an assignment by Purchaser to an entity formed for the development of the Property, and which entity is controlled by the Purchaser or its controlling parties, or for which Purchaser or its controlling parties serve as the Manager. Any assignment or delegation in violation of this section shall be void.

19. Effective Date. The Effective Date for the Contract shall be the date of approval of the Contract by the parties which shall be evidenced by the signing of all parties to this Contract.

20. Counterparts. This Contract may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The electronic transmittal of an executed copy of this Contract shall be deemed valid as if an original signature was delivered. This Contract is executed by the parties as of the respective dates shown below.

WITNESSES:

FOR CONTRACT FOR SALE AND PURCHASE OF  
REAL PROPERTY

PURCHASER:

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
*First Witness Signature Above, Printed Name Below:*

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

\_\_\_\_\_  
*Second Witness Signature Above, Printed Name Below:*

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing Contract was and acknowledged before me by means of [ ] physical presence or [ ] online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, as \_\_\_\_\_, on behalf of \_\_\_\_\_, the Purchaser named in the foregoing Contract, who (*Notary, please check as applicable*): [ ] took an oath or [ ] did not take an oath; and who [ ] is personally known to me or [ ] has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_ at Large  
*Printed Name, Commission Seal and Term Expiration Date*

WITNESSES:

FOR CONTRACT FOR SALE AND PURCHASE OF  
REAL PROPERTY

SELLER:

CITY OF PORT ORANGE, FLORIDA,  
a chartered municipal corporation

\_\_\_\_\_  
*First Witness Signature Above, Printed Name Below:*

By: \_\_\_\_\_  
Donald O. Burnette, Mayor

\_\_\_\_\_  
*Second Witness Signature Above, Printed Name Below:*

Attest: \_\_\_\_\_  
Robin L. Fenwick, MMC, City Clerk

\_\_\_\_\_  
*Witnesses as to Both*

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

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing Contract was acknowledged before me by means of ☐ physical presence  
or ☐ online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Donald O. Burnette as  
Mayor, of the **City of Port Orange, Florida**, a chartered municipal corporation, on behalf of the  
city. They are personally known to me.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
*Printed Name, Commission Seal and Term Expiration Date*

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing Contract was acknowledged before me by means of ☐ physical presence  
or ☐ online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Robin Fenwick as City  
Clerk, of the **City of Port Orange, Florida**, a chartered municipal corporation, on behalf of the  
city. They are personally known to me.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
*Printed Name, Commission Seal and Term Expiration Date*

WITNESSES:

FOR CONTRACT FOR SALE AND PURCHASE OF  
REAL PROPERTY

SELLER:  
COMMUNITY REDEVELOPMENT AGENCY FOR  
PORT ORANGE TOWN CENTER,

\_\_\_\_\_  
*First Witness Signature Above, Printed Name Below:*

By: \_\_\_\_\_  
Stan Schmidt, Chairman

\_\_\_\_\_

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

\_\_\_\_\_  
*Second Witness Signature Above, Printed Name Below:*

\_\_\_\_\_  
*Witnesses*

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing Contract was acknowledged before me by means of [ ] physical presence  
or [ ] online notarization this \_\_\_\_\_ day of \_\_\_\_\_, by Stan Schmidt as Chairman of  
the Community Redevelopment Agency for Port Orange Town Center, on behalf of the CRA. He  
is personally known to me.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
*Printed Name, Commission Seal and Term Expiration Date*

## Exhibit "A"



## **Exhibit “B”**

A final legal description of the property will be inserted once it is prepared by a surveyor, at Purchaser’s expense, and approved by the Seller and Purchaser.

