

**LAND SWAP  
AND  
LEASE-BACK AGREEMENT**

THIS LAND SWAP AND LEASE BACK AGREEMENT (hereinafter, "Agreement") is entered this 22nd day of January, 2014 by and between:

**CITY OF FORT LAUDERDALE**, a Florida municipal corporation, whose mailing address is 100 North Andrews Avenue, Fort Lauderdale, FL 33301 (hereinafter, "CITY")

-and-

**P.D.K.N. P-4, LLC**, a Florida limited liability company, whose mailing address is 1280 S. Pine Island Road, Plantation, FL 33324, (hereinafter, "BOKAMPER")

**RECITALS**

A. As of the Effective Date hereof CITY is the fee simple owner of the following described real property:

**PARCEL ONE**

Lots 1, 2, 3, 4, 12, 13 and 14, Block 2 of GALT OCEAN MILE, according to the Plat thereof, as recorded in Plat Book 34, Page 16 of the Public Records of Broward County, Florida; said lands lying, situate and being in Broward County, Florida

(Property ID No. 4943 19 01 0160)

B. The parties have reviewed appraisals with respect to PARCEL ONE. For the purpose of this Land Swap Agreement the parties stipulate and agree that PARCEL ONE has a fair market value of \$603,500.00.

C. As of the Effective Date hereof BOKAMPER is the fee simple owner of the following described real properties:

**PARCEL TWO**

Lots 2 through 6, Block 5, of GALT OCEAN MILE, according to the Plat thereof, as recorded in Plat Book 34, Page 16 of the Public Records of Broward County, Florida; LESS the West 18.67 feet thereof; said lands lying, situate and being in Broward County, Florida

(Property ID No. 4943 19 01 0700)

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City of Fort Lauderdale  
P.D.K.N. P-4, LLC

**PARCEL THREE**

Lots 1, 2, 3, 4, 5, 6, 7 & 8, Block 1, of GALT OCEAN MILE, according to the Plat thereof, as recorded in Plat Book 34, Page 16 of the Public Records of Broward County, Florida;

TOGETHER WITH all of that certain 10 foot alley lying in Block 1, GALT OCEAN MILE, according to the Plat thereof, as recorded in Plat Book 34, Page 16 of the Public Records of Broward County, Florida and being bounded as follows:

On the North by the South line of Lot 4 of said Block 1; on the East by the West right-of-way line of Northeast 32<sup>nd</sup> Avenue; on the South by the North line of Lots 2 and 3 of said Block 1; and on the West by the East line of Lot 1 of said Block 1;

All of said lands lying, situate and being in Broward County, Florida.

**PARCEL FOUR**

Lot 1 and the West 18.67 feet of Lot 2, Block 5 and Lot 11, Block 5 of GALT OCEAN MILE, according to the Plat thereof, as recorded in Plat Book 34, Page 16 of the Public Records of Broward County, Florida; said lands lying, situate and being in Broward County, Florida.

D. The parties have reviewed appraisal with respect to PARCEL TWO. For the purposes of this Land Swap Agreement, the parties stipulate and agree that PARCEL TWO has a fair market value of \$ 521,250.00.

E. CITY is desirous of acquiring title to PARCEL TWO from BOKAMPER. BOKAMPER is desirous of acquiring title to PARCEL ONE from CITY. To that end CITY and BOKAMPER are desirous of exchanging ownership of PARCELS ONE and TWO with each other, with BOKAMPER paying CITY an additional \$82,250.00 purchase price over and beyond the acquisition of title to PARCEL ONE. The simultaneous conveyance of (a) PARCEL ONE to BOKAMPER and (b) PARCEL TWO to CITY may sometimes hereinafter be referred to as the "Land Swap".

F. As of the Effective Date hereof, improvements exist on PARCEL ONE in the nature of a Fire Station (hereinafter, "Old Fire Station 54").

G. CITY's intended use of PARCEL TWO after the exchange of PARCELS ONE and TWO is to construct and operate certain improvements thereon in the nature of a Fire Station substantially consistent with the plans and specifications submitted to the Fort Lauderdale DRC, Case No. 38R13 (hereinafter, "New Fire Station 54").

H. BOKAMPER's intended use of PARCEL ONE after the exchange of and transfer of titles to PARCELS ONE and TWO is to construct and operate certain improvements thereon

in the nature of parking facilities accessory to the BOKAMPER'S sports bar and grill facilities on PARCEL THREE and with additional accessory parking facilities on PARCEL FOUR, all in substantial accordance with those plans and specifications as submitted to and approve by CITY in DRC, Case No. 72R12.

I. The parties acknowledge that in order to accomplish their respective intended uses of PARCELS ONE, TWO, THREE, and FOUR that the Old Fire Station 54 on PARCEL ONE and improvements on PARCEL TWO will need to be demolished in order to construct the New Fire Station 54 on PARCEL TWO. Upon closing on the Land Swap, the parties agree that CITY undertake demolition of the improvements that exist on PARCEL TWO at CITY's expense.

J. After the Closing on the Land Swap, CITY will still have a need to operate the Old Fire Station 54 located on PARCEL ONE for a short period of time while CITY completes improvements and makes operational a Temporary Fire Station 54 on PARCEL FIVE (described below). Temporary Fire Station 54 is to remain operational until the completion of construction and installation of operational facilities on PARCEL TWO to establish an operational New Fire Station 54.

K. PARCEL FIVE, upon which the Temporary Fire Station 54 will be located, is generally bounded on the North by E. Oakland Park Boulevard; on the East by N.E. 33<sup>rd</sup> Avenue; on the South by N.E. 30<sup>th</sup> Court; and on the West by N.E. 32<sup>nd</sup> Avenue, and is more particularly described as follows:

#### PARCEL FIVE

Tract "A" of the Plat RESUBDIVISION OF BLOCK 29, LAUDERDALE BEACH EXTENSION UNIT "B", according to the Plat thereof, as recorded in Plat Book 61, Page 2 of the Public Records of Broward County, Florida; said lands situate, lying and being in the City of Fort Lauderdale, Broward County, State of Florida

Tax Folio # 4943 30 04 0010

L. During the period between the Closing on the Land Swap and the transfer of operations from the Old Fire Station 54 to the Temporary Fire Station 54, CITY shall remain in possession of PARCEL ONE and BOKAMPER shall lease back PARCEL ONE to CITY, the terms and conditions of such post closing occupancy period being set forth in that certain Lease Back Agreement of even date herewith and attached hereto as **Exhibit "E"**.

M. Upon CITY transferring its fire station operations from Old Fire Station 54 on PARCEL ONE to Temporary Fire Station 54 on PARCEL FIVE, the parties agree that CITY will demolish Old Fire Station 54, at CITY'S sole cost and expense. It is understood that Old Fire Station 54 contains asbestos and that CITY will obtain all the necessary permits and follow the required procedures attendant to asbestos removal and disposal at CITY's sole cost and expense.

N. The parties acknowledge that unresolved questions exist relative to an underground storage tank ("UST") with respect to PARCEL ONE. In equitably allocating costs,

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responsibilities, obligations, respective time-line demands relative to the intended end use of the PARCELS, the parties have agreed, that, as between CITY and BOKAMPER, that BOKAMPER will take title to PARCEL ONE subject to the presence of the UST and that the ultimate disposition of the UST issues will be the responsibility of BOKAMPER.

NOW, THEREFORE, in consideration of the mutual covenants exchanged herein, and other good and valuable considerations exchanged between the parties, the sufficiency of which the parties hereby stipulate:

**1. Recitals.** The foregoing recitals are true and correct and are incorporated herein by reference.

**2. Effective Date.** The Effective Date of this Land Swap Agreement and accordingly the Real Estate Contracts and Addenda thereto together with the Lease-Back Agreement shall be the date the City Commission authorizes execution of the Land Swap Agreement and related Real Estate Contracts and Addenda thereto together with the Lease-Back Agreement and CITY'S Lease of PARCEL FIVE for the establishment of a Temporary Fire Station 54, provided that the City Commission shall not authorize execution thereof until the proper corporate officials for BOKAMPER have executed and delivered to CITY the Land Swap Agreement and related Real Estate Contracts and Addenda together with the Lease-Back Agreement at least ten (10) days prior to the scheduled date of the City Commission meeting when the Land Swap Agreement and related documents will be presented to the City Commission.

**2.1 Condition Precedent.** CITY'S entry into a Lease for PARCEL FIVE on or before January 22, 2014 shall be a condition precedent to the Effective Date of this Land Swap and Lease-Back Agreement.

**3.** CITY shall sell and BOKAMPER shall buy PARCEL ONE, upon the terms and conditions set forth herein.

**4.** BOKAMPER shall sell and CITY shall buy PARCEL TWO, upon the terms and conditions set forth herein.

**5.** The terms and conditions set forth in the attached Deposit Receipt and Contract for Sale and Purchase ("Contract") (**Exhibit "A"**) and Addendum (**Exhibit "B"**) shall govern the conveyance of PARCEL ONE from CITY to BOKAMPER and are hereby incorporated herein by reference.

**6.** The terms and conditions set forth in the attached Deposit Receipt and Contract for Sale and Purchase ("Contract") (**Exhibit "C"**) and Addendum (**Exhibit "D"**) shall govern the conveyance of PARCEL TWO from BOKAMPER to CITY and are hereby incorporated herein by reference

**7.** PARCEL ONE and PARCEL TWO shall be simultaneously conveyed at the time of the Closing. If there are impediments to the conveyance of any PARCEL, then there shall be no conveyance of the other PARCEL.

8. At the time of the Closing, BOKAMPER shall pay CITY the sum of \$82,250.00, as part of the purchase price for PARCEL ONE, subject to taxes, prorations, etc. between the parties.

9. The term of the Lease-Back Agreement (**Exhibit "E"**) shall commence upon Closing of PARCELS ONE and TWO and terminate upon (i) CITY establishing an operational Temporary Fire Station 54 and transferring operations from Old Fire Station 54 to Temporary Fire Station 54, which such event shall be certified in writing by the CITY's City Manager and thereafter (ii) demolishing Old Fire Station 54 on PARCEL ONE at CITY'S sole cost and expense. Pursuant to the Lease-Back Agreement CITY, as Tenant, shall lease and BOKAMPER, as Landlord, shall let PARCEL ONE back to CITY for a term that will end upon satisfying the conditions (i) and (ii) above.

10. The documentation underlying the agreement to swap PARCEL ONE and PARCEL TWO and certain post-closing obligations shall consist of the following:

Land Swap Agreement

|             |  |
|-------------|--|
| Exhibit "A" | Deposit Receipt Contract for Sale and Purchase of Parcel One |
| Exhibit "B" | Addendum to Exhibit "A"                                      |
| Exhibit "C" | Deposit Receipt Contract for Sale and Purchase of Parcel Two |
| Exhibit "D" | Addendum to Exhibit "C"                                      |
| Exhibit "E" | Lease-Back Agreement   |

11. City of Fort Lauderdale Ordinance No. C-07-77 was adopted September 18, 2007 and recorded at Official Records Book 44754, Page 572 of the Public Records of Broward County, Florida. The subject matter thereof was the vacation of a 20 foot wide alley within PARCEL ONE (hereinafter, "07-77"). 07-77 does not go into effect until such time as a Certificate executed by the City Engineer is recorded in the Public Records of Broward County, Florida evidencing that all conditions for the vacation have been met, including, but not limited to, the dedication of an alternative public access easement through Lot 4 of PARCEL ONE. As of the effective date hereof, 07-77 has not yet gone into effect.

