

Vacant Land Contract



1. **Sale and Purchase ("Contract"):** The City of Palm Bay ("Seller")
and EJ & JT Associates, Inc. ("Buyer")
(the "parties") agree to sell and buy on the terms and conditions specified below the property ("Property")
described as:

Address: 2050 Agora Circle SE, Palm Bay, FL 32907

Legal Description: PORT MALABAR UNIT 40 LOT 5 BLK 1981

SEC 3 /TWP / 29 /RNG 37 of Brevard County, Florida. Real Property ID No.: 29-37-03-26-01981-0005
including all improvements existing on the Property and the following additional property:

2. **Purchase Price:** (U.S. currency) \$ 46,000.00

All deposits will be made payable to "Escrow Agent" named below and held in escrow by:

Escrow Agent's Name: E Title Services, LLC

Escrow Agent's Contact Person: Stacy Vollenweider

Escrow Agent's Address: 5815 S US 1, Rockledge, FL 32955

Escrow Agent's Phone: 321-450-4720

Escrow Agent's Email: stacy@etitlebrevard.com

(a) Initial deposit (\$0 if left blank) (Check if applicable)

☐ accompanies offer

☒ will be delivered to Escrow Agent within 3 days (3 days if left blank)

after Effective Date \$ 4,600.00

(b) Additional deposit will be delivered to Escrow Agent (Check if applicable)

☐ within days (10 days if left blank) after Effective Date

☐ within days (3 days if left blank) after expiration of Due Diligence Period \$

(c) Total Financing (see Paragraph 6) (express as a dollar amount or percentage)

(d) Other: \$

(e) Balance to close (not including Buyer's closing costs, prepaid items, and prorations)

to be paid at closing by wire transfer or other Collected funds \$ 41,400.00

(f) ☐ (Complete only if purchase price will be determined based on a per unit cost instead of a fixed price.) The

unit used to determine the purchase price is ☐ lot ☐ acre ☐ square foot ☐ other (specify):

prorating areas of less than a full unit. The purchase price will be \$ per unit based on a

calculation of total area of the Property as certified to Seller and Buyer by a Florida licensed surveyor in

accordance with Paragraph 8(c). The following rights of way and other areas will be excluded from the

calculation:

3. **Time for Acceptance; Effective Date:** Unless this offer is signed by Seller and Buyer and an executed copy delivered to all parties on or before June 21, 2021, this offer will be withdrawn and Buyer's deposit, if any, will be returned. The time for acceptance of any counter-offer will be 3 days after the date the counter-offer is delivered. The "Effective Date" of this Contract is the date on which the last one of the Seller and Buyer has signed or initialed and delivered this offer or the final counter-offer.

4. **Closing Date:** This transaction will close on 40daysaftereffectivedate ("Closing Date"), unless specifically extended by other provisions of this Contract. The Closing Date will prevail over all other time periods including, but not limited to, Financing and Feasibility Study periods. However, if the Closing Date occurs on a Saturday, Sunday, or national legal holiday, it will extend to 5:00 p.m. (where the Property is located) of the next business day. In the event insurance underwriting is suspended on Closing Date and Buyer is unable to obtain property insurance, Buyer may postpone closing for up to 5 days after the insurance underwriting suspension is lifted. If this transaction does not close for any reason, Buyer will immediately return all Seller provided documents and other items.

5. **Extension of Closing Date:** If Paragraph 6(b) is checked and Closing Funds from Buyer's lender(s) are not available on Closing Date due to Consumer Financial Protection Bureau Closing Disclosure delivery requirements

Buyer (JAD) () and Seller () () acknowledge receipt of a copy of this page, which is 1 of 8 pages.

("CFPB Requirements"), if applicable, then Closing Date shall be extended for such period necessary to satisfy CFPB Requirements, provided such period shall not exceed 10 days.

6. Financing: (Check as applicable)

(a) ☒ **Buyer** will pay cash for the Property with no financing contingency.

(b) ☐ This Contract is contingent on **Buyer** qualifying for and obtaining the commitment(s) or approval(s) specified below ("Financing") within _____ days after Effective Date (Closing Date or 30 days after Effective Date, whichever occurs first, if left blank) ("Financing Period"). **Buyer** will apply for Financing within _____ days after Effective Date (5 days if left blank) and will timely provide any and all credit, employment, financial, and other information required by the lender. If **Buyer**, after using diligence and good faith, cannot obtain the Financing within the Financing Period, either party may terminate this Contract and **Buyer's** deposit(s) will be returned.