**STANDARDS FOR REAL ESTATE TRANSACTIONS**

126

127 **A. TITLE INSURANCE:** The Title Commitment shall be issued by a Florida licensed title insurer agreeing to issue Buyer, upon recording of the deed to Buyer, an  
 128 owner's policy of title insurance in the amount of the purchase price, insuring Buyer's marketable title to the Real Property, subject only to matters contained in  
 129 Paragraph VII and those to be discharged by Seller at or before Closing. Marketable title shall be determined according to applicable Title Standards adopted by  
 130 authority of The Florida Bar and in accordance with law. Buyer shall have 5 days from date of receiving the Title Commitment to examine it, and if title is found defect-  
 131 ive, notify Seller in writing specifying defect(s) which render title unmarketable. Seller shall have 30 days from receipt of notice to remove the defects, failing which  
 132 Buyer shall, within 5 days after expiration of the 30 day period, deliver written notice to Seller either: (1) extending the time for a reasonable period not to exceed 120  
 133 days within which Seller shall use diligent effort to remove the defects; or (2) requesting a refund of deposit(s) paid which shall be returned to Buyer. If Buyer fails to  
 134 so notify Seller, Buyer shall be deemed to have accepted the title as it then is. Seller shall, if title is found unmarketable, use diligent effort to correct defect(s) within  
 135 the time provided. If, after diligent effort, Seller is unable to timely correct the defects, Buyer shall either waive the defects, or receive a refund of deposit(s), thereby  
 136 releasing Buyer and Seller from all further obligations under this Contract. If Seller is to provide the Title Commitment and it is delivered to Buyer less than 5 days prior  
 137 to Closing, Buyer may extend Closing so that Buyer shall have up to 5 days from date of receipt to examine same in accordance with this Standard.

138 **B. PURCHASE MONEY MORTGAGE; SECURITY AGREEMENT TO SELLER:** A purchase money mortgage and mortgage note to Seller shall provide for a  
 139 30 day grace period in the event of default if a first mortgage and a 15 day grace period if a second or lesser mortgage; shall provide for right of prepayment  
 140 in whole or in part without penalty; shall permit acceleration in event of transfer of the Real Property; shall require all prior liens and encumbrances to be kept  
 141 in good standing; shall forbid modifications of, or future advances under, prior mortgage(s); shall require Buyer to maintain policies of insurance containing a  
 142 standard mortgagee clause covering all improvements located on the Real Property against fire and all perils included within the term "extended coverage  
 143 endorsements" and such other risks and perils as Seller may reasonably require, in an amount equal to their highest insurable value; and the mortgage, note  
 144 and security agreement shall be otherwise in form and content required by Seller, but Seller may only require clauses and coverage customarily found in mort-  
 145 gages, mortgage notes and security agreements generally utilized by savings and loan institutions or state or national banks located in the county wherein the  
 146 Real Property is located. All Personal Property and leases being conveyed or assigned will, at Seller's option, be subject to the lien of a security agreement evi-  
 147 denced by recorded or filed financing statements or certificates of title. If a balloon mortgage, the final payment will exceed the periodic payments thereon.

148 **C. SURVEY:** Buyer, at Buyer's expense, within time allowed to deliver evidence of title and to examine same, may have the Real Property surveyed and certified  
 149 by a registered Florida surveyor. If the survey discloses encroachments on the Real Property or that improvements located thereon encroach on setback lines, ease-  
 150 ments, lands of others or violate any restrictions, Contract covenants or applicable governmental regulations, the same shall constitute a title defect.

151 **D. WOOD DESTROYING ORGANISMS:** "Wood Destroying Organisms" (WDO) shall be deemed to include all wood destroying organisms required to be report-  
 152 ed under the Florida Structural Pest Control Act, as amended. Buyer, at Buyer's expense, may have the Property inspected by a Florida Certified Pest Control Operator  
 153 ("Operator") within 20 days after the Effective Date to determine if there is any visible active WDO infestation or visible damage from WDO infestation, excluding fences.  
 154 If either or both are found, Buyer may within said 20 days (1) have cost of treatment of active infestation estimated by the Operator; (2) have all damage inspected  
 155 and cost of repair estimated by an appropriately licensed contractor; and (3) report such cost(s) to Seller in writing. Seller shall cause the treatment and repair of all  
 156 WDO damage to be made and pay the costs thereof up to the amount provided in Paragraph XI(a). If estimated costs exceed that amount, Buyer shall have the  
 157 option of canceling this Contract by giving written notice to Seller within 20 days after the Effective Date, or Buyer may elect to proceed with the transaction and  
 158 receive a credit at Closing equal to the amount provided in Paragraph XII(a). If Buyer's lender requires an updated WDO report, then Buyer shall, at Buyer's expense,  
 159 have the opportunity to have the Property re-inspected for WDO infestation and have the cost of active infestation or new damage estimated and reported to Seller  
 160 in writing at least 10 days prior to Closing, and thereafter, Seller shall cause such treatment and repair to be made and pay the cost thereof; provided, Seller's total  
 161 obligation for treatment and repair costs required under both the first and second inspection shall not exceed the amount provided in Paragraph XII (a).