11.1 By virtue of the conditions attached to the development approval for PARCEL ONE, conditions have been met for the dedication of an alternative public access easement on the PARCEL ONE development site in an approved location and of an approved length and width

11.2 It is anticipated that the City Engineer will have executed a Certificate in accordance with 07-77 and that same will be recorded simultaneous with the Closing Documents for the Land Swap, provided the following conditions are met:

- (a) An existing 4 inch water main lies within inches of the Northern boundary of the subject alley. This water line must be capped and abandoned at the (i) Eastern terminus situated approximately at the Eastern boundary of the adjacent Lot 11 and (ii) at the Western terminus at approximately the centerline of N.E. 32<sup>nd</sup> Avenue, all at BOKAMPER'S sole cost and expense.
- (b) There is an existing 8 inch vitrified clay pipe ("VCP") gravity sewer main running the length of the alley referenced in 07-77. That portion

of the gravity sewer main lying between the centerline of N.E. 33<sup>rd</sup> Avenue and the centerline of N.E. 32<sup>nd</sup> Avenue must be lined with a "cured-in-place pipe liner" in accordance with City Engineering standards. Any laterals from the gravity sewer main connected to Lots 1, 2, 3, 4, 12, 13 & 14 must be cut and plugged. All laterals from the gravity sewer main connected to Lots 5, 6, 7, 8, 9 10 & 11 shall be reinstated. The conditions in this subparagraph (b) shall be met at BOKAMPER'S sole cost and expense. All work in subparagraphs (a) and (b) shall be performed in accordance with the CITY'S Engineering Standards.

- (c) Simultaneous with the closing on PARCELS ONE and TWO in the Land Swap, BOKAMPER shall execute and deliver for recording a Utilities Easement Deed subject to the approval of the City Attorney for the full width of the alley from the Western boundaries of Lots 5 and 10 running Eastward to Eastern boundary of the N.E. 32<sup>nd</sup> Avenue right-of-way. The conditions in this subparagraph (c) shall be met at BOKAMPER's sole cost and expense.

**12.** In addition to the vacation of the alley in 07-77 referenced in Paragraph 10 above, BOKAMER is applying for partial vacation of that same alley as to a 20 foot X 35 foot segment lying between Lots 4 & 11. Subject to the City Commission's approval of a vacating ordinance, which such approval shall be in accordance with the procedures and criteria set forth in the CITY'S Unified Land Development Regulations and adopted by the CITY in its sovereign governmental capacity and not as a contractual obligation, the vacating ordinance, if and when adopted, will not go into effect until the foregoing terms and conditions have been met.

**13.** After Closing, CITY shall, at its own cost and expense, demolish and remove the BOKAMPER Improvements on PARCEL TWO, to the extent necessary to prepare PARCEL TWO for construction of the New Fire Station 54.

**13.1** All demolition debris shall be removed from PARCEL TWO and shall become and remain the property of the CITY for appropriate disposition by the CITY.

**14.** Pursuant to the CITY'S Lease for PARCEL FIVE, CITY shall, at its sole cost and expense, construct whatever improvements are necessary to establish operations on PARCEL FIVE for a Temporary Fire Station 54.

**14.1** Upon establishing operational capabilities for Temporary Fire Station 54 on PARCEL FIVE, CITY shall cease its operation of Old Fire Station 54 on PARCEL ONE and commence and prosecute completion of demolition of Old Fire Station 54 on PARCEL ONE, including any asbestos removal, at CITY'S sole cost and expense.

**14.2** All demolition debris shall be removed from PARCEL ONE and shall become and remain the property of the CITY for appropriate disposition.

**15.** Upon completion of the demolition of the BOKAMPER Improvements on PARCEL TWO, to the extent required by ¶ 11 hereof, CITY shall cause construction of the New Land Swap and Lease Back Agreement  
City of Fort Lauderdale  
P.D.K.N. P-4, LLC

Fire Station 54 on PARCEL TWO to be commenced and expeditiously prosecuted through final Certificates of Occupancy and Certificates of Completion and certification by the CITY'S Fire Chief that all systems within the New Fire Station 54 are fully functional and operational for the purposes for which they are intended.

**15.1** Upon completion of construction of the New Fire Station 54 as set forth in Paragraph 13 above, it is anticipated that it will take an additional 30 days to complete construction and installation and testing of the new operational systems needed for the New Fire Station 54.

**16.** Upon (i) cessation of operations of the Old Fire Station 54, (ii) transferring operation to the Temporary Fire Station 54 and (iii) demolition and removal of the Old Fire Station 54 improvements on PARCEL ONE, the CITY'S tenancy under the Lease-Back Agreement shall terminate

**16.** The parties agree in all matters contemplated by this Land Swap and Lease-Back Agreement that they hereby covenant to perform in good faith and deal fairly each with the other to protect the parties' reasonable expectations hereunder.

**17.** The parties will coordinate and cooperate with each other with respect to the DRC applications for the CITY Improvements and the BOKAMPER Improvements; provided, however, it is expressly understood that CITY lacks the capacity to contract away its sovereign powers and therefore each set of Improvements will be reviewed and approved only in accordance with the applicable regulations.

**18.** The parties will coordinate and cooperate with each other with respect to the construction of the New Fire Station 54 on PARCEL TWO. To that end BOKAMPER joins and consent to CITY applying for the relevant development permits required for construction of New Fire Station 54 prior to Closing and transferring title for PARCEL TWO from BOKAMPER to CITY and the parties agree to cooperate in good faith each with the other with respect to any applications for development permits for the construction of New Fire Station 54.

**19. Miscellaneous.**

(a) Incorporation of Exhibits. All exhibits attached and referred to in the Land Swap Agreement, Contract and Addendum are hereby incorporated herein as fully set forth in (and shall be deemed to be a part of) this Land Swap Agreement.

(b) Time of the Essence. Time is of the essence of this Agreement.

(c) Severability. If any term or provision of this Contract or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Contract, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Contract shall be valid and be enforced to the fullest extent permitted by law.

(d) Interpretation. Words used in the singular shall include the plural and vice-versa, and any gender shall be deemed to include the other. Whenever the words "including",

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P.D.K.N. P-4, LLC

"include" or "includes" are used in this Contract, they should be interpreted in a non-exclusive manner. The captions and headings of the Paragraphs of this Contract are for convenience of reference only, and shall not be deemed to define or limit the provisions hereof. Except as otherwise indicated, all Exhibits and Paragraph references in this Contract shall be deemed to refer to the Exhibits and Paragraphs in this Contract. Each party acknowledges and agrees that this Contract (a) has been reviewed by it and its counsel; (b) is the product of negotiations between the parties, and (c) shall not be deemed prepared or drafted by any one party. In the event of any dispute between the parties concerning this Contract, the parties agree that any ambiguity in the language of the Contract is to not to be resolved against CITY or BOKAMPER, but shall be given a reasonable interpretation in accordance with the plain meaning of the terms of this Contract and the intent of the parties as manifested hereby.

(e) No Waiver. Waiver by one party of the performance of any covenant, condition or promise of the other party shall not invalidate this Contract, nor shall it be deemed to be a waiver by such party of any other breach by such other party (whether preceding or succeeding and whether or not of the same or similar nature). No failure or delay by one party to exercise any right it may have by reason of the default of the other party shall operate as a waiver of default or modification of this Contract or shall prevent the exercise of any right by such party while the other party continues to be so in default.

(f) Consents and Approvals. Except as otherwise expressly provided herein, any approval or consent provided to be given by a party hereunder shall not be unreasonably withheld, delayed or conditioned.

(g) Governing Law. The laws of the State of Florida shall govern this Contract.

(h) Third Party Beneficiaries. Except as otherwise expressly provided in this Contract, CITY and BOKAMPER do not intend by any provision of this Contract to confer any right, remedy or benefit upon any third party (express or implied), and no third party shall be entitled to enforce or otherwise shall acquire any right, remedy or benefit by reason of any provision of this Agreement.

(i) Amendments. This Agreement may be amended by written agreement of amendment executed by all parties, but not otherwise.

(j) Jurisdiction: Venue. Each party hereby consents to the exclusive jurisdiction of any state or federal court located within the jurisdiction where PARCEL ONE is located. Each party further consents and agrees that venue of any action instituted under this Contract shall be proper solely in the jurisdiction where PARCEL ONE is located, and hereby waives any objection to such venue.

(k) Waiver of Trial by Jury. The parties hereby irrevocably waive their respective rights to a jury trial of any claim or cause of action based upon or arising out of this Contract. This waiver shall apply to any subsequent amendments, renewals, supplements or modifications to this Contract. In the event of litigation, this Contract may be filed as a written consent to a trial by the court.

IN WITNESS WHEREOF, the said grantor has caused these presents to be executed in its name by its Mayor, and its seal to be hereto affixed, attested by its City Clerk, the date first above written.

WITNESSES:

**CITY OF FORT LAUDERDALE**, a Florida municipal corporation

\_\_\_\_\_

By \_\_\_\_\_  
John P. "Jack" Seiler, Mayor

\_\_\_\_\_  
[Witness type or print name]

By \_\_\_\_\_  
Lee R. Feldman, City Manager

\_\_\_\_\_  
[Witness type or print name]

ATTEST:

(CORPORATE SEAL)

\_\_\_\_\_  
Jonda K. Joseph, City Clerk

Approved as to form:

\_\_\_\_\_  
Robert B. Dunckel, Asst. City Attorney

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2014, by JOHN P. "JACK" SEILER, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

Land Swap and Lease Back Agreement  
City of Fort Lauderdale  
P.D.K.N. P-4, LLC

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2014, by LEE R. FELDMAN, City Manager of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

WITNESSES:

P.D.K.N. P-4, a Florida Limited Liability Company

\_\_\_\_\_

By: \_\_\_\_\_  
Damon DeSantis,  
Managing Member

\_\_\_\_\_  
[Witness print or type name]

\_\_\_\_\_

\_\_\_\_\_  
[Witness print or type name]

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2014, by Damon DeSantis, Managing Member of P.D.K.N. P-4, a Florida Limited Liability Company. He is personally known to me or has produced as identification and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

My 1GB:rbdooffice:2013:FireStation:301.01.17.13.doc  
F:\rbdooffice\2013\FireStation\301.01.17.13(b).docx  
F:\rbdooffice\2013\FireStation\301.01.17.13(d).docx  
L:\REALPROP\FireStations\FireStation54\301.01.17.13(d).docx  
L:\REALPROP\FireStations\FireStation54\301.01.17.13(e).docx

Land Swap and Lease Back Agreement  
City of Fort Lauderdale  
P.D.K.N. P-4, LLC

PARCEL ONE  
CITY TO BOKAMPERS

\*\*ZONING DISTRICT

1 **DEPOSIT RECEIPT AND CONTRACT FOR SALE AND PURCHASE**  
2 (If FHA, VA or CONDOMINIUM/HOMEOWNER'S ASSOCIATION CONTRACT, ADDENDUM REQUIRED)

3 BUYER P.D.K.N. P-4, LLC, a Florida limited liability company

4 SELLER CITY OF FORT LAUDERDALE, a Florida municipal corporation

5 Buyer and Seller agree Seller shall sell and Buyer shall buy the following real property ("Real Property") and personal  
6 property ("Personalty") (collectively "Property") upon the terms and conditions and any addendum to this Contract.

7 1. LEGAL DESCRIPTION of Real Property located in BROWARD County, FL.

8 SEE LANDSWAP AGREEMENT & ADDENDUM - PARCEL ONE

9 TAX FOLIO #: 4943 19 01 0160

10 1.1 PROPERTY ADDRESS: N/A

(Address)

(City)

(Zip)

12 1.2. Seller represents the Property can be used for the following purposes: CITY OF FT LAUDERDALE CB\*\*

13 ~~2. PURCHASE PRICE: (In U.S. funds) \$~~

14 ~~\_\_\_\_\_~~

15 2.1 Deposit made at the time Buyer executed this document .....\$

16 2.2 Additional deposit due within \_\_\_\_\_ United States business days after Effective Date.