- (1) ☐ **New Financing:** **Buyer** will secure a commitment for new third party financing for \$ _____ or _____% of the purchase price at (Check one) ☐ a fixed rate not exceeding _____% ☐ an adjustable interest rate not exceeding _____% at origination (a fixed rate at the prevailing interest rate based on **Buyer's** creditworthiness if neither choice is selected). **Buyer** will keep **Seller** and Broker fully informed of the loan application status and progress and authorizes the lender or mortgage broker to disclose all such information to **Seller** and Broker.
- (2) ☐ **Seller Financing:** **Buyer** will execute a ☐ first ☐ second purchase money note and mortgage to **Seller** in the amount of \$ _____, bearing annual interest at _____% and payable as follows:

The mortgage, note, and any security agreement will be in a form acceptable to **Seller** and will follow forms generally accepted in the county where the Property is located; will provide for a late payment fee and acceleration at the mortgagee's option if **Buyer** defaults; will give **Buyer** the right to prepay without penalty all or part of the principal at any time(s) with interest only to date of payment; will be due on conveyance or sale; will provide for release of contiguous parcels, if applicable; and will require **Buyer** to keep liability insurance on the Property, with **Seller** as additional named insured. **Buyer** authorizes **Seller** to obtain credit, employment, and other necessary information to determine creditworthiness for the financing. **Seller** will, within 10 days after Effective Date, give **Buyer** written notice of whether or not **Seller** will make the loan.

- (3) ☐ **Mortgage Assumption:** **Buyer** will take title subject to and assume and pay existing first mortgage to

LN# _____ in the approximate amount of \$ _____ currently payable at \$ _____ per month, including principal, interest, ☐ taxes and insurance, and having a ☐ fixed ☐ other (describe) _____ interest rate of _____% which ☐ will ☐ will not escalate upon assumption. Any variance in the mortgage will be adjusted in the balance due at closing with no adjustment to purchase price. **Buyer** will purchase **Seller's** escrow account dollar for dollar. If the interest rate upon transfer exceeds _____% or the assumption/transfer fee exceeds \$ _____, either party may elect to pay the excess, failing which this Contract will terminate; and **Buyer's** deposit(s) will be returned. If the lender disapproves **Buyer**, this Contract will terminate; and **Buyer's** deposit(s) will be returned.

- 7. Assignability: (Check one)** **Buyer** ☐ may assign and thereby be released from any further liability under this Contract, ☒ may assign but not be released from liability under this Contract, or ☐ may not assign this Contract.

- 8. Title:** **Seller** has the legal capacity to and will convey marketable title to the Property by ☐ statutory warranty deed ☐ special warranty deed ☐ other (specify) _____, free of liens, easements, and encumbrances of record or known to **Seller**, but subject to property taxes for the year of closing; covenants, restrictions, and public utility easements of record; existing zoning and governmental regulations; and (list any other matters to which title will be subject) _____ provided there exists at closing no violation of the foregoing.

(a) **Title Evidence:** The party who pays for the owner's title insurance policy will select the closing agent and pay for the title search, including tax and lien search (including municipal lien search) if performed, and all other fees charged by closing agent. **Seller** will deliver to **Buyer**, at

(Check one) ☒ **Seller's** ☐ **Buyer's** expense and

(Check one) ☐ within _____ days after Effective Date ☒ at least 5 days before Closing Date,

(Check one)

- (1) ☒ a title insurance commitment by a Florida licensed title insurer setting forth those matters to be discharged by **Seller** at or before closing and, upon **Buyer** recording the deed, an owner's policy in the

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Buyer (_____) (_____) and Seller (_____) (_____) acknowledge receipt of a copy of this page, which is 2 of 8 pages.

amount of the purchase price for fee simple title subject only to the exceptions stated above. If **Buyer** is paying for the owner's title insurance policy and **Seller** has an owner's policy, **Seller** will deliver a copy to **Buyer** within 15 days after Effective Date.

- (2) ☐ an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an existing firm. However, if such an abstract is not available to **Seller**, then a prior owner's title policy acceptable to the proposed insurer as a base for reissuance of coverage may be used. The prior policy will include copies of all policy exceptions and an update in a format acceptable to **Buyer** from the policy effective date and certified to **Buyer** or **Buyer's** closing agent together with copies of all documents recited in the prior policy and in the update. If such an abstract or prior policy is not available to **Seller**, then (1) above will be the title evidence.

(b) **Title Examination:** After receipt of the title evidence, **Buyer** will, within 10 days (10 days if left blank) but no later than Closing Date, deliver written notice to **Seller** of title defects. Title will be deemed acceptable to **Buyer** if (i) **Buyer** fails to deliver proper notice of defects or (ii) **Buyer** delivers proper written notice and **Seller** cures the defects within 30 days (30 days if left blank) ("Cure Period") after receipt of the notice. If the defects are cured within the Cure Period, closing will occur within 10 days after receipt by **Buyer** of notice of such cure. **Seller** may elect not to cure defects if **Seller** reasonably believes any defect cannot be cured within the Cure Period. If the defects are not cured within the Cure Period, **Buyer** will have 10 days after receipt of notice of **Seller's** inability to cure the defects to elect whether to terminate this Contract or accept title subject to existing defects and close the transaction without reduction in purchase price.

(c) **Survey:** **Buyer** may, at **Buyer's** expense, have the Property surveyed and must deliver written notice to **Seller**, within 5 days after receiving survey but not later than 5 days before Closing Date, of any encroachments on the Property, encroachments by the Property's improvements on other lands, or deed restriction or zoning violations. Any such encroachment or violation will be treated in the same manner as a title defect and **Seller's** and **Buyer's** obligations will be determined in accordance with Paragraph 8(b).