162 **E. INGRESS AND EGRESS:** Seller warrants and represents that there is ingress and egress to the Real Property sufficient for its intended use as described  
 163 in Paragraph VII hereof and title to the Real Property is insurable in accordance with Standard A without exception for lack of legal right of access.

164 **F. LEASES:** Seller shall, at least 10 days before Closing, furnish to Buyer copies of all written leases and estoppel letters from each tenant specifying the nature  
 165 and duration of the tenant's occupancy, rental rates, advanced rent and security deposits paid by tenant. If Seller is unable to obtain such letter from each ten-  
 166 ant, the same information shall be furnished by Seller to Buyer within that time period in the form of a Seller's affidavit, and Buyer may thereafter contact ten-  
 167 ant to confirm such information. If the terms of the leases differ materially from Seller's representations, Buyer may terminate this Contract by delivering written  
 168 notice to Seller at least 5 days prior to Closing. Seller shall, at Closing, deliver and assign all original leases to Buyer.

169 **G. LIENS:** Seller shall furnish to Buyer at time of Closing an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statement,  
 170 claims of lien or potential lienors known to Seller and further attesting that there have been no improvements or repairs to the Real Property for 90 days imme-  
 171 diately preceding date of Closing. If the Real Property has been improved or repaired within that time, Seller shall deliver releases or waivers of construction  
 172 liens executed by all general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth the names of all such gen-  
 173 eral contractors, subcontractors, suppliers and materialmen, further affirming that all charges for improvements or repairs which could serve as a basis for a  
 174 construction lien or a claim for damages have been paid or will be paid at the Closing of this Contract.

175 **H. PLACE OF CLOSING:** Closing shall be held in the county wherein the Real Property is located at the office of the attorney or other closing agent ("Closing  
 176 Agent") designated by the party paying for title insurance, or, if no title insurance, designated by Seller.

177 **I. TIME:** Calendar days shall be used in computing time periods except periods of less than six (6) days, in which event Saturdays, Sundays and state or nation-  
 178 al legal holidays shall be excluded. Any time periods provided for herein which shall end on a Saturday, Sunday, or a legal holiday shall extend to 5:00 p.m. of the  
 179 next business day. **Time is of the essence in this Contract.**

180 **J. CLOSING DOCUMENTS:** Seller shall furnish the deed, bill of sale, certificate of title, construction lien affidavit, owner's possession affidavit, assignments of leases,  
 181 tenant and mortgagee estoppel letters and corrective instruments. Buyer shall furnish mortgage, mortgage note, security agreement and financing statements.

182 **K. EXPENSES:** Documentary stamps on the deed and recording of corrective instruments shall be paid by Seller. All costs of Buyer's loan (whether obtained  
 183 from Seller or third party), including, but not limited to, documentary stamps and intangible tax on the purchase money mortgage and any mortgage assumed,  
 184 mortgagee title insurance commitment with related fees, and recording of purchase money mortgage to Seller, deed and financing statements shall be paid by  
 185 Buyer. Unless otherwise provided by law or rider to this Contract, charges for related closing services, title search, and closing fees (including preparation of  
 186 closing statement), shall be paid by the party responsible for furnishing the title evidence in accordance with Paragraph V.