17 **Time is of the essence as to ALL deposits** .....\$

18 All Deposits to be held by: \_\_\_\_\_ ("Escrow Agent")

19 2.3 Amount of new note and mortgage to be executed by Buyer to any lender other than Seller...\$

20 Type of mortgage:

21 (CHECK ONE) ( ) Conventional, ( ) FHA, ( ) VA (If FHA or VA see Addendum)

22 (CHECK ONE) ( ) Prevailing Rate & Terms; OR ( ) Interest Rate \_\_\_\_\_% & Term \_\_\_\_\_ Years

23 (CHECK ONE) ( ) Fixed Rate, ( ) Variable rate with a maximum ceiling of \_\_\_\_\_%

24 Other terms: \_\_\_\_\_

25 2.4 Existing mortgage balance encumbering the Real Property

26 to be ASSUMED by Buyer approximately .....\$

27 Mortgagee Name \_\_\_\_\_ Loan #. \_\_\_\_\_

28 (CHECK ONE) ( ) Fixed rate not to exceed the rate of \_\_\_\_\_%

29 ( ) Variable current rate with a maximum ceiling of \_\_\_\_\_%

30 Balloon Mortgage: ( ) Yes ( ) No Balloon Due Date: \_\_\_\_\_

31 Other terms: \_\_\_\_\_

32 2.5 Purchase money note to Seller secured by a ( ) 1st OR ( ) 2nd purchase money mortgage,

33 bearing interest at the rate of \_\_\_\_\_% per annum with payments based on \_\_\_\_\_ years

34 amortization OR payable \$ \_\_\_\_\_ principal and interest per \_\_\_\_\_ \$

35 Balloon Mortgage: ( ) Yes ( ) No Balloon Due Date: \_\_\_\_\_

36 Due on sale: ( ) Yes ( ) No No prepayment penalty.

37 2.6 Other consideration: .....\$

38 2.7 Approximate payment due at closing as described in paragraph 27.1

39 (This does not include closing costs and prepaid items) .....\$

40 ~~2.8 PURCHASE PRICE .....\$~~

41 3. CLOSING DATE: This Contract shall be closed and the deed and possession shall be delivered on or before

42 SEE ADDENDUM, 20 \_\_\_\_\_ ("Closing Date") unless extended by other provisions of this Contract or

43 separate agreement.

44 Property Address: CITY OF FORT LAUDERDALE / P.D.K.N.P-4, LLC

45  
46 ~~4. TIME FOR ACCEPTANCE: If, by 5:00 p.m. \_\_\_\_\_, 20\_\_\_\_, this offer is not~~  
47 ~~executed by all parties and a copy delivered to all parties or their Authorized Representative, this offer is withdrawn and~~  
48 ~~all deposits will be returned to Buyer.~~

49 5. PERSONALTY INCLUDED: All fixed items including: all landscaping; window screens, window treatments and  
50 hardware; wall-to-wall or attached floor coverings and attached lighting fixtures as now installed on the Real Property.  
51 Also included are the following checked items: ( ) range, ( ) oven, ( ) refrigerator, ( ) dishwasher, ( ) disposal,  
52 ( ) microwave oven, ( ) trash compactor, ( ) washer, ( ) dryer, ( ) ceiling fans ( \_\_\_\_\_ # of fans), ( ) solar  
53 equipment, ( ) satellite dishes, ( ) security/alarm systems, ( ) pool cleaning equipment (DESCRIBE): \_\_\_\_\_  
54 \_\_\_\_\_

55 5.1 ADDITIONAL PERSONALTY INCLUDED: \_\_\_\_\_  
56 \_\_\_\_\_  
57 \_\_\_\_\_

58 5.2 PERSONALTY NOT INCLUDED: \_\_\_\_\_  
59 \_\_\_\_\_

59 5.3 LEASED ITEMS: ( ) security/alarm systems, ( ) propane tanks, ( ) solar equipment, ( ) satellite dishes,  
60 Other: \_\_\_\_\_

61 6. FACSIMILE/COUNTERPARTS: A legible facsimile copy of this entire Contract and any signatures shall be  
62 considered as originals. This Contract may be signed in counterparts and taken together shall be considered an original.

63 7. EFFECTIVE DATE: The Effective Date of this Contract ("Effective Date") shall be the day upon which it becomes  
64 fully executed by all parties and a copy delivered to all parties or their Authorized Representative.

65 8. TIME AND BUSINESS DAYS DEFINED: All time periods will be computed in business days unless otherwise  
66 indicated. A "business day" is every calendar day except Saturday, Sunday and national legal holidays. If any time  
67 period ends on a Saturday, Sunday or national legal holiday, performance will be due the next business day. All time  
68 periods will end at 5:00 p.m. local time in the county where the Real Property is located.

69 9. DELIVERY TO AUTHORIZED REPRESENTATIVE: Delivery of any document required or permitted by this  
70 Contract to be delivered to Buyer or Seller shall be deemed to be delivered when delivery has been made to such party's  
71 Authorized Representative ("Authorized Representative").

72 9.1 DEFINITION OF AUTHORIZED REPRESENTATIVE: Authorized Representative shall include:

73 9.1.1 any licensed Florida attorney representing Buyer or Seller in this transaction (as to the party the attorney represents);

74 9.1.2 any person specifically authorized in writing by Buyer or Seller to receive documents;

75 9.1.3 as to Seller, the Florida real estate licensee(s) shown as listing sales associate(s) and the active broker(s) ("Broker")  
76 of licensee's real estate firm;

77 9.1.4 as to Buyer, the Florida real estate licensee(s) presenting this document to Seller or Seller's Authorized  
78 ~~Representative and the active broker(s) ("Broker") of licensee's real estate firm.~~

79 10. EVIDENCE OF TITLE: Seller shall, at Seller's expense, furnish to Buyer or Buyer's closing agent not less than  
80 fifteen (15) business days prior to the Closing Date either: 1) a certified abstract of title which shall commence with the  
81 earliest public records with certified search through the Effective Date; or 2) a prior owner's title insurance policy issued  
82 by a currently licensed title insurance company and partial certified abstract or certified search from the date of such  
83 policy through the Effective Date. Seller shall convey a marketable title, subject only to liens, encumbrances, exceptions  
84 on qualifications set forth in this Contract and those which shall be discharged by Seller at or before closing. Marketable  
85 title shall be determined according to applicable Title Standards adopted by The Florida Bar and in accordance with the law.

86 ~~10.1 PALM BEACH COUNTY: If the Real Property is located in Palm Beach County, Seller shall, at Seller's expense,~~  
87 ~~deliver to Buyer, a title insurance commitment and policy issued by a Florida licensed title insurer acceptable to major~~  
88 ~~institutional lenders located in Palm Beach County agreeing to issue to Buyer, upon recording of the deed, an owner's~~  
89 ~~policy of title insurance in the amount of the Purchase Price, insuring marketable title in Buyer to the Real Property~~  
90 ~~subject only to liens, encumbrances, exceptions or qualifications set forth in this Contract and those which shall be~~  
91 ~~discharged by Seller at or before closing.~~

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93 10.2 RESERVATIONS: A right of entry in connection with oil, mineral or gas reservations shall constitute a title  
94 defect, unless such right of entry is prohibited by government regulations.

95 10.3 TITLE DEFECTS: Buyer shall have ten (10) business days from the date of receiving evidence of title to  
96 examine same. If title is found to be defective, Buyer shall within said period, notify Seller in writing specifying  
97 the defects. If such defects render the title unmarketable, Seller shall have thirty (30) business days from the receipt  
98 of such notice to cure the defects, and if after said period Seller shall not have cured the defects, Buyer shall have  
99 the option of: 1) accepting title as it then is; or 2) terminating this Contract by delivery of written notice to Seller or  
100 his Authorized Representative, and deposits shall be returned to Buyer and all parties shall be released from all  
101 further obligations herein.

102 11. SURVEY: Buyer, at Buyer's expense, within the time allowed to deliver evidence of title and to examine  
103 same, may have the Real Property surveyed and certified by a registered Florida surveyor. If the survey shows  
104 encroachment on the Real Property or that improvements located on the Real Property encroach on setback lines,  
105 easements, lands of others, or violate any restrictions, contract covenants or applicable governmental regulation,  
106 the same shall constitute a title defect. If the Real Property is located east of the Intracoastal Waterway it may be  
107 affected by the Coastal Construction Control Line as defined in F.S. 161.053.

108 12. CONVEYANCE: Seller shall convey title to the Real Property by statutory warranty, or fiduciary special warranty  
109 deed, if applicable, subject only to land use designation, zoning restrictions, prohibitions and other requirements  
110 imposed by governmental authority; restrictions, easements and matters appearing on the plat or otherwise common to  
111 the subdivision; ~~public utility easements of record which are located contiguous to the Real Property lines and not more~~  
112 ~~than twelve (12) feet in width as to the rear or front lines and seven and one-half (7.5) feet in width as to the side lines~~  
113 ~~(unless otherwise specified herein);~~ taxes for year of closing and subsequent years; assumed mortgages and purchase  
114 money mortgages (provided there exists at closing no violation of the foregoing and none of them prevents the use of the  
115 Real Property for the purpose represented in this Contract); matters contained in this Contract and matters otherwise  
116 accepted by Buyer. Personalty shall, at request of Buyer, be transferred by an absolute bill of sale with warranty of title,  
117 subject only to such matters as are otherwise provided herein.

118 ~~13. EXISTING MORTGAGES: If Buyer is assuming an existing mortgage, Seller shall obtain and furnish a statement~~  
119 ~~from the mortgagee setting forth the principal balance, method of payment, interest rate and whether the mortgage is in~~  
120 ~~good standing. If there are charges for the change of ownership, including charges for assumption, they shall be paid by~~  
121 ~~Buyer unless the total charges exceed one percent (1%) of the unpaid balance of the mortgage to be assumed. If the total~~  
122 ~~cost of the above items exceed one percent (1%) of the unpaid balance of the mortgage to be assumed, then either party~~  
123 ~~shall have the option of paying any amount in excess so the entire cost is paid, and this Contract shall remain in full~~  
124 ~~force and effect. However, if neither party agrees to pay the additional amount, then either party may terminate this~~  
125 ~~Contract by delivery of written notice to the other party or his Authorized Representative, and deposits shall be returned~~  
126 ~~to Buyer and all parties shall be released from all further obligations herein.~~

127 13.1 APPLICATION AND QUALIFICATION: Buyer shall make application for assumption of the existing mortgage  
128 within \_\_\_\_\_ business days (five (5) business days if this blank is not filled in) after the Effective Date. Buyer agrees  
129 to make a good faith, diligent effort to assume the existing mortgage and agrees to execute all documents required by the  
130 mortgagee for the assumption. If the mortgagee does not give written consent to permit the Buyer to assume the existing  
131 mortgage at the rate and terms of payment specified herein within \_\_\_\_\_ business days (twenty (20) business days if  
132 this blank is not filled in) after the Effective Date, either party may terminate this Contract by delivery of written notice  
133 to the other party or his Authorized Representative, and deposits shall be returned to Buyer and all parties shall be  
134 released from all further obligations herein. This right of termination shall cease upon Buyer obtaining written approval  
135 for assumption of the mortgage prior to delivery of the notice of termination.

136 13.2 VARIANCE: Any variance in the amount of a mortgage to be assumed and the amount stated in this Contract shall be  
137 added to or deducted from the cash payment. If the mortgage balance is more than three percent (3%) less than the amount  
138 indicated in this Contract, Seller shall have the option of adjusting the Purchase Price to an amount where the differential is  
139 no more than three percent (3%), and if Seller declines to do so, then either party may terminate this Contract by delivery of  
140 written notice to the other party or his Authorized Representative, and deposits shall be returned to Buyer and all parties shall  
141 be released from all further obligations herein. This notice must be given not less than five (5) business days prior to closing.

142 13.3 DISPOSITION OF ESCROW BALANCE: If Buyer assumes a mortgage, Seller shall receive as credit at closing an  
143 amount equal to the escrow funds held by the mortgagee, which funds shall thereupon be transferred to Buyer.

144 ~~14. NEW MORTGAGES: If Buyer executes a mortgage, all related costs and charges shall be paid by Buyer. Except as~~



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146 ~~provided below, any purchase money note and mortgage to Seller shall follow a form with terms generally accepted and~~  
147 used by institutional lenders doing business in the county where the Real Property is located. A purchase money  
148 mortgage shall provide for an annual proof of payment of taxes and insurance against loss by fire with extended  
149 coverage in an amount not less than the full insurable value of the improvements. A first mortgage and note shall  
150 provide for acceleration at the option of the holder after thirty (30) calendar days default; for junior mortgages this shall  
151 be ten (10) calendar days. The note shall provide for a late charge of five percent (5%) of the payment due if payment is  
152 received by the mortgagee more than ten (10) calendar days after the due date and mortgagee has not elected to  
153 accelerate. Junior mortgages shall require the owner of the Real Property encumbered to keep all prior liens and  
154 encumbrances in good standing and shall forbid the owner from accepting modifications or future advances under any  
155 prior mortgages. Any prepayment shall apply against principal amounts last maturing.