(d) **Ingress and Egress:** **Seller** warrants that the Property presently has ingress and egress.

9. **Property Condition:** **Seller** will deliver the Property to **Buyer** at closing in its present "as is" condition, with conditions resulting from **Buyer's** Inspections and casualty damage, if any, excepted. **Seller** will not engage in or permit any activity that would materially alter the Property's condition without the **Buyer's** prior written consent.

(a) **Inspections: (Check (1) or (2))**

- (1) ☒ **Due Diligence Period:** **Buyer** will, at **Buyer's** expense and within 30 days (30 days if left blank) ("Due Diligence Period") after Effective Date and in **Buyer's** sole and absolute discretion, determine whether the Property is suitable for **Buyer's** intended use. During the Due Diligence Period, **Buyer** may conduct a Phase 1 environmental assessment and any other tests, analyses, surveys, and investigations ("Inspections") that **Buyer** deems necessary to determine to **Buyer's** satisfaction the Property's engineering, architectural, and environmental properties; zoning and zoning restrictions; subdivision statutes; soil and grade; availability of access to public roads, water, and other utilities; consistency with local, state, and regional growth management plans; availability of permits, government approvals, and licenses; and other inspections that **Buyer** deems appropriate. If the Property must be rezoned, **Buyer** will obtain the rezoning from the appropriate government agencies. **Seller** will sign all documents **Buyer** is required to file in connection with development or rezoning approvals. **Seller** gives **Buyer**, its agents, contractors, and assigns, the right to enter the Property at any time during the Due Diligence Period for the purpose of conducting Inspections, provided, however, that **Buyer**, its agents, contractors, and assigns enter the Property and conduct Inspections at their own risk. **Buyer** will indemnify and hold **Seller** harmless from losses, damages, costs, claims, and expenses of any nature, including attorneys' fees, expenses, and liability incurred in application for rezoning or related proceedings, and from liability to any person, arising from the conduct of any and all Inspections or any work authorized by **Buyer**. **Buyer** will not engage in any activity that could result in a construction lien being filed against the Property without **Seller's** prior written consent. If this transaction does not close, **Buyer** will, at **Buyer's** expense, (i) repair all damages to the Property resulting from the Inspections and return the Property to the condition it was in before conducting the Inspections and (ii) release to **Seller** all reports and other work generated as a result of the Inspections.

Before expiration of the Due Diligence Period, **Buyer** must deliver written notice to **Seller** of **Buyer's** determination of whether or not the Property is acceptable. **Buyer's** failure to comply with this notice requirement will constitute acceptance of the Property as suitable for **Buyer's** intended use in its "as is" condition. If the Property is unacceptable to **Buyer** and written notice of this fact is timely delivered to **Seller**, this Contract will be deemed terminated, and **Buyer's** deposit(s) will be returned.

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- (2) ☐ **No Due Diligence Period:** Buyer is satisfied that the Property is suitable for Buyer's purposes, including being satisfied that either public sewerage and water are available to the Property or the Property will be approved for the installation of a well and/or private sewerage disposal system and that existing zoning and other pertinent regulations and restrictions, such as subdivision or deed restrictions, concurrency, growth management, and environmental conditions, are acceptable to Buyer. This Contract is not contingent on Buyer conducting any further investigations.
- (b) **Government Regulations:** Changes in government regulations and levels of service which affect Buyer's intended use of the Property will not be grounds for terminating this Contract if the Due Diligence Period has expired or if Paragraph 9(a)(2) is selected.
- (c) **Flood Zone:** Buyer is advised to verify by survey, with the lender, and with appropriate government agencies which flood zone the Property is in, whether flood insurance is required, and what restrictions apply to improving the Property and rebuilding in the event of casualty.
- (d) **Coastal Construction Control Line ("CCCL"):** If any part of the Property lies seaward of the CCCL as defined in Section 161.053, Florida Statutes, Seller will provide Buyer with an affidavit or survey as required by law delineating the line's location on the Property, unless Buyer waives this requirement in writing. The Property being purchased may be subject to coastal erosion and to federal, state, or local regulations that govern coastal property, including delineation of the CCCL, rigid coastal protection structures, beach nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida Department of Environmental Protection, including whether there are significant erosion conditions associated with the shore line of the Property being purchased.
- ☐ Buyer waives the right to receive a CCCL affidavit or survey.

10. Closing Procedure; Costs: Closing will take place in the county where the Property is located and may be conducted by mail or electronic means. If title insurance insures Buyer for title defects arising between the title binder effective date and recording of Buyer's deed, closing agent will disburse at closing the net sale proceeds to Seller (in local cashier's check if Seller requests in writing at least 5 days before closing) and brokerage fees to Broker as per Paragraph 21. In addition to other expenses provided in this Contract, Seller and Buyer will pay the costs indicated below.