187 **L. PRORATIONS; CREDITS:** Taxes, assessments, rent, interest, insurance and other expenses of the Property shall be prorated through the day before Closing.  
 188 Buyer shall have the option of taking over existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at Closing shall be increased  
 189 or decreased as may be required by prorations to be made through day prior to Closing, or occupancy, if occupancy occurs before Closing. Advance rent and  
 190 security deposits will be credited to Buyer. Escrow deposits held by mortgagee will be credited to Seller. Taxes shall be prorated based on the current year's tax  
 191 with due allowance made for maximum allowable discount, homestead and other exemptions. If Closing occurs at a date when the current year's millage is not  
 192 fixed and current year's assessment is available, taxes will be prorated based upon such assessment and prior year's millage. If current year's assessment is not  
 193 available, then taxes will be prorated on prior year's tax. If there are completed improvements on the Real Property by January 1st of year of Closing, which improve-  
 194 ments were not in existence on January 1st of prior year, then taxes shall be prorated based upon prior year's millage and at an equitable assessment to be agreed  
 195 upon between the parties; failing which, request shall be made to the County Property Appraiser for an informal assessment taking into account available exemp-  
 196 tions. A tax proration based on an estimate shall, at request of either party, be readjusted upon receipt of current year's tax bill.

197 **M. (RESERVED - purposely left blank)**

198 **N. INSPECTION AND REPAIR:** Seller warrants that the ceiling, roof (including the fascia and soffits), and exterior and interior walls, and foundation of the Property  
 199 do not have any visible evidence of leaks, water damage, or structural damage and that dockage, seawalls, septic tank, pool, all appliances, mechanical items,

## STANDARDS FOR REAL ESTATE TRANSACTIONS (CONTINUED)

heating, cooling, electrical, plumbing systems, and machinery are in Working Condition. The foregoing warranty shall be limited to the items specified unless otherwise provided in an addendum. Buyer may inspect, or, at Buyer's expense, have a firm or individual specializing in home inspections and holding an occupational license for such purpose (if required), or by an appropriately licensed Florida contractor, make inspections of, those items within 20 days after the Effective Date. Buyer shall, prior to Buyer's occupancy but not more than 20 days after Effective Date, report in writing to Seller such items that do not meet the above standards as to defects. Unless Buyer timely reports such defects, Buyer shall be deemed to have waived Seller's warranties as to defects not reported. If repairs or replacements are required to comply with this Standard, Seller shall cause them to be made and shall pay up to the amount provided in Paragraph XII (b). Seller is not required to make repairs or replacements of a Cosmetic Condition unless caused by a defect Seller is responsible to repair or replace. If the cost for such repair or replacement exceeds the amount provided in Paragraph XII (b), Buyer or Seller may elect to pay such excess, failing which either party may cancel this Contract. If Seller is unable to correct the defects prior to Closing, the cost thereof shall be paid into escrow at Closing. For purposes of this Contract: (1) "Working Condition" means operating in the manner in which the item was designed to operate; (2) "Cosmetic Condition" means aesthetic imperfections that do not affect the Working Condition of the item, including, but not limited to: pitted marcite or other pool finishes; missing or torn screens; fogged windows; tears, worn spots, or discoloration of floor coverings, wallpaper, or window treatments; nail holes, scratches, dents, scrapes, chips or caulking in ceilings, walls, flooring, fixtures, or mirrors; and minor cracks in floors, tiles, windows, driveways, sidewalks, or pool decks; and (3) cracked roof tiles, curling or worn shingles, or limited roof life shall not be considered defects Seller must repair or replace, so long as there is no evidence of actual leaks or leakage or structural damage, but missing tiles will be Seller's responsibility to replace or repair.

**O. RISK OF LOSS:** If, after the Effective Date, the Property is damaged by fire or other casualty ("Casualty Loss") before Closing and cost of restoration (which shall include the cost of pruning or removing damaged trees) does not exceed 1.5% of the Purchase Price, cost of restoration shall be an obligation of Seller and Closing shall proceed pursuant to the terms of this Contract and if restoration is not completed as of Closing, restoration costs will be escrowed at Closing. If the cost of restoration exceeds 1.5% of the Purchase Price, Buyer shall either take the Property as is, together with the 1.5% or receive a refund of deposit(s) thereby releasing Buyer and Seller from all further obligations under this Contract. Seller's sole obligation with respect to tree damage by casualty or other natural occurrence shall be the cost of pruning or removal.