156 14.1 PREQUALIFICATION: Within \_\_\_\_\_ business days (five (5) business days if this blank is not filled in) after  
157 the Effective Date, Buyer shall provide to Seller a letter from a lender stating that, based on a review of Buyer's  
158 application and credit report, Buyer is prequalified for the mortgage loan indicated in Paragraph 2.3. If Buyer fails to  
159 provide such letter within that time, Seller may terminate this Contract by delivery of written notice to Buyer or his  
160 Authorized Representative and deposits shall be returned to Buyer and all parties shall be released from all further  
161 obligations herein. This right of termination shall cease upon Buyer obtaining a loan commitment prior to delivery of the  
162 notice.

163 14.2 APPLICATION AND QUALIFICATION: If this Contract provides for Buyer to obtain new mortgage financing,  
164 then Buyer's performance under this Contract shall be contingent upon Buyer obtaining said mortgage financing upon  
165 the terms stated, or if none are stated, then upon the terms generally prevailing at such time in the county where the Real  
166 Property is located. Buyer agrees to apply within \_\_\_\_\_ business days (five (5) business days if this blank is not  
167 filled in) after the Effective Date and to make a good faith, diligent effort to obtain mortgage financing. The commission  
168 or omission of any act by Buyer calculated to produce a rejection by any mortgage lender shall be a default by Buyer.

169 14.3 RELEASE OF INFORMATION: Buyer authorizes their mortgage broker and/or lender to provide information to  
170 Buyer, Seller and their Authorized Representatives in accordance with Section VII of the Gramm-Leach-Bliley Act. The  
171 information to be provided is limited to information necessary to verify that Buyer is complying with this Contract and  
172 that there has been no material change in any information provided.

173 14.4 FAILURE TO OBTAIN LOAN COMMITMENT: If within \_\_\_\_\_ business days (thirty (30) business days if  
174 this blank is not filled in) after the Effective Date, or by the Closing Date, whichever occurs sooner, Buyer fails to obtain  
175 a loan commitment, or after diligent effort Buyer is not able to comply with the terms and conditions of the loan  
176 commitment, and Buyer does not waive Buyer's rights under this subparagraph within the time stated for obtaining the  
177 commitment, then either party may terminate this Contract by delivery of written notice to the other party or his  
178 Authorized Representative, and deposits shall be returned to Buyer and all parties shall be released from all further  
179 obligations herein. This right of termination for failure to obtain a loan commitment shall cease upon Buyer obtaining a  
180 loan commitment prior to delivery of the notice of termination.

181 15. INSPECTIONS, REPAIR AND MAINTENANCE: Buyer shall have the right, at Buyer's expense, to have roof, seawall,  
182 ~~deck, pool, electrical, plumbing, sprinkler system, window, septic system, radon, mold, hazardous substance, environmental,~~  
183 wood destroying organism, ~~air conditioning and heating system, appliances, mechanical, structural~~ and other inspections  
184 made by a person who specializes in and holds an occupational license (if required by law) to conduct such inspections or  
185 who holds a Florida license to repair and maintain the items inspected ("Professional Inspector"). ~~All written reports of~~  
186 Buyer's inspections, together with the estimated cost of repairs and treatments, shall be delivered to Seller or Seller's  
187 Authorized Representative within \_\_\_\_\_ business days (fifteen (15) business days if this blank is not filled in) after the  
188 Effective Date except any wood destroying organism inspection report shall be delivered not later than fifteen (15) business  
189 days prior to the Closing Date. If such reports and estimates are not delivered within the stated time, Buyer is deemed to have  
190 accepted the Property "As Is."

191 15.1 DISPUTES: If Seller disagrees with Buyer's inspection reports, Seller shall have the right to have inspections of the  
192 disputed items made at Seller's expense by Professional Inspectors. All written reports of Seller's inspections together with  
193 the estimated cost of repairs and treatments, shall be delivered to Buyer or Buyer's Authorized Representative within  
194 five (5) business days from the date Seller receives Buyer's report. If Buyer's and Seller's inspection reports do not  
195 agree, Buyer and Seller shall agree on a third Professional Inspector, whose report shall be binding. The cost of the third  
196 Professional Inspector shall be paid equally by Buyer and Seller.

197 15.2 DEFECTS: If inspections reveal functional defects, code violations, open building permits, the existence of radon,  
198 mold, hazardous substances, environmental pollution, or wood destroying organism infestation or damage, the cost of  
199 ~~correction, treatment and repair shall be at the expense of Seller and shall be performed in a workmanlike manner.~~

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201 ~~15.2.1 WOOD DESTROYING ORGANISMS: Wood destroying organisms means arthropod or plant life which~~  
202 ~~damages and can reinfest seasoned wood in a structure, namely: termites, powder-post beetles, oldhouse borers, wood-~~  
203 ~~decaying fungi.~~

204 15.2.1.1 TREATMENT: Seller shall have the Property treated and any tenting removed at least two (2) business days before  
205 the Closing Date by a licensed pest control company if required to obtain a clear wood destroying organisms report.

206 15.2.1.2 WOOD DAMAGE: Seller shall repair at least two (2) business days before the Closing Date all wood damage  
207 required to obtain a clear wood destroying organisms report.

208 15.2.2 EXCLUSIONS:

209 15.2.2.1 AGE AND AESTHETIC DEFECTS: Age alone is not a functional defect nor are aesthetic defects which  
210 include: cracked or broken roof tiles; pitted marcite; missing or torn window screens or screen doors (excluding pool or  
211 patio screen enclosures); fogged windows; tears, worn spots and discoloration of floor coverings, wallpapers; window  
212 treatments; nail holes; scratches, dents, scrapes, chips and caulking in ceilings, walls, flooring, tile, fixtures, mirrors; and  
213 minor cracks in floor tiles, windows, driveways, sidewalks, pool decks, garage and patio floors.

214 15.2.2.2 CODE: Seller is not obligated to bring any item into compliance with existing building code regulations if such  
215 item complied with the building code or was granted a certificate of occupancy at the time it was constructed.

216 15.2.2.3 FENCES AND UTILITY BUILDINGS: Wood destroying organism infestation or damage in fences or utility  
217 structures more than three (3) feet from any residential structure is not a defect.

218 15.2.2.4 EXISTING WOOD DESTROYING ORGANISMS WARRANTY: Seller is not obligated to treat the Property  
219 if all of the following apply: 1) there is no visible live infestation and 2) the Property has been previously treated and 3)  
220 assignment at closing from Seller to Buyer of a current full-treatment warranty that has at least twelve (12) months to  
221 run is accepted by the warrantor and 4) Buyer's lender (if any) is willing to close with the above.

222  
223 15.3 LIMITATION: If the cost of repairs and treatments exceeds \_\_\_\_\_  
224 (two percent (2%) of the Purchase Price if this blank is not filled in), Buyer or Seller may elect to pay the excess, failing  
225 which, either party may terminate this Contract by delivery of written notice to the other party or his Authorized  
226 Representative and deposits shall be returned to Buyer and all parties shall be released from all further obligations  
227 herein.

228 15.4 COMPLETION DATE AND ESCROW FOR REPAIRS: Seller shall complete all corrections, treatments and repairs at  
229 least two (2) business days before the Closing Date and, if not, sufficient funds shall be escrowed at closing to effect such  
230 corrections, treatments and repairs, unless prohibited by Buyer's lender. Funds equal to 150% of the maximum estimate for  
231 corrections, treatments and repairs as set forth in the inspection reports shall be deemed sufficient funds.

232 15.5 WALK THROUGH INSPECTION: Buyer is entitled to a walk through inspection immediately prior to closing to  
233 verify compliance with this section and to verify that no functional defects have occurred subsequent to the inspections.  
234 All appliances and machinery included in this sale shall be in working order at closing.

235 15.6 UTILITIES: **Seller shall provide utility services for all inspections including walk-thru inspections and until**  
236 **closing is completed.** All parties and their Authorized Representatives shall be given reasonable prior notice of all  
237 ~~inspections and shall have the right to be present at all inspections.~~

238 15.7 MAINTENANCE: Between the Effective Date and the closing, Seller shall maintain the Property, ~~including but not~~  
239 ~~limited to the lawn, shrubbery and pool~~ in the same condition as it was on the Effective Date, ordinary wear and tear  
240 excepted. Seller shall vacate the Property and remove all furniture and personal items not included in this sale and leave  
241 the Property in a clean, broom-swept condition before the time set for closing.

242 ~~16. ENVIRONMENTAL CONDITION: Seller represents that Seller is not aware of any prior or existing environmental~~  
243 ~~condition, situation or incident on, at, or concerning the Property or any adjacent property that may give rise as against~~  
244 ~~Seller or the Property to an action or to liability under any law, rule, ordinance or common law theory.~~

245 17. INSURANCE: If insurance cannot be obtained because of tropical storm activity, either party may delay closing  
246 until tropical storm activity no longer prevents acquisition of insurance.

247 18. SERVICE CONTRACTS: Buyer may accept or reject continuation of service contracts, provided they are  
248 assignable to Buyer. If accepted, the cost shall be prorated. Any transfer fee shall be paid by Buyer.

249 19. INGRESS AND EGRESS: Seller warrants there is ingress and egress to the Real Property over public or private  
250 roads or easements.

251 20. LEASES: Unless indicated under Special Clauses, at closing there shall be no lease or right of occupancy  
252 encumbering the Real Property. ~~If this Contract is subject to leases or rights of occupancy which will continue after~~  
253 ~~closing, Seller shall, ten (10) business days prior to the Closing Date, furnish to Buyer copies of all written leases or~~