(a) Seller Costs:

Taxes on deed
Recording fees for documents needed to cure title
Title evidence (if applicable under Paragraph 8)
Estoppel Fee(s)
Other: _____

(b) Buyer Costs:

Taxes and recording fees on notes and mortgages
Recording fees on the deed and financing statements
Loan expenses
Title evidence (if applicable under Paragraph 8)
Lender's title policy at the simultaneous issue rate
Inspections
Survey
Insurance
Other: _____

(c) Prorations: The following items will be made current and prorated as of the day before Closing Date: real estate taxes (including special benefit tax liens imposed by a CDD), interest, bonds, assessments, leases, and other Property expenses and revenues. If taxes and assessments for the current year cannot be determined, the previous year's rates will be used with adjustment for any exemptions.

(d) Special Assessment by Public Body: Regarding special assessments imposed by a public body, Seller will pay (i) the full amount of liens that are certified, confirmed, and ratified before closing and (ii) the amount of the last estimate of the assessment if an improvement is substantially completed as of Effective Date but has not resulted in a lien before closing; and Buyer will pay all other amounts. If special assessments may be paid in installments, ☒ Seller ☐ Buyer (Buyer if left blank) will pay installments due after closing. If Seller is checked, Seller will pay the assessment in full before or at the time of closing. Public body does not include a Homeowners' or Condominium Association.

(e) PROPERTY TAX DISCLOSURE SUMMARY: BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY

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IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR FURTHER INFORMATION.

- (f) **Foreign Investment in Real Property Tax Act ("FIRPTA"):** If **Seller** is a "foreign person" as defined by FIRPTA, **Seller** and **Buyer** will comply with FIRPTA, which may require **Seller** to provide additional cash at closing.
- (g) **1031 Exchange:** If either **Seller** or **Buyer** wish to enter into a like-kind exchange (either simultaneously with closing or after) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party will cooperate in all reasonable respects to effectuate the Exchange including executing documents, provided, however, that the cooperating party will incur no liability or cost related to the Exchange and that the closing will not be contingent upon, extended, or delayed by the Exchange.

11. Computation of Time: Calendar days will be used when computing time periods, except time periods of 5 days or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal holidays specified in 5 U.S.C. 6103(a). Other than time for acceptance and Effective Date as set forth in Paragraph 3, any time periods provided for or dates specified in this Contract, whether preprinted, handwritten, typewritten or inserted herein, which shall end or occur on a Saturday, Sunday, or national legal holiday (see 5 U.S.C. 6103) shall extend until 5:00 p.m. (where the Property is located) of the next business day. **Time is of the essence in this Contract.**

12. Risk of Loss; Eminent Domain: If any portion of the Property is materially damaged by casualty before closing or **Seller** negotiates with a governmental authority to transfer all or part of the Property in lieu of eminent domain proceedings or an eminent domain proceeding is initiated, **Seller** will promptly inform **Buyer**. Either party may terminate this Contract by written notice to the other within 10 days after **Buyer's** receipt of **Seller's** notification, and **Buyer's** deposit(s) will be returned, failing which **Buyer** will close in accordance with this Contract and receive all payments made by the governmental authority or insurance company, if any.

13. Force Majeure: **Seller** or **Buyer** will not be required to perform any obligation under this Contract or be liable to each other for damages so long as the performance or non-performance of the obligation is delayed, caused, or prevented by an act of God or force majeure. An "act of God or "force majeure" is defined as hurricanes, earthquakes, floods, fire, unusual transportation delays, wars, insurrections, and any other cause not reasonably within the control of **Seller** or **Buyer** and which by the exercise of due diligence the non-performing party is unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended for the period that the act of God or force majeure is in place. However, in the event that such act of God or force majeure event continues beyond 30 days, either party may terminate this Contract by delivering written notice to the other; and **Buyer's** deposit(s) will be returned.

14. Notices: All notices will be in writing and delivered to the parties and Broker by mail, personal delivery, or electronic means. **Buyer's failure to timely deliver written notice to Seller, when such notice is required by this Contract, regarding any contingency will render that contingency null and void, and this Contract will be construed as if the contingency did not exist. Any notice, document, or item delivered to or received by an attorney or licensee (including a transactions broker) representing a party will be as effective as if delivered to or received by that party.**

15. Complete Agreement; Persons Bound: This Contract is the entire agreement between **Seller** and **Buyer**. **Except for brokerage agreements, no prior or present agreements will bind Seller, Buyer, or Broker unless incorporated into this Contract.** Modifications of this Contract will not be binding unless in writing, signed or initialed, and delivered by the party to be bound. Electronic signatures will be acceptable and binding. This Contract, signatures, initials, documents referenced in this Contract, counterparts, and written modifications communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be binding. Handwritten or typewritten terms inserted in or attached to this Contract prevail over preprinted terms. If any provision of this Contract is or becomes invalid or unenforceable, all remaining provisions will continue to be fully effective. **Seller** and **Buyer** will use diligence and good faith in performing all obligations under this Contract. This Contract will not be recorded in any public record. The terms "**Seller**," "**Buyer**," and "**Broker**" may be singular or plural. This Contract is binding on the heirs, administrators, executors, personal representatives, and assigns, if permitted, of **Seller**, **Buyer**, and Broker.

16. Default and Dispute Resolution: This Contract will be construed under Florida law. This Paragraph will survive closing or termination of this Contract.