**P. CLOSING PROCEDURE:** The deed shall be recorded upon clearance of funds. If the title agent insures adverse matters pursuant to Section 627.7841, F.S., as amended, the escrow and closing procedure required by this Standard shall be waived. Unless waived as set forth above the following closing procedures shall apply: (1) all closing proceeds shall be held in escrow by the Closing Agent for a period of not more than 5 days after Closing; (2) if Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 5 day period, notify Seller in writing of the defect and Seller shall have 30 days from date of receipt of such notification to cure the defect; (3) if Seller fails to timely cure the defect, all deposits and closing funds shall, upon written demand by Buyer and within 5 days after demand, be returned to Buyer and, simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and convey the Property to Seller by special warranty deed and bill of sale; and (4) if Buyer fails to make timely demand for refund, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale.

**Q. ESCROW:** Any Closing Agent or escrow agent (collectively "Agent") receiving funds or equivalent is authorized and agrees by acceptance of them to deposit them promptly, hold same in escrow and, subject to clearance, disburse them in accordance with terms and conditions of this Contract. Failure of funds to clear shall not excuse Buyer's performance. If in doubt as to Agent's duties or liabilities under the provisions of this Contract, Agent may, at Agent's option, continue to hold the subject matter of the escrow until the parties hereto agree to its disbursement or until a 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. Any suit between Buyer and Seller wherein Agent is made a party because of acting as Agent hereunder, or in any suit wherein Agent interpleads the subject matter of the escrow, Agent shall recover reasonable attorney's fees and costs incurred with these amounts to be paid from and out of the escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party. The Agent shall not be liable to any party or person for misdelivery to Buyer or Seller of items subject to the escrow, unless such misdelivery is due to willful breach of the provisions of this Contract or gross negligence of Agent.

**R. ATTORNEY'S FEES; COSTS:** In any litigation, including breach, enforcement or interpretation, arising out of this Contract, the prevailing party in such litigation, which, for purposes of this Standard, shall include Seller, Buyer and any brokers acting in agency or nonagency relationships authorized by Chapter 475, F.S., as amended, shall be entitled to recover from the non-prevailing party reasonable attorney's fees, costs and expenses.

**S. FAILURE OF PERFORMANCE:** If Buyer fails to perform this Contract within the time specified, including payment of all deposits, the deposit(s) paid by Buyer and deposit(s) agreed to be paid, may be recovered and retained by and for the account of Seller as agreed upon liquidated damages, consideration for the execution of this Contract and in full settlement of any claims; whereupon, Buyer and Seller shall be relieved of all obligations under this Contract; or Seller, at Seller's option, may proceed in equity to enforce Seller's rights under this Contract. If for any reason other than failure of Seller to make Seller's title marketable after diligent effort, Seller fails, neglects or refuses to perform this Contract, Buyer may seek specific performance or elect to receive the return of Buyer's deposit(s) without thereby waiving any action for damages resulting from Seller's breach.

**T. CONTRACT NOT RECORDABLE; PERSONS BOUND; NOTICE; COPIES:** Neither this Contract nor any notice of it shall be recorded in any public records. This Contract shall bind and inure to the benefit of the parties and their successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all. Notice and delivery given by or to the attorney or broker representing any party shall be as effective as if given by or to that party. All notices must be in writing and may be made by mail, personal delivery or electronic media. A legible facsimile or electronic (including "pdf") copy of this Contract and any signatures hereon shall be considered for all purposes as an original.

**U. CONVEYANCE:** Seller shall convey marketable title to the Real Property by statutory warranty, trustee's, personal representative's, or guardian's deed, as appropriate to the status of Seller, subject only to matters contained in Paragraph VII and those otherwise accepted by Buyer. Personal Property shall, at the request of Buyer, be transferred by an absolute bill of sale with warranty of title, subject only to such matters as may be otherwise provided for herein.

**V. OTHER AGREEMENTS:** No prior or present agreements or representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon the parties unless in writing and executed by the parties intended to be bound by it.