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255 ~~written rights of occupancy and estoppel letters from each tenant specifying the nature and duration of said tenant's~~  
256 ~~occupancy, rental rate, prepaid rents or security deposits paid by tenant. If Seller is unable to obtain estoppel letters from~~  
257 ~~tenants, the same information may be furnished by Seller to Buyer in the form of a Seller's affidavit. Advance rents~~  
258 ~~shall be prorated and deposits credited to Buyer at closing.~~  
259 21. SELLER'S AFFIDAVIT: Seller shall furnish to Buyer at closing an affidavit attesting to the absence of any financing  
260 statements, claims of lien or potential lienors known to Seller. If the Real Property has been improved within ninety (90)  
261 calendar days prior to closing, Seller shall deliver to Buyer an affidavit setting forth names and addresses of all contractors,  
262 subcontractors, suppliers and materialmen and stating that all bills for work on the Real Property have been paid. Buyer may  
263 require releases of all such potential liens. The affidavit shall state that there are no matters pending against Seller that could  
264 give rise to a lien that would attach to the Property between the disbursing of the closing funds and the recording of the  
265 instrument of conveyance and that Seller has not, and will not, execute any instrument that could adversely affect title to the  
266 Property.  
267 22. DOCUMENTS FOR CLOSING: If applicable, Seller shall cause to be prepared and provided a deed, purchase  
268 money mortgage and note, assignment of leases, bill of sale, Seller's affidavits, FIRPTA affidavit, survey or affidavit  
269 regarding coastal construction control line, F.S. 161.57, and any corrective instruments that may be required in  
270 connection with perfecting the title. Buyer's closing agent shall prepare the closing statement.  
271 23. EXPENSES: Abstracting prior to closing, governmental lien searches, cost of obtaining payoff and estoppel letters, state  
272 documentary stamps on the deed and the cost of recording any corrective instruments shall be paid by Seller. Intangible  
273 personal property taxes and documentary stamps to be affixed to the purchase money mortgage or required on any mortgage  
274 modification, the cost of recording the deed and purchase money mortgage and documentary stamps and recording costs  
275 assessed in connection with assumption of any existing mortgage shall be paid by Buyer.  
276 24. PRORATION: Taxes, insurance, assumed interest, utilities, rents and other expenses and revenue of the Property shall be  
277 prorated through the day prior to closing. Taxes shall be prorated on the current year's tax, if available. If the closing occurs  
278 when the current year's taxes are not available, and the current year's assessment is available, taxes will be prorated based  
279 upon such assessment and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated  
280 on the prior year's tax; provided, if there are completed improvements on the Property by January 1st of the year of closing  
281 and these improvements were not in existence on January 1st of the prior year, then the taxes shall be prorated through the  
282 day prior to closing based upon the prior year's millage and at an equitable assessment to be agreed upon between the parties,  
283 failing which, requests will be made to the county tax assessor for an informal assessment taking into consideration the  
284 improvements. Any tax proration based on an estimate may, at the request of either party, be subsequently readjusted upon  
285 receipt of the tax bill. All such prorations whether based on actual tax or estimated tax will make appropriate allowance for  
286 the maximum allowable discount and for homestead or other exemptions if allowed for the current year. The provisions in this  
287 paragraph shall survive the closing.  
288 25. SPECIAL ASSESSMENT LIENS: Certified, confirmed and ratified governmental special assessment liens as of the  
289 Effective Date are to be paid by Seller. Pending liens as of the Effective Date shall be assumed by Buyer. The provisions in  
290 this paragraph shall survive the closing.  
291 26. PLACE OF CLOSING: Closing shall be held at the office of the Buyer's closing agent if located within the county where  
292 the Real Property is located, and if not, then at the office of Seller's closing agent if located within the county where the Real  
293 Property is located, and if not, then at such place as mutually agreed upon. If a portion of the Purchase Price is to be derived  
294 from institutional financing, the requirements of the lender as to place, time and procedures for closing shall control,  
295 notwithstanding anything in this Contract to the contrary.  
296 27. PROCEEDS OF SALE AND CLOSING PROCEDURE: The deed shall be recorded and evidence of the title continued at  
297 Buyer's expense to show title in Buyer without any encumbrances or changes which would render Seller's title unmarketable  
298 from the date of the last evidence, and the cash proceeds of sale may be held in escrow by Seller's attorney or by such other  
299 escrow agent as may be mutually agreed upon for a period of not longer than ten (10) business days. If Seller's title is  
300 rendered unmarketable, Buyer's closing agent shall, within said ten (10) day period, notify Seller in writing of the defect, and  
301 Seller shall have thirty (30) business days from receipt of such notice to cure the defect and shall use best efforts to do so. If  
302 Seller fails to timely cure the defect, all monies paid by Buyer shall, upon written demand and within five (5) business days  
303 thereafter, be returned to Buyer, and simultaneously with such repayment Buyer shall vacate the Property and reconvey the  
304 Property to Seller by special warranty deed. If Buyer fails to make timely demand for refund, he shall take title "As Is"  
305 waiving all rights against Seller as to such intervening defect except such rights as may be available to Buyer by virtue of  
306 warranties contained in the deed. Notwithstanding the above, if title insurance is available, at standard rates insuring  
307 Buyer as to any title defects arising between the effective date of the title commitment and the recording of Buyer's  
308 deed, the proceeds of sale shall be disbursed to Seller at closing. The provisions of this paragraph shall survive the  
309 closing.

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311 27.1 All payments including loan proceeds shall be made in U.S. funds in the form of a wire transfer, certified check,  
312 cashiers check, bank check, official check, treasurer's check, money order or equivalent instrument issued by a bank,  
313 savings and loan association, or credit union which must have at least one branch in the county where the Real Property  
314 is located.

315 ~~27.2 Possession and occupancy will be delivered to Buyer at closing and funding.~~

316 27.3 The Broker's professional service fee shall be disbursed simultaneously with Seller's closing proceeds.

317 ~~28. ESCROW DEPOSITS: The provisions of this Section 28 shall survive the termination or closing of this Contract.~~

318 28.1 The Escrow Agent agrees to promptly deposit, retain, and disburse all deposits in accordance with the terms of this  
319 Contract or as may be directed in writing by Seller and Buyer or as may be directed by a court of competent jurisdiction.

320 28.2 If the Escrow Agent is in doubt as to his duties, Escrow Agent shall retain the deposits until Seller and Buyer  
321 collectively agree in writing to the disposition thereof or until a court of competent jurisdiction has adjudicated the rights  
322 of Seller and Buyer.

323 28.3 If the Escrow Agent is a licensed real estate broker, Escrow Agent shall comply with the provisions of  
324 Chapter 475, Florida Statutes, as may be amended from time to time and with any regulations promulgated by the  
325 Department of Business and Professional Regulation pertaining to the duties and responsibilities of licensed real  
326 estate brokers.

327 28.4 Any suit between Buyer and Seller where Escrow Agent is made a party because of acting as Escrow Agent,  
328 or in any suit where Escrow Agent interpleads the deposits, Escrow Agent shall recover reasonable attorney's fees  
329 and costs from the deposits; as between Buyer and Seller, such fees and costs shall be charged and assessed against  
330 the non-prevailing party.

331 28.5 The parties agree that Escrow Agent shall not be liable to any party or person for misdelivery to Buyer or Seller of  
332 the deposits, unless such misdelivery is due to willful breach of Contract or gross negligence of Escrow Agent.

333 29. RISK OF LOSS: If the improvements are damaged by fire or other casualty before delivery of the deed and can be  
334 restored to substantially the same condition as existing on the Effective Date within a period of sixty (60) business days,  
335 Seller may restore the improvements and the Closing Date and date of delivery of possession shall be extended  
336 accordingly. If Seller fails to do so, Buyer shall have the option of: 1) taking the Property "As Is" together with  
337 insurance proceeds, if any, or 2) terminating this Contract by delivery of written notice to Seller or his Authorized  
338 Representative and deposits shall be returned to Buyer and all parties shall be released from all further obligations herein.

339 30. ASSIGNMENT: This Contract is not assignable without the specific written consent of Seller if new mortgage  
340 financing or an assumption of an existing mortgage is a contingency.

341 31. ATTORNEY FEES AND COSTS: In connection with any arbitration or litigation arising out of this Contract,  
342 the prevailing party, whether Buyer, Seller or Broker shall be entitled to recover all costs incurred including  
343 attorney's fees and legal assistant fees for services rendered in connection therewith, including appellate  
344 proceedings and postjudgment proceedings. The provisions in this paragraph shall survive the termination or  
345 closing of this Contract.

346 32. DEFAULT: If either party defaults, the rights of the non-defaulting party and the Broker(s) shall be as provided  
347 herein and such rights shall be deemed to be the sole and exclusive rights in such event. The provisions of this Section  
348 32 shall survive the termination of this Contract.

349 32.1 BUYER DEFAULT: If Buyer fails to perform any of the covenants of this Contract, **all money paid or to be paid**  
350 **as deposits by Buyer** pursuant to this Contract shall be retained by or for the account of Seller as consideration for the  
351 execution of this Contract and as liquidated damages and in full settlement of any claims for damages and specific  
352 performance by Seller against Buyer.

353 32.2 SELLER DEFAULT: If Seller fails to perform any of the covenants of this Contract, all money paid or  
354 deposited by Buyer pursuant to this Contract shall be returned to Buyer upon demand, or Buyer shall have the right  
355 of specific performance. In addition, Seller shall immediately pay to Brokers the full professional service fee  
356 provided for in this Contract or separate listing contract.

357 32.3 MEDIATION: Any controversy or claim between Buyer and Seller arising out of or relating to this Contract  
358 or a breach thereof may be submitted to mediation prior to arbitration or litigation. The mediator's fees shall be  
359 paid equally by the parties of the mediation. Any of the above proceedings shall be brought in the county where the  
360 Real Property is located and shall be conducted pursuant to Florida Statutes relating to mediation, arbitration or  
361 litigation.

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363 33. CONTRACT NOT RECORDABLE AND PERSONS BOUND: The benefits and obligations of the covenants  
364 herein shall inure to and bind the respective heirs, representatives, successors and assigns (when assignment is  
365 permitted) of the parties hereto. Neither this Contract nor any notice shall be recorded in any public records.

366 34. SURVIVAL OF COVENANTS: No provision, covenant or warranty of this Contract shall survive the closing  
367 except as expressly provided herein and except express representations and warranties contained herein.

368 35. CONCURRENCY: No representation is made regarding the ability to change the current use of or to improve the  
369 Property under the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163 et  
370 seq., Florida Statutes) or any comprehensive plan or other similar ordinance promulgated by controlling governmental  
371 authorities in accordance with the Act.

372 36. FIRPTA: All parties are advised that the I.R.S. code requires Buyer to withhold ten percent (10%) of the Purchase  
373 Price for tax on sales by certain foreigners. The tax will be withheld unless affidavits of compliance with the I.R.S. code  
374 or an I.R.S. qualifying statement are provided to Buyer at closing. If this paragraph applies, Buyer and Seller agree  
375 to obtain and/or disclose their U.S. Social Security Number or Taxpayers Identification Number if required by the  
376 Closing Agent.

377 37. DISCLOSURES:

378 37.1 RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in  
379 sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that  
380 exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding  
381 radon and radon testing may be obtained from your county public health unit.

382 37.2 MOLD: Mold and/or other microscopic organisms may exist at the Property and such microscopic organisms  
383 and/or mold may cause physical injuries, including but not limited to allergic and/or respiratory reactions or other  
384 problems, particularly in persons with immune system problems, young children and/or elderly persons.

385 37.3 ENERGY-EFFICIENCY RATING: "In accordance with the Florida Building Energy-Efficiency Rating Act  
386 {Chapter 553, Part XI, F.S. (1993)}, the Buyer of Real Property with a building for occupancy located thereon is  
387 notified that the Buyer may have the building's energy-efficiency rating determined." Buyer acknowledges receipt  
388 of the "Florida Building Energy-Efficiency Rating System" Disclosure.

389 37.4 FUTURE PROPERTY TAXES: The "Save Our Home" amendment of the Florida Constitution limits the  
390 increase in the tax assessed value of a homesteaded property until the title is transferred. In the year following the  
391 closing of this sale, the tax assessed value may change to its market value which may result in a tax amount  
392 significantly higher than this year's tax amount. Existence of (or loss of) homestead and other exemptions may also  
393 affect the new tax amount. Additional information may be obtained from the local Property Appraiser's office.

394 37.5 CLOSING COSTS: Buyer may be required to pay additional closing costs, including but not limited to:  
395 attorney's fees; casualty, hazard, windstorm and flood insurance premiums; title examination and closing service  
396 fees; taxes including property tax proration; recording costs; survey costs; courier fees; tax service fees;  
397 underwriting fees; document preparation fees; utility search fees; premiums for owner and mortgagee title  
398 insurance and endorsements; and costs associated with obtaining financing, such as: application fee, appraisal fee,  
399 credit report fee and points or assumption fee.

400 37.6 SELECTION OF SERVICE PROVIDERS: If Broker gives Buyer or Seller referrals to professional persons,  
401 service or product providers or vendors of any type, including, but not limited to: lending institutions, loan brokers,  
402 attorneys, title insurers, escrow companies, inspectors, structural engineers, pest control companies, contractors and  
403 home warranty companies ("Providers"), the referrals are given based on the following disclosures:

404 37.6.1 Buyer and Seller are free to select Providers other than those referred or recommended by Broker.

405 37.6.2 If Buyer or Seller instructs Broker to arrange for any Provider to perform services related to this Contract, Broker  
406 makes such arrangements only as Authorized Representative for the account of Buyer or Seller.

407 37.6.3 Broker does not guarantee the performance of any Providers.