- (a) **Seller Default:** If **Seller** fails, neglects, or refuses to perform **Seller's** obligations under this Contract, **Buyer** may elect to receive a return of **Buyer's** deposit(s) without thereby waiving any action for damages resulting

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from **Seller's** breach and may seek to recover such damages or seek specific performance. **Seller** will also be liable for the full amount of the brokerage fee.

(b) **Buyer Default:** If **Buyer** fails, neglects, or refuses to perform **Buyer's** obligations under this Contract, including payment of deposit(s), within the time(s) specified, **Seller** may elect to recover and retain the deposit(s), paid and agreed to be paid, for the account of **Seller** as agreed upon liquidated damages, consideration for execution of this Contract, and in full settlement of any claims, whereupon **Seller** and **Buyer** will be relieved from all further obligations under this Contract; or **Seller**, at **Seller's** option, may proceed in equity to enforce **Seller's** rights under this Contract.

17. Attorney's Fees; Costs: In any litigation permitted by this Contract, the prevailing party shall be entitled to recover from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting the litigation. This Paragraph 17 shall survive Closing or termination of this Contract.

18. Escrow Agent; Closing Agent: **Seller** and **Buyer** authorize Escrow Agent and closing agent (collectively "Agent") to receive, deposit, and hold funds and other items in escrow and, subject to Collection, disburse them upon proper authorization and in accordance with Florida law and the terms of this Contract, including disbursing brokerage fees. "Collection" or "Collected" means any checks tendered or received have become actually and finally collected and deposited in the account of Agent. The parties agree that Agent will not be liable to any person for misdelivery of escrowed items to **Seller** or **Buyer**, unless the misdelivery is due to Agent's willful breach of this Contract or gross negligence. If Agent interpleads the subject matter of the escrow, Agent will pay the filing fees and costs from the deposit and will recover reasonable attorneys' fees and costs to be paid from the escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party.

19. Professional Advice; Broker Liability: Broker advises **Seller** and **Buyer** to verify all facts and representations that are important to them and to consult an appropriate professional for legal advice (for example, interpreting this Contract, determining the effect of laws on the Property and this transaction, status of title, foreign investor reporting requirements, the effect of property lying partially or totally seaward of the CCCL, etc.) and for tax, property condition, environmental, and other specialized advice. **Buyer** acknowledges 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 government agencies for verification of the Property condition and facts that materially affect Property value.** **Seller** and **Buyer** respectively will pay all costs and expenses, including reasonable attorneys' fees at all levels, incurred by Broker and Broker's officers, directors, agents, and employees in connection with or arising from **Seller's** or **Buyer's** misstatement or failure to perform contractual obligations. **Seller** and **Buyer** hold harmless and release Broker and Broker's officers, directors, agents, and employees from all liability for loss or damage based on (i) **Seller's** or **Buyer's** misstatement or failure to perform contractual obligations; (ii) the use or display of listing data by third parties, including, but not limited to, photographs, images, graphics, video recordings, virtual tours, drawings, written descriptions, and remarks related to the Property; (iii) Broker's performance, at **Seller's** or **Buyer's** request, of any task beyond the scope of services regulated by Chapter 475, Florida Statutes, as amended, including Broker's referral, recommendation, or retention of any vendor; (iv) products or services provided by any vendor; and (v) expenses incurred by any vendor. **Seller** and **Buyer** each assume full responsibility for selecting and compensating their respective vendors. This Paragraph will not relieve Broker of statutory obligations. For purposes of this Paragraph, Broker will be treated as a party to this Contract. This Paragraph will survive closing.

20. Commercial Real Estate Sales Commission Lien Act: If the Property is commercial real estate as defined by Section 475.701, Florida Statutes, the following disclosure will apply: The Florida Commercial Real Estate Sales Commission Lien Act provides that when a broker has earned a commission by performing licensed services under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the broker's commission. The broker's lien rights under the act cannot be waived before the commission is earned.

21. Brokers: The licensee(s) and brokerage(s) named below are collectively referred to as "Broker." **Instruction to closing agent:** **Seller** and **Buyer** direct Closing Agent to disburse at Closing the full amount of the brokerage fees as specified in separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the extent Broker has retained such fees from the escrowed funds. This Paragraph will not be used to modify any MLS or other offer of compensation made by **Seller** or listing broker to cooperating brokers.

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Jenny Walker, GRI BK3119425
Buyer's Sales Associate/License No.

329* Jenny@gregellingson.com
330 Seller's Sales Associate Email Address
331
332* 13215444751
333 Seller's Sales Associate Phone Number
334
335* Ellingson Properties
336 Listing Brokerage
337
338* 5815 S US 1, Rockledge, FL 32955
339 Listing Brokerage Address

Jenny@gregellingson.com
Buyer's Sales Associate Email Address
13215444751
Buyer's Sales Associate Phone Number
Ellingson Properties, LLC
Buyer's Brokerage
5815 S US 1, Rockledge, FL 32955
Buyer's Brokerage Address

340 22. Addenda: The following additional terms are included in the attached addenda and incorporated into this Contract
341 (Check if applicable)
342* ☐ A. Back-up Contract
343* ☐ B. Kick Out Clause
344* ☐ C. Other

345* 23. Additional Terms:
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361 COUNTER-OFFER/REJECTION

362* ☐ Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and
363 deliver a copy of the acceptance to Seller).
364* ☐ Seller rejects Buyer's offer

365 This is intended to be a legally binding Contract. If not fully understood, seek the advice of an attorney before
366 signing.