**W. SELLER DISCLOSURE:** There are no facts known to Seller materially affecting the value of the Property which are not readily observable by Buyer or which have not been disclosed to Buyer.

**X. PROPERTY MAINTENANCE; PROPERTY ACCESS; REPAIR STANDARDS; ASSIGNMENT OF CONTRACTS AND WARRANTIES:** Seller shall maintain the Property, including, but not limited to lawn, shrubbery, and pool in the condition existing as of Effective Date, ordinary wear and tear and Casualty Loss excepted. Seller shall, upon reasonable notice, provide utilities service and access to the Property for appraisal and inspections, including a walk-through prior to Closing, to confirm that all items of Personal Property are on the Real Property and, subject to the foregoing, that all required repairs and replacements have been made, and that the Property has been maintained as required by this Standard. All repairs and replacements shall be completed in a good and workmanlike manner, in accordance with all requirements of law, and shall consist of materials or items of quality, value, capacity and performance comparable to, or better than, that existing as of the Effective Date. Seller will assign all assignable repair and treatment contracts and warranties to Buyer at Closing.

**Y. 1031 EXCHANGE:** If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneous with Closing or deferred) with respect to the Property under Section 1031 of the Internal Revenue Code ("Exchange"), the other party shall cooperate in all reasonable respects to effectuate the Exchange, including the execution of documents; provided (1) the cooperating party shall incur no liability or expense related to the Exchange and (2) the Closing shall not be contingent upon, nor extended or delayed by, such Exchange.



# CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 3/22/2022

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**SUBJECT:** (C5) Debt Financing Discussion

**DEPARTMENT:** Finance

**GOAL:** Financial Sustainability

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**RECOMMENDED MOTION:** Discussion only - no action required.

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**SUMMARY:** Debt Financing Workshop presented by Southeastern Investment Securities, LLC and Hilltop Securities Inc.

Items for discussion

1. Existing Debt Management Policy
2. Outstanding Indebtedness and debt roll-off
3. Refunding Opportunities
4. Unfunded Capital Needs
5. Funding Options
6. Current Municipal Market Conditions

**PRESENTER:** John McKinney

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**ATTACHMENTS:**

|    |                                               |                                                    |
|----|-----------------------------------------------|----------------------------------------------------|
| 1. | PO 2022 Financing Workshop Outline<br>3.17.22 | PO 2022 Financing Workshop Outline<br>3.17.22.docx |
|----|-----------------------------------------------|----------------------------------------------------|

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Robin Fenwick  
John McKinney  
Wayne Clark  
Robin Fenwick

Created/Initiated - 3/9/2022  
Approved - 3/17/2022  
Approved - 3/17/2022  
Final Approval - 3/17/2022

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## *Port Orange Financing Workshop*

### Materials Reviewed

- Debt Management Policy
- Applicable Federal Rate (AFRs)
- Public Offering Documents
- Private and Governmental Financings (Bank/State Revolving Financing)
- Budget and Capital Plan
- Institutional Knowledge

### Existing Debt Management Policy

- Debt Standards and Structure
  - Direct Debt
  - Revenue Debt
  - Conduit Debt
  - Debt Limits

### Outstanding Indebtedness and debt roll-off

- General Obligation
- General Fund – Capital Improvement Program (CIP)
- Water and Sewer
- Stormwater
- Community Redevelopment Agency (CRA)
- Pledged security

### Refunding Opportunities

- Stormwater
- W&S
- Town Center Community Redevelopment Agency (CRA)

### Unfunded Capital Needs by Fund Type

- General Fund
- Water and Sewer
- Stormwater

### Funding Options and Benefits/Considerations Cash/Pay go

- Grants/ Federal and State
  - Water Infrastructure Finance and Innovation Act of 2014 (WIFIA)
  - State Revolving Funds (SRF)
  - Federal Assistance – American Rescue Plan Act monies (ARPA)
  - Florida Recreation Development Assistance Program (FRDAP)

- Bank Loans
  - Amortizing Loans
  - Line of Credit
- Bonds
  - Public Offering and credit rating process
  - Private Placement
  - General Obligation
    - Public Safety
    - Parks

Current Municipal Market Conditions