408 ~~38. DISCLOSURE OF LATENT DEFECTS: Seller specifically acknowledges and understands that if Seller knows of~~  
409 ~~latent defects (defects not readily observable) materially affecting the value of the Property, then Seller is under a duty~~  
410 ~~to disclose these latent defects to Buyer. Seller represents that if Seller knows of latent defects, they are set forth in~~  
411 ~~writing under Special Clauses below or have been separately disclosed by Seller to Buyer. Seller and Buyer agree to~~  
412 ~~indemnify and hold harmless Broker from damages resulting from the inaccuracy of this information except to the extent~~  
413 ~~Broker was aware of latent defects and did not disclose them to Buyer.~~

414 Property Address: CITY OF FORT LAUDERDALE / P.D.K.N.P-4, LLC

415 ~~39. HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE SUMMARY: For all properties which are~~  
416 ~~not condominiums or cooperative apartments: The Homeowners' Association/Community Disclosure Summary is~~  
417 ~~incorporated into and made a part of this Contract. BUYER SHOULD NOT EXECUTE THIS CONTRACT UNTIL~~  
418 ~~BUYER HAS RECEIVED AND READ THE DISCLOSURE SUMMARY.~~  
419 ~~IF THE DISCLOSURE SUMMARY REQUIRED BY SECTION 689.26, FLORIDA STATUTES, HAS NOT~~  
420 ~~BEEN PROVIDED TO THE PROSPECTIVE PURCHASER BEFORE EXECUTING THIS CONTRACT FOR~~  
421 ~~SALE, THIS CONTRACT IS VOIDABLE BY BUYER BY DELIVERING TO SELLER OR SELLER'S AGENT~~  
422 ~~WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 3 DAYS AFTER RECEIPT OF~~  
423 ~~THE DISCLOSURE SUMMARY OR PRIOR TO CLOSING, WHICHEVER OCCURS FIRST. ANY~~  
424 ~~PURPORTED WAIVER OF THIS VOIDABILITY RIGHT HAS NO EFFECT. BUYER'S RIGHT TO VOID~~  
425 ~~THIS CONTRACT SHALL TERMINATE AT CLOSING.~~

426 40. FINAL AGREEMENT: This Contract represents the final agreement of the parties and no agreements or  
427 representations unless incorporated into this Contract shall be binding on the parties. Typewritten provisions shall  
428 supersede printed provisions and handwritten provisions shall supersede typewritten and/or printed provisions. Such  
429 handwritten or typewritten provisions as are appropriate may be inserted on this form or attached as an addendum.  
430 Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall  
431 include all genders.

432 SPECIAL CLAUSES:

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441 SEE ADDENDUM PARCEL ONE ATTACHED  
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458 ADDENDUM(S) ATTACHED: CHECK ALL THAT APPLY

- |  |  |
|--|--|
| 459 ( ) AS-IS Addendum                           | ( ) Homeowners' Assoc./Community Disclosure Summary        |
| 460 ( ) Coastal Construction Control Line Waiver | ( ) Interest-Bearing Escrow Agreement                      |
| 461 ( ) Condominium Addendum                     | ( ) Lead-Based Paint Disclosure                            |
| 462 ( ) FHA/VA Addendum                          | ( ) Option To Purchase Addendum                            |
| 463 ( ) FIRPTA Addendum                          | ( ) Seller's Disclosure                                    |
| 464 ( ) Homeowners' Association Addendum         | <input checked="" type="checkbox"/> Other: <u>ADDENDUM</u> |

465 Property Address: CITY OF FORT LAUDERDALE / P.D.K.N. P-4, LLC

466 ~~BUYER~~ \_\_\_\_\_ Date \_\_\_\_\_ ~~BUYER~~ \_\_\_\_\_ Date \_\_\_\_\_

467 Printed Name \_\_\_\_\_ Printed Name \_\_\_\_\_

468 Social Security or Tax I.D. # \_\_\_\_\_ Social Security or Tax I.D. # \_\_\_\_\_

469 Address \_\_\_\_\_

470 Tele. #: (\_\_\_\_) \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_\_ Tele. #: (\_\_\_\_) \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_\_

471 E-Mail: \_\_\_\_\_ E-Mail: \_\_\_\_\_

472 DEPOSIT RECEIVED \_\_\_\_\_, 20\_\_\_\_ to be held subject to this Contract; and to clearance.

473 Deposit Received By (print name): \_\_\_\_\_ (signature): \_\_\_\_\_

474 for delivery to Escrow Agent within one (1) business day.

475 ACCEPTANCE OF CONTRACT & PROFESSIONAL SERVICE FEE: Seller hereby accepts this offer and recognizes

476 \_\_\_\_\_ as Listing Broker. Broker MLS ID # \_\_\_\_\_

477 Address: \_\_\_\_\_

478 Tele. # (\_\_\_\_) \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_\_ Sales Associate \_\_\_\_\_

479 Sales Assoc. MLS ID#: \_\_\_\_\_ Sales Assoc. E-Mail: \_\_\_\_\_

480 and recognizes \_\_\_\_\_ as Selling Broker. Broker MLS ID # \_\_\_\_\_

481 Address: \_\_\_\_\_

482 Tele. # (\_\_\_\_) \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_\_ Sales Associate \_\_\_\_\_

483 Sales Assoc. MLS ID#: \_\_\_\_\_ Sales Assoc. E-Mail: \_\_\_\_\_

484 (CHECK and COMPLETE THE ONE APPLICABLE)

485 ( ) IF A WRITTEN LISTING AGREEMENT IS CURRENTLY IN EFFECT: Seller agrees to pay Listing Broker named above

486 according to an existing, separate written professional fee agreement as per MLS # \_\_\_\_\_ If Buyer fails to perform

487 and deposits are retained, 50%, but not exceeding the professional fee, shall be equally divided between the Brokers as full

488 consideration for Brokers' services including costs expended by Brokers, and the balance shall be paid to Seller. OR

489 ( ) IF NO WRITTEN LISTING AGREEMENT IS CURRENTLY IN EFFECT: Seller shall pay Brokers named above, at closing,

490 from the proceeds of sale, a professional fee of \_\_\_\_\_ % of the Purchase Price and a transaction fee of \$ \_\_\_\_\_

491 for Brokers' services in effecting the sale by finding Buyer ready willing and able to purchase pursuant to the Contract. If Buyer

492 fails to perform and deposits are retained, 50%, but not exceeding the professional fee, shall be evenly divided between the Brokers

493 as full consideration for Brokers' services including costs expended by Brokers, and the balance shall be paid to Seller.

494

495 SELLER \_\_\_\_\_ Date \_\_\_\_\_ SELLER \_\_\_\_\_ Date \_\_\_\_\_

496 Printed Name \_\_\_\_\_ Printed Name \_\_\_\_\_

497 Social Security or Tax I.D. # \_\_\_\_\_ Social Security or Tax I.D. # \_\_\_\_\_

498 Address \_\_\_\_\_

499 Tele. #: (\_\_\_\_) \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_\_ Tele. #: (\_\_\_\_) \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_\_

500 E-Mail: \_\_\_\_\_ E-Mail: \_\_\_\_\_

501 THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. If you do not fully understand this Contract, seek the advice

502 of an attorney prior to signing. If you desire legal or tax advice consult an appropriate professional. This form has been approved

503 by the Broward County Bar Association and the REALTOR® Association of Greater Fort Lauderdale, Inc. Approval does

504 not constitute an opinion that any of the terms and conditions in this Contract should be accepted by the parties in a particular

505 transaction. Terms and conditions should be negotiated based upon the respective interests, objections and bargaining positions of

506 all parties.

IN WITNESS WHEREOF, the parties have set their hands and seal the day and year written above.

WITNESSES:

**CITY OF FORT LAUDERDALE**

\_\_\_\_\_

By \_\_\_\_\_  
John P. "Jack" Seiler, Mayor

\_\_\_\_\_  
[Witness type or print name]

By \_\_\_\_\_  
Lee R. Feldman, City Manager

\_\_\_\_\_  
[Witness type or print name]

ATTEST:

(CORPORATE SEAL)

\_\_\_\_\_  
Jonda K. Joseph, City Clerk

Approved as to form:

\_\_\_\_\_  
Robert B. Dunckel,  
Assistant City Attorney

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by JOHN P. "JACK" SEILER, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by LEE R. FELDMAN, City Manager of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

WITNESSES:

P.D.K.N. P-4, LLC, a Florida limited liability company

\_\_\_\_\_

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

\_\_\_\_\_  
[Witness print or type name]

\_\_\_\_\_  
[Type or print name and title]

\_\_\_\_\_

\_\_\_\_\_  
[Witness print or type name]

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2013, by \_\_\_\_\_, Managing Member of P.D.K.N. P-4, LLC, a Florida limited liability company. They are personally known to me or have produced \_\_\_\_\_ as identification and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

**ADDENDUM  
TO  
LAND SWAP  
AND  
LEASE-BACK AGREEMENT**

**CITY TO BOKAMPER  
PARCEL ONE**

**PARTIES:**

**CITY OF FORT LAUDERDALE**, a Florida municipal corporation, whose mailing address is 100 North Andrews Avenue, Fort Lauderdale, FL 33301 (hereinafter, "CITY")

-and-

**P.D.K.N. P-4, LLC**, a Florida limited liability corporation, whose mailing address is 1280 S. Pine Island Road, Plantation, FL 33324, (hereinafter, "BOKAMPER")

**PROPERTY:**

**PARCEL ONE:**

Lots 1, 2, 3, 4, 12, 13 and 14, Block 2 of GALT OCEAN MILE, according to the Plat thereof, as recorded in Plat Book 34, Page 16 of the Public Records of Broward County, Florida; said lands lying, situate and being in Broward County, Florida

(Property ID No. 4943 19 01 0160)

**PARCEL TWO:**

Lots 2 through 6, Block 5, of GALT OCEAN MILE, according to the Plat thereof, as recorded in Plat Book 34, Page 16 of the Public Records of Broward County, Florida; LESS the West 18.67 feet thereof.

(Property ID No. 4943 19 01 0700)

**DRAINAGE EASEMENT**

Addendum / Land Swap & Lease-Back Agreement  
CITY to BOKAMPER – PARCEL ONE  
P.D.K.N. P-4, LLC  
City of Fort Lauderdale

**EXHIBIT "B"**



**TO  
LAND SWAP  
AND  
LEASE-BACK AGREEMENT**

**CITY TO BOKAMPER  
PARCEL ONE**

**PARTIES:**

**CITY OF FORT LAUDERDALE**, a Florida municipal corporation, whose mailing address is 100 North Andrews Avenue, Fort Lauderdale, FL 33301 (hereinafter, "CITY")

-and-

**P.D.K.N. P-4, LLC**, a Florida limited liability corporation, whose mailing address is 1280 S. Pine Island Road, Plantation, FL 33324, (hereinafter, "BOKAMPER")

**PROPERTY:**

**PARCEL ONE:**

Lots 1, 2, 3, 4, 12, 13 and 14, Block 2 of GALT OCEAN MILE, according to the Plat thereof, as recorded in Plat Book 34, Page 16 of the Public Records of Broward County, Florida; said lands lying, situate and being in Broward County, Florida

(Property ID No. 4943 19 01 0160)

**PARCEL TWO:**

Lots 2 through 6, Block 5, of GALT OCEAN MILE, according to the Plat thereof, as recorded in Plat Book 34, Page 16 of the Public Records of Broward County, Florida; LESS the West 18.67 feet thereof.

(Property ID No. 4943 19 01 0700)

**DRAINAGE EASEMENT**

Addendum / Land Swap & Lease-Back Agreement  
CITY to BOKAMPER – PARCEL ONE  
P.D.K.N. P-4, LLC  
City of Fort Lauderdale



A 20 FOOT WIDE DRAINAGE EASEMENT, BEING A PORTION OF LOTS 6 AND 7, BLOCK 1, GALT OCEAN MILE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGE 16 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. THE CENTERLINE OF SAID STRIP OF LAND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID LOT 6;

THENCE N.05°20'27"E., ALONG THE EASTERNLY LINE OF SAID LOT 6, A DISTANCE OF 33.27 FEET, TO THE POINT OF BEGINNING OF THERE HEREIN DESCRIBED CENTERLINE;

THENCE N.86°44'45"W., A DISTANCE OF 13.22 FEET, TO A POINT ON THE WESTERLY LINE OF SAID LOT 7, SAID POINT BEING THE POINT OF TERMINATION OF THE HEREIN DESCRIBED EASEMENT.

THE SIDELINES OF SAID EASEMENT SHALL BE LENGTHED OR SHORTEN TO MEET ALL ANGLE POINTS AND TERMINATE ON THE WEST LINE OF SAID LOTS 6 AND 7.