367* Buyer: Jeffrey A Deshong Date: 6/17/2021

368* Print name:

369* Buyer: Date:

370* Print name:

371 Buyer's address for purpose of notice:

372* Address:

373* Phone: Fax: Email:

374* Seller: Date:

375* Print name:

376* Seller: Date:

377* Print name:

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378 **Seller's** address for purpose of notice:

379* Address: _____

380* Phone: _____ Fax: _____ Email: _____

381* **Effective Date:** _____ **(The date on which the last party signed or initialed and delivered the**
382 **final offer or counter offer.)**

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VAC-14 Rev 3/21

Serial#: 037670-000162-3955232

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 Form
Simplicity

Addendum 'A' to Contract

The Addendum is made to the Contract between the City of Palm Bay, a Florida municipal corporation, as Seller, and EJ & JT Associates, Inc as Buyer, for the sale and purchase of the Property at 2050 Agora Circle SE, Palm Bay, FL 32907, as follows, and the provisions, terms, and conditions stated herein shall be controlling over any provision, term, or condition to the contrary contained in the remainder of the Contract.

No Conveyance of Personal property: Seller is not hereby selling or agreeing to convey any personal property and makes no representations or warranties regarding the same. Seller will not provide a bill of sale or any other document of conveyance or assignment of any warranties, etc. for any personal property located on the premises. Seller abandons any and all such personal property located on the premises at the Effective Date unless specifically excluded by addendum and shall not be responsible for removal of the same. If any such personal property located on the premises at the Effective Date shall be damaged, destroyed, lost, or stolen during the pendency of the Contract prior to Closing, the same shall not excuse Buyer's performance in any way Buyer's obligations under this Contract including Buyer's obligation to close.

All prorations at closing final: All prorations, including but not limited to, any and all taxes, fees, utilities, homeowners or condominium association assessments and dues and any other charges against the Property as reflected on the settlement statement executed by the Seller are FINAL. No adjustments or payments will be made by Seller post-closing. Tax prorations are based on the last known tax year or current tax bill if available. Special assessments will be prorated up to the Closing Date regardless if said assessments are due in full or in future installments. Any special assessments levied and payable in installments shall be prorated to the Closing Date and shall be assumed and paid by Buyer from the Closing Date forward. In no instance shall the Seller be responsible for the payment of any assessment pending but not levied as of the Closing Date.

No Duty to Cure Title Defects: Seller's obligations under this Contract are subject to Seller's ability to deliver marketable title. Seller has no obligation to expend any money to cure any defect in title. Buyer's sole remedy is limited to a return of Buyer's Deposit. Under no circumstances shall Seller be obligated to reimburse Buyer for any of Buyer's expenses in inspecting the Property.

If in Seller's sole discretion Seller finds that it is not able to convey marketable title without expenditure of monies or other resources, Seller has the sole discretion to either extend the contract or terminate the contract and return all earnest money to Buyer upon termination.

If Seller elects to extend this Contract of Sale, Seller shall have a minimum 30 days to resolve any title defects before terminating the Contract. If in Seller's sole discretion Seller is not able to cure any title defects within the 30 day period, either Buyer or Seller has the option to immediately terminate this Contract of Sale, with no further obligation, and all earnest money will be returned to Buyer. Buyer and anyone claiming by, through, or under Buyer, including any mortgagees of Buyer, agree to hold Seller

harmless from all liabilities, losses, costs, charges, expenses and damages of any type whatsoever, including reasonable attorney's fees, sustained by Buyer by reason of or arising out of any title defects discovered after closing and shall look to recover only from any title insurance policy for any loss incurred thereby.

No Disclosures, Warranties, or Representations Regarding Condition of Property: Seller and Seller's agents, brokers, employees, and other representatives make no warranties and disclaim any knowledge of the condition of the Property, other than as may be disclosed in the Inspection Report (as hereinafter defined), if any, that has been prepared for the Property. Seller may not have knowledge of any material facts or defects impacting the Property. Buyer acknowledges that neither the Seller nor any other person acting on its behalf, including specifically Seller's Broker (whether acting solely as Seller's Broker or as a 'transactional broker), has made any representation regarding the condition of the Property, any of the appliances or structural components that may be contained therein, its fitness for general or specific use, or any other matter affecting the Property. If an inspection report has been obtained by or on behalf of Seller or Seller's representative (the "Inspection Report(s)"), such Inspection Report may be provided to Buyer for Buyer's information only but no representation or warranty shall be made as to the accuracy or completeness of such Inspection Report and in no event shall this be deemed to be a part of the Contract. Nothing herein shall obligate Seller to procure any such Inspection Reports but Seller may provide to Buyer any Inspection Reports in Seller's possession, as for example if obtained by Seller from a previous Buyer who failed to close. If after Closing it is discovered that Seller did not provide any Inspection Report in Seller's possession, Buyer expressly waives any claim against Seller for failure to provide the same prior to Closing.

Neither Seller nor any person acting as Seller's representative has occupied the Property and no party represents or warrants that the Property conforms to local building codes, zoning requirements or any other applicable laws, rules or regulations.

Buyer acknowledges that Buyer has had the opportunity to inspect, examine and make a complete review of the Property prior to the close of escrow of the Contract. Buyer will rely solely on its own inspection and review to evaluate the condition of the Property. Buyer acknowledges that it is Buyer's sole responsibility to obtain inspection reports by qualified professionals on the appliances, structural components, alterations and additions to the Property and to determine the presence of any toxic or hazardous substances on the Property, including, but not limited to, mold, radon, asbestos and lead paint, that would make it uninhabitable or dangerous to the health of the occupants or otherwise not in compliance with law, or any other factors regarding the condition of the Property about which Buyer may be concerned.

In the event electrical, plumbing, water and/or heating services are shut down for Property preservation or other purposes, Seller will NOT reactivate these systems prior to closing. Buyer understands, acknowledges, and agrees that neither Seller nor any person acting as Seller's representative is making any warranties or representations, either expressed or implied, as to the condition of the Property. The Property is being conveyed to Buyer in "AS IS/ WHERE IS" condition and "with all faults." It is the right and

responsibility of the Buyer to inspect the Property and Buyer must satisfy himself/herself as to the condition of the Property. If Buyer fail to inspect the Property, such failure shall not under any circumstances alter, change or impair the understanding and agreement made between the Seller and Buyer as set forth herein.

Buyer shall execute at closing a Waiver and Release Regarding Property Condition. Seller, Seller's agents and Buyer shall, if the Property was built prior to 1978, execute a LEAD BASED PAINT Disclosure Addendum to Contract of Sale, a form of which shall be provided by Seller's representative. By signing this addendum, if applicable, the Buyer acknowledge that he/she have received a copy of the EPA manual "Protect Your Family from Lead in Your Home."

Buyer hereby acknowledges that Seller shall not be providing Buyer with a Real Estate Transfer Disclosure Statement and/or a Certificate of Occupancy with respect to the Property. Buyer hereby waives any requirement that Seller furnish Buyer with any such disclosure statement and/or a Certificate of Occupancy and hereby releases Seller from any and all liability resulting from the non-delivery of such disclosure statement and/or a Certificate of Occupancy.

Seller does not agree to provide building permits. It is Buyer' responsibility to confirm building and safety compliance on the Property during the inspection period. Seller is under no obligation to clear any existing municipal code and/or ordinance violations, but may in its sole discretion agree to forbear enforcement of same and/or close with an agreement to provide Buyer with an agreed upon time period after closing within which Buyer shall bring the Property into compliance. By closing, Seller does not waive any rights to continue to enforce any municipal codes which the Property may be in violation of.

By entering into this Contract, Buyer agrees to indemnify Seller and Seller's representatives and fully protect, defend and hold Seller and Seller's representatives harmless from and against any and all claims, liens, losses, damages, liabilities, costs, injuries, attorney's fees and expenses of every kind and nature that may be made against Seller or the Property for any liens on the Property, any damage to the Property and/or injury to Buyer or any other persons that may arise from Inspections, repairs, replacements. Buyer shall indemnify and fully protect, defend and hold Seller its servicers, representatives, agents, attorneys and employees harmless from any and all claims, costs, liens loss, damages, injuries, attorney's fees and expenses of every kind and nature, resulting from or arising out of any inspections, repairs, replacements or any other work performed in or upon the premises by Buyer or its agents, employees, contractors or assigns. In the event any repairs are made at the premises, or any work or material are added to the premises, or the value of the premises is enhanced in any way, then in the event this transaction does not close, all material added to the premises shall become the sole and exclusive Property of the Seller, and Seller shall have no liability to Buyer or any third party for any such material or work completed.

No Occupancy or Repairs Before Closing: Occupancy of the Property shall NOT be permitted prior to closing and funding. BUYER WILL NOT BE PERMITTED TO COMMENCE ANY REPAIRS PRIOR TO CLOSING, NOR SHALL SELLER BE REQUIRED TO MAKE ANY REPAIRS.

Multiple Offers: Buyer acknowledges that Seller may have received offers prior to or may receive offers after receipt of this offer. Buyer acknowledges that the Seller may consider all offers regarding purchase, regardless of the date of receipt of the offer and that Seller may accept or reject any offer at its sole discretion. The Contract shall not be deemed accepted by Seller until Seller's signature is affixed hereon and a fully executed original counterpart or facsimile of the Contract has been delivered to Buyer.

Limitation of Remedies: Buyer expressly waives the (a) remedy of specific performance, in the event of Seller's default, under this Agreement, (b) Buyer agrees to forgo to record or file a lis pendens or a notice of pendency of action or similar notice against all or any portion of the Property; (c) Buyer waives the right to invoke any other equitable remedy that may be available, that, if invoked, would prevent the Seller from conveying the Property to a third party buyer, (d) Buyer waives any claims or losses relating to environmental conditions affecting the Property, including but not limited to, mold, lead paint, fuel, oil, allergens or any other toxic substances of any kind, and (e) Buyer waives any claim or losses arising from encroachments, easements and/or shortages which would have been disclosed or revealed to the Buyer by a survey or inspection of the Property or by a search of the public records. In the event that the Buyer, files a claim in direct contradiction to the waivers agreed to above, or contemplated here, Buyer shall reimburse Seller for all reasonable attorney fees and costs incurred by Seller in defending such action, if Seller prevails.