SAID EASEMENT LYING AND BEING WITHIN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA AND CONTAINING 0.06 ACRES (2,989 SQUARE FEET), MORE OR LESS.

#### **MUNICIPAL UTILITY EASEMENT**

ALL THAT PORTION OF THE 20 FOOT ALLEY IN BLOCK 2, "GALT OCEAN MILE," ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 34, PAGE 16 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; LYING EAST OF THE EASTERLY RIGHT OF WAY LINE OF NORTHEAST 32<sup>ND</sup> AVENUE AND BOUNDED ON THE EAST BY A LINE BETWEEN THE SOUTHEAST CORNER OF LOT 11 AND THE NORTHEAST CORNER OF LOT 4 OF SAID PLAT.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, CONTAINING 3079 SUQRE FEET, MORE OR LESS.

The following Addendum is to the (i) Land Swap and Lease-Back Agreement (Land Swap Agreement) between the parties, and (ii) the Deposit Receipt and Contract for Sale and Purchase of PARCEL ONE (hereinafter, "Contract") attached to the Land Swap Agreement as **Exhibit "A"** and is hereby incorporated into that Land Swap Agreement and Contract between the parties and the parties do hereby agree as follows:

Addendum / Land Swap & Lease-Back Agreement  
CITY to BOKAMPER – PARCEL ONE  
P.D.K.N. P-4, LLC  
City of Fort Lauderdale

**1. Purchase and Sale.** Subject to the terms and conditions of the Contract, as amended by this Addendum, CITY shall sell to BOKAMPER, and BOKAMPER shall purchase from CITY, all of CITY'S right, title and interest in and to PARCEL ONE.

**1.1 Effective Date.** The Effective Date of this Contract shall be the date the City Commission authorizes execution of the Land Swap and Lease-Back Agreement together with the respective Contracts and Addenda as set forth in the Land Swap Agreement.

**2. Closing Date.** This Contract shall be closed and the deed and possession of PARCEL ONE delivered no later than seventy (70) days after the Effective Date, unless extended by other provisions of this Contract or separate agreement; provided, however, in the event either party completes their Inspections, Testing and Examination sooner than the sixty (60) days under ¶ 5 (a) of this Addendum, such party may waive the balance of such Inspection Period by delivery of written notice thereof to the other party and the closing may go forward within ten (10) days of the last party indicating such waiver of the balance of the Inspection Period by delivery of written notice thereof to the other party.

**2.1 1<sup>st</sup> Condition Precedent to Closing.** CITY shall secure all relevant development permits for the construction of the New Fire Station 54 on PARCEL TWO in substantial accordance with that submittal to the City of Fort Lauderdale DRC, Case No. 38R13 prior to Closing. To that end BOKAMPER joins and consent to CITY applying for the relevant development permits required for construction of New Fire Station 54 prior to Closing and transferring title for PARCEL TWO from BOKAMPER to CITY and the parties agree to cooperate in good faith each with the other with respect to any applications for development permits for the construction of New Fire Station 54.

**2.2 2<sup>nd</sup> Condition Precedent to Closing.** At Closing BOKAMPER shall simultaneously convey the following to CITY, subject to the terms and conditions of the Land Swap Agreement:

- (a) PARCEL TWO
- (b) DRAINAGE EASEMENT (Exhibit "F")
- (c) UTILITY EASEMENT (Exhibit "G")

**2.3 3<sup>rd</sup> Condition Precedent to Closing.** BOKAMPER and CITY shall enter into that Lease-Back Agreement for PARCEL ONE as set forth in the Land Swap Agreement.

**2.4 Place of Closing.** Closing shall be at the office of the CITY's closing agent.

**3. Evidence of title.** Prior to the Effective Date of this Contract, evidence of title for PARCEL ONE was delivered to BOKAMPER. BOKAMPER has reviewed same and is satisfied that it accepts the title as marketable and insurable and without defects.

**3.1 Conveyance.** CITY's conveyance of title to PARCEL ONE shall be by Special Warranty Deed, subject to (i) conditions, restrictions, limitations and easement of record, if any, but this provision shall not operate to re-impose the same; (ii) zoning and other governmental regulations; (iii) taxes and assessments, if any, for 2014 ~~2013~~ and subsequent years.

**4. Survey.** If the survey shows encroachment(s) on PARCEL ONE or that improvements located on PARCEL ONE encroach on easements, lands of others, or violate any restrictions, contract covenants or applicable governmental regulation, the same shall constitute a title defect, the time and procedure for curing such shall be in accordance with Addendum ¶s **5, Inspections, Testing and Examination, 6, Extension of Time, 7, Right of Cancellation.**

**5. Inspections, Testing and Examination.**

(a) BOKAMPER shall be provided a period ("Investigation Period") for investigation, testing and examination of PARCEL ONE as set forth herein. The "Investigation Period" under this Contract shall be a period starting with the Effective Date of the Contract and ending **sixty (60) days** thereafter, subject to the provisions set forth above in ¶ 2, Closing Date, regarding waiver of the balance of the Inspection Period. During the Investigation Period, BOKAMPER shall have the absolute right, through its agents, servants, employees and contractors, to enter upon PARCEL ONE for the purpose of investigation, discovery, inspection and testing of PARCEL ONE, including, without limitation soil testing and boring, environmental studies or any other testing BOKAMPER determines to be necessary or appropriate to the evaluation of the purchase, sale, development and use of PARCEL ONE for parking accessory to BOKAMPER'S Sports Bar and Grill including inspection as provided in ¶ 15 ("*Inspections, Repair and Maintenance*") of the Contract. CITY agrees to cooperate, at no expense to CITY, in regard to BOKAMPER efforts to obtain all relevant information respecting the investigation, discovery and testing, providing to BOKAMPER within **ten (10) days** of the Effective Date hereof copies of CITY'S Books and Records respecting any previous environmental assessments of PARCEL ONE in question, including those Books and Records in the possession of CITY or any of its agents.

(i) During the Inspection Period, BOKAMPER shall remove the UST as provided in ¶ "M" of the Land Swap Agreement. Thereafter, BOKAMPER shall go forward with appropriate environmental tests relative to the UST.

(b) In connection with such inspections, testing and examinations there shall be no soil tests or other invasive tests that can or may cause damage to PARCEL ONE unless BOKAMPER has received CITY'S prior written approval of such tests. All such entries shall be at the risk of BOKAMPER; CITY shall have no liability for any injuries sustained by BOKAMPER or any of BOKAMPER'S agents or contractors. BOKAMPER agrees to repair or restore promptly any damage to PARCEL ONE caused by BOKAMPER, its agents and contractors under this Paragraph. Upon completion of BOKAMPER'S investigations and tests, PARCEL ONE will be restored, at BOKAMPER'S sole cost and expense, to the same condition as it existed before BOKAMPER'S entry upon PARCEL ONE. In the event this Contract is terminated without a closing upon and passing title, BOKAMPER'S obligations under this Paragraph shall survive termination of this Contract for a period of six (6) months.

**6. Extension of time.** In the event BOKAMPER'S Investigation reveals a need for the parties to extend the times under this Contract, then either the (i) *Investigation Period* (§5 of the Addendum), (ii) *Right of Cancellation* (§7 of the Addendum), or (iii) *Closing Date* (§2 of the Addendum) or all (i), (ii), (iii) may be extended by written instrument signed by both CITY and BOKAMPER. As to the CITY, the CITY'S **City Manager** shall have the authority to execute any such instrument extending time under this § 6 of the Addendum.

**7. Right of Cancellation.** BOKAMPER shall have the absolute and unqualified right to terminate and cancel this Contract and Land Swap Agreement by delivering written notice of such cancellation to CITY no later than 5:00 PM on the fifth (5<sup>th</sup>) business day after the Investigation Period has elapsed. The right of cancellation may be exercised upon the discovery of any condition determined to be unacceptable to BOKAMPER in its sole discretion. As to the CITY, the CITY'S **City Manager** shall have the authority to execute any such instrument exercising the Right of Cancellation under § 7 of this Addendum.

**8. Waiver; Proceed to Closing.**

(a) BOKAMPER acknowledges that prior to execution of the Land Swap and Lease-Back Agreement it has had ample opportunity to conduct its due diligence review of PARCEL ONE as to § 3, *Evidence of Title*, § 4, *Survey*, § 5, *Inspections, Testing and Examination*, § 6, *Extension of Time* and § 7, *Right of Cancellation* pursuant to that *Reciprocal Entry & Inspection Agreement* dated December 21, 2013 by and between the parties and finds that the conditions with respect to PARCEL ONE acceptable, subject to the sole exception with respect to the removal of the UST from PARCEL ONE and the environmental tests relating thereto ("Sole Exception"). Accordingly BOKAMPER, subject to the Sole Exception set forth above, hereby waives any further due diligence investigations under the Contract.

(b) Accordingly BOKAMPER announces that it is prepared to accelerate time-frames hereunder and proceed to Closing as expeditiously as is practicable.

(c) In so proceeding, BOKAMPER acknowledges and accepts the equitable allocation of costs, responsibilities, obligations, time-line demands relative to the parties' intended uses of the Parcels and that BOKAMPER will take title to PARCEL ONE at Closing subject to the asbestos conditions and agrees that CITY shall be responsible for demolition of PARCEL ONE, including compliance with all permit conditions relative to the disposition of asbestos during the demolition process, at CITY'S sole cost and expense.

**9. Leases.** Conveyance of title to PARCEL ONE shall be free of any leasehold interests or claims by persons in possession of PARCEL ONE, other than the Lease-Back Agreement between CITY and BOKAMPER.

**9.1 Prohibition Against New Leases.** Between the Effective Date hereof and the date of the Closing, CITY shall not enter into any new Leases for any portion of PARCEL ONE.

**10. Possession and Occupancy.** As to PARCEL ONE, possession and occupancy shall remain with CITY at Closing pursuant to the terms and conditions of the Lease-Back Agreement.

Addendum / Land Swap & Lease-Back Agreement  
CITY to BOKAMPER – PARCEL ONE  
P.D.K.N. P-4, LLC  
City of Fort Lauderdale

**11. Personal Property.** CITY represents and acknowledges that there is no personal property located on the PARCEL ONE that is a part of the sale of the PARCEL ONE. All of CITY's personal property located on PARCEL ONE shall be removed by the CITY upon the termination of the term of the Lease Back Agreement.

**12. Service Contracts.** CITY represents and acknowledges that there are no Service Contracts concerning PARCEL ONE and CITY will not enter into any service contracts concerning PARCEL ONE after the Closing which would bind BOKAMPER or PARCEL ONE after the termination of the Lease Back Agreement without the written consent of BOKAMPER, which may not be unreasonably withheld.

**13. Destruction or Condemnation of PARCEL ONE.**

(a) In the event that all or any portion of PARCEL ONE is taken by condemnation under the provisions of eminent domain law after the Effective Date but prior to the Closing, CITY shall give BOKAMPER prompt written notice of same ("Condemnation Notice").

(b) Within **fifteen (15) days** after receipt of the Condemnation Notice, BOKAMPER shall have the option of (i) taking PARCEL ONE in "AS IS" condition, together with condemnation awards, if any, or (ii) terminating this Land Swap Agreement, Contract and Addendum by delivery of written notice to CITY, in which case the condemnation awards would go to the CITY. If the Closing date falls within such **fifteen (15) day** period, the Closing date shall be extended until the day after the expiration of the **fifteen (15) day** period. As to the CITY, the CITY'S **City Manager** shall have the authority to execute any such instrument exercising the CITY'S rights under this ¶ 12 (b) of this Addendum.

(c) In the event BOKAMPER elects under subsection (b)(i) above to take PARCEL ONE in "AS IS" condition, then CITY shall, upon Closing, assign to BOKAMPER all claims of CITY under or pursuant to any provisions of eminent domain law, as applicable, and all proceeds from any such condemnation awards received by CITY on account of any such condemnation and there shall be no reduction in Purchase Price.

(d) In light of the fact that the CITY will ultimately demolish the improvements on PARCEL ONE pursuant to the terms of this Agreement and the Land Swap Agreement, the parties agree that in the event of a casualty in which all or a portion of the improvements on PARCEL ONE are damaged or destroyed prior to Closing, the CITY may retain all proceeds from any casualty insurance coverage insuring such improvements.