No Duty to Maintain Property: Seller is under no duty to maintain or otherwise deliver the Property in the same condition as it was in at the Effective Date or at the close of Buyer's Inspection Period. In the event the Property is damaged either after the Effective Date or Inspection Period, Seller has no duty or obligation to expend any monies or other resources to repair the Property, and the same shall not excuse Buyer's performance unless the cost to repair any such damage exceeds \$2000.00, as determined in writing by an estimate provided by a contractor licensed to make such repairs or by a licensed insurance adjustor (which written estimate must accompany any notice by Buyer to terminate this Contract), in which event Buyer may elect to terminate the Contract if Seller elects to not make any repairs, and Buyer's sole remedy shall be return of Buyer's Deposit, and both parties shall thereupon be released from any liability under this Contract.

Locks, Keys, Etc.: Buyer shall at Buyer's sole expense install new locks on the Property immediately after closing, and Buyer shall hold Seller and Seller's representatives harmless from and indemnify Seller and Seller's representatives against any and all damages, claims, liens, losses, liabilities, costs, injuries, attorney's fees and expenses of every kind and nature that may be made against Seller as a result of Buyer failure to install new locks on the Property. Seller shall not be responsible to provide any keys, garage door openers, or other access devices beyond what is in Seller's possession.

Conveyance: Seller shall convey by special warranty deed, subject to all restrictions, easements, covenants, and other matters of record.

Survey: Buyer shall obtain any desired or required survey(s) of the Property no later than the expiration of Buyer's inspection period. In the event any encroachment(s) are revealed by any survey obtained by

Buyer, Seller shall be under no obligation to cure same, and Buyer's sole remedy shall be to terminate this Contract and receive a return of Buyer's Deposit. If Buyer obtains a survey after the inspection period which reveals an encroachment as would prevent a Buyer from obtaining title insurance coverage in favor of Buyer's lender, Buyer may terminate the Contract but Seller may retain Buyer's Deposit and thereby both parties shall be release from any further liability under this Contract; provided that if the Contract is not otherwise contingent on Buyer obtaining mortgage financing, then Buyer must close notwithstanding the encroachment(s) revealed by the survey, and Seller may avail itself of specific performance.

'Restricted Persons' Not Eligible to Purchase: Unless specifically disclosed to Seller in writing at the time of the submission of Buyer's offer, and a specific written waiver is included with Seller's notification of acceptance of Buyer's offer, Buyer acknowledges that as a material inducement to Seller to enter into this Contract with Buyer, Buyer affirmatively represents to Seller that Buyer is not a 'restricted person' as defined as follows: (1) Seller's Broker, (2) Seller's Broker's employees, (3) Seller's Broker's agents, (4) any persons who are affiliated with any of the foregoing, (5) any persons who are married to any of the foregoing, (6) any persons who are first degree relatives of any of the foregoing (for the purpose of this Section term "first degree relative" means parent, child, or sibling).

If after closing Seller discovers that Buyer is a prohibited person, Seller may elect to rescind the sale of the Property to Buyer, and Buyer shall be responsible for all of Seller's costs and attorney's fees if Seller shall elect to rescind the sale.

Addendum to Survive Closing: Buyer acknowledges that the terms and condition of this Addendum shall survive the closing.

Buyer:

Jeffrey A Deshong

6/14/2021 12:21 PM EDT

Date

Date

Seller

City of Palm Bay, a Florida municipal corporation

By: _____

Date

As: _____

Seller's Property Disclosure Update



Seller makes the following disclosure regarding the property described as: _____

City of Palm Bay owned Property

Notice to Licensee and Seller: Only the Seller should fill out this form.

Instructions to Seller: If the information set forth in a previously provided disclosure statement becomes inaccurate or incorrect, you must promptly notify Buyer. Use the space below to make corrections and provide additional information, if necessary. Then acknowledge that the information is accurate as of the date signed below.

Seller (City of Palm Bay) makes no representations or warranties as to the condition of any property or the presence of defects therein, latent or otherwise.

Seller represents that the information provided on this form and any attachments is accurate and complete to the best of Seller's knowledge on the date signed by Seller.

Seller: [Signature] / Suzanne Sherman, City Manager Date: 1-29-2021
(signature) (print)

Seller: _____ / _____ Date: _____
(signature) (print)

Buyer acknowledges that Buyer has read, understands, and has received a copy of this revised disclosure statement.

Buyer: Jeffrey A Deshong / EJ & JT Assoc/ Jeffrey Deshong Date: 6/14/2021 12:21 PM EDT
(signature) (print)

Buyer: _____ / _____ Date: _____
(signature) (print)

SPDU-1 Rev 2/20

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Simplicity