**14. CITY Representations and Warranties.** CITY hereby represents and warrants the following to BOKAMPER:

(a) Authority. CITY has all requisite power and authority to execute and deliver, and to perform all of its obligations under, this Contract.

(b) Enforceability. This Contract constitutes a legal, valid and binding obligation of CITY enforceable against CITY in accordance with its terms, except as limited by bankruptcy,

insolvency, reorganization, moratorium and other similar laws of general applicability relating to or affecting the enforcement of creditor's rights and general equitable principles.

(c) No Bankruptcy or Dissolution. No "Bankruptcy/Dissolution Event" (as defined below) has occurred with respect to CITY. As used herein, a "Bankruptcy/Dissolution Event" means any of the following: (a) the commencement of a case under Title 11 of the U.S. Code, as now constituted or hereafter amended, or under any other applicable federal or state bankruptcy law or other similar law; (b) the appointment of a trustee or receiver of any property interest; (c) an assignment for the benefit of creditors; (d) an attachment, execution or other judicial seizure of a substantial property interest; (e) the taking of, failure to take, or submission to any action indicating an inability to meet its financial obligations as they accrue; or (f) a dissolution or liquidation, death or incapacity.

(d) Litigation. Except as may be set forth in **Exhibit "1"** attached hereto, CITY has received no written notice of any pending or threatened action, litigation, condemnation or other proceeding against PARCEL ONE or against CITY with respect to PARCEL ONE or against CITY nor is CITY aware of any such pending or anticipated action or litigation regarding CITY with respect to PARCEL ONE.

(e) Compliance. Except as may be set forth in **Exhibit "2"**, CITY has received no written notice from any governmental authority having jurisdiction over PARCEL ONE to the effect that PARCEL ONE is not in compliance with applicable laws, ordinances, rules or regulations.

(f) CITY is not a "foreign person" within the meaning of the Internal Revenue Code, and at Closing, CITY shall deliver to BOKAMPER an affidavit to such effect. CITY acknowledges and agrees that BOKAMPER shall be entitled to fully comply with Internal Revenue Code Section 1445 and all related sections and regulations, as same may be amended from time to time, and CITY shall act in accordance with all reasonable requirements of BOKAMPER in order to effect such full compliance by BOKAMPER

(g) At Closing, the CITY shall provide to the BOKAMPER an updated certification certifying that all the above representations and warranties of the CITY continue to be true and correct remain in full force and effect.

**15. Computation of Days.** In computing any period of time expressed in day(s) in this Contract, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

**16. Notice.** All notices under this Contract to be given by one party to the other shall be in writing and the same shall only be deemed given if forwarded as follows:

(a) By certified mail, return receipt requested, to the following addresses:

Addendum / Land Swap & Lease-Back Agreement  
CITY to BOKAMPER – PARCEL ONE  
P.D.K.N. P-4, LLC  
City of Fort Lauderdale

**BOKAMPER:** P.D.K.N. P-4, LLC, a Florida limited liability corporation,  
1280 S. Pine Island Road  
Plantation, FL 33324

Attn: [REDACTED]

with a copy to: Courtney Callahan Crush, Esq.  
333 North New River Drive, East  
Suite 2200  
Fort Lauderdale, FL 33301  
Telephone: (954) 522-2010  
Cell: (954) 632-3388  
FAX: (954) 522-2030

**CITY:** Lee R. Feldman, City Manager  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 828-5129  
FAX: (954) 828-5021

With copy to: Hardeep Anand, Public Works Director  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301  
Telephone: (954) 828-5290

With copy to: Chief Robert Hoecherl  
City of Fort Lauderdale Fire-Rescue  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301  
Telephone: (954) 828-6816

with a copy to: Robert B. Dunckel, Assistant City Attorney  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 828-5036  
FAX: (954) 828-5915

or to such other addresses as the parties may by writing designate to the other party from time to time. All notices, demands, deliveries, or other communications hereunder shall be deemed to have been given or served for all purposes hereunder forty-eight (48) hours after the time that such communication was deposited in the United States mails (Saturdays, Sundays and legal holidays excluded), postage prepaid, in the manner aforesaid, provided however, that for any distance in excess of five hundred (500) miles, overnight express service shall be utilized.

**(b)** The notice may also be served by personal delivery to the CITY or BOKAMPER as indicated above.

Addendum / Land Swap & Lease-Back Agreement  
CITY to BOKAMPER – PARCEL ONE  
P.D.K.N. P-4, LLC  
City of Fort Lauderdale

**17. Documents for Closing.** All documents for closing prepared by CITY shall be submitted to BOKAMPER for approval at least two (2) days prior to Closing.

**18. Brokers.** CITY and BOKAMPER warrant and represent to each other that no broker or agent has been employed with respect to the sale of PARCEL ONE. Other than as represented above, neither this Contract nor any subsequent transaction between CITY and BOKAMPER involving PARCEL ONE has been brought about through the efforts of any Broker. CITY and BOKAMPER agree that in the event of a breach of this warranty and representation, the offending party shall indemnify and hold the non-offending party harmless with respect to any loss or claim for brokerage commission, including all attorneys' fees and costs of litigation through appellate proceedings. This paragraph shall survive expiration of this Contract.

**19. Proceeds of Sale.** The parties having equitably apportioned costs and expense of the transaction outlined in the Land Swap Agreement, there will be no "proceeds of sale" to be distributed at the Closing.

**20. Purchase "As Is".** Subject to the provisions herein, BOKAMPER acknowledges that it has performed, sufficient physical inspections of PARCEL ONE in order to fully assess and make itself aware of the physical condition of PARCEL ONE, and that BOKAMPER is purchasing PARCEL ONE in an "AS IS" condition. Nothing contained in this Paragraph shall be construed as to negate CITY's obligation to convey marketable title by Special Warranty Deed. Except as may be expressly set forth in or required by this Contract, BOKAMPER acknowledges that the CITY has made no other representations or warranties as to the condition or status of PARCEL ONE and that BOKAMPER is not relying on any other representations or warranties of the CITY, any broker(s), or any agent of CITY in purchasing PARCEL ONE. Except as may be expressly set forth in or required by this Contract, BOKAMPER acknowledges that neither CITY nor any agent of CITY has provided any other representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to:

- (a) The nature, quality or condition of PARCEL ONE, including, without limitation, the water, soil and geology;
- (b) The income to be derived from PARCEL ONE;
- (c) The suitability of PARCEL ONE for any and all activities and uses which BOKAMPER may conduct thereon;
- (d) The compliance of or by PARCEL ONE or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body;
- (e) The habitability, merchantability or fitness for a particular purpose of PARCEL ONE; or
- (f) Any other matter with respect to PARCEL ONE.

Addendum / Land Swap & Lease-Back Agreement  
CITY to BOKAMPER – PARCEL ONE  
P.D.K.N. P-4, LLC  
City of Fort Lauderdale

Without limiting the foregoing, CITY does not and has not made and specifically disclaims any other representation or warranty regarding the presence or absence of any hazardous substances, as hereinafter defined, at, on, under or about PARCEL ONE or the compliance or non-compliance of PARCEL ONE with any laws, rules, regulations or orders regarding Hazardous Substances (collectively the "Hazardous Substance Laws") other than the representation that the CITY has not received any notice from any governmental agency of any violation of any Hazardous Substance Laws relating to PARCEL ONE. For purposes of this Contract, the term "Hazardous Substances" shall mean and include those elements or compounds which are contained in the list of Hazardous Substances adopted by the United States Environmental Protection Agency and the list of toxic pollutants designated by Congress or the Environmental Protection Agency or under any Hazardous Substance laws. Hazardous Substances shall also include Radon Gas. BOKAMPER further acknowledges that neither CITY nor any agent of CITY has provided any representation or warranty with respect to the existence of asbestos or other Hazardous Substances on PARCEL ONE other than as may be specifically set forth in this Contract.

BOKAMPER acknowledges that it has completed its own market due diligence of PARCEL ONE, and that the Purchase Price reflects BOKAMPER'S informed judgment as to the matters set forth herein.

**21. Expenses of Closing.** Documentary Stamps on the deed of conveyance shall be paid by BOKAMPER in accordance with Florida Statute § 201.01 (2013).

**22. Miscellaneous.**

(a) Incorporation of Exhibits. All exhibits attached and referred to in the Land Swap Agreement, Contract and Addendum are hereby incorporated herein as fully set forth in (and shall be deemed to be a part of) this Land Swap Agreement.

(b) Time of the Essence. Time is of the essence of this Agreement.

(c) Severability. If any term or provision of this Contract or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Contract, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Contract shall be valid and be enforced to the fullest extent permitted by law.

(d) Interpretation. Words used in the singular shall include the plural and vice-versa, and any gender shall be deemed to include the other. Whenever the words "including", "include" or "includes" are used in this Contract, they should be interpreted in a non-exclusive manner. The captions and headings of the Paragraphs of this Contract are for convenience of reference only, and shall not be deemed to define or limit the provisions hereof. Except as otherwise indicated, all Exhibits and Paragraph references in this Contract shall be deemed to refer to the Exhibits and Paragraphs in this Contract. Each party acknowledges and agrees that this Contract (a) has been reviewed by it and its counsel; (b) is the product of negotiations between the parties, and (c) shall not be deemed prepared or drafted by any one party. In the

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CITY to BOKAMPER – PARCEL ONE  
P.D.K.N. P-4, LLC  
City of Fort Lauderdale

event of any dispute between the parties concerning this Contract, the parties agree that any ambiguity in the language of the Contract is to not to be resolved against CITY or BOKAMPER, but shall be given a reasonable interpretation in accordance with the plain meaning of the terms of this Contract and the intent of the parties as manifested hereby.

(e) No Waiver. Waiver by one party of the performance of any covenant, condition or promise of the other party shall not invalidate this Contract, nor shall it be deemed to be a waiver by such party of any other breach by such other party (whether preceding or succeeding and whether or not of the same or similar nature). No failure or delay by one party to exercise any right it may have by reason of the default of the other party shall operate as a waiver of default or modification of this Contract or shall prevent the exercise of any right by such party while the other party continues to be so in default.

(f) Consents and Approvals. Except as otherwise expressly provided herein, any approval or consent provided to be given by a party hereunder shall not be unreasonably withheld, delayed or conditioned.

(g) Governing Law. The laws of the State of Florida shall govern this Contract.

(h) Third Party Beneficiaries. Except as otherwise expressly provided in this Contract, CITY and BOKAMPER do not intend by any provision of this Contract to confer any right, remedy or benefit upon any third party (express or implied), and no third party shall be entitled to enforce or otherwise shall acquire any right, remedy or benefit by reason of any provision of this Agreement.

(i) Amendments. This Agreement may be amended by written agreement of amendment executed by all parties, but not otherwise.

(j) Jurisdiction: Venue. Each party hereby consents to the exclusive jurisdiction of any state or federal court located within the jurisdiction where PARCEL ONE is located. Each party further consents and agrees that venue of any action instituted under this Contract shall be proper solely in the jurisdiction where PARCEL ONE is located, and hereby waives any objection to such venue.

(k) Waiver of Trial by Jury. The parties hereby irrevocably waive their respective rights to a jury trial of any claim or cause of action based upon or arising out of this Contract. This waiver shall apply to any subsequent amendments, renewals, supplements or modifications to this Contract. In the event of litigation, this Contract may be filed as a written consent to a trial by the court.

IN WITNESS WHEREOF, the parties have set their hands and seal the day and year written above.

WITNESSES:

\_\_\_\_\_

[Witness type or print name]

\_\_\_\_\_

[Witness type or print name]

(CORPORATE SEAL)

**CITY OF FORT LAUDERDALE**

By \_\_\_\_\_  
John P. "Jack" Seiler, Mayor

By \_\_\_\_\_  
Lee R. Feldman, City Manager

ATTEST:

\_\_\_\_\_  
Jonda K. Joseph, City Clerk

Approved as to form:

\_\_\_\_\_  
Robert B. Dunkel,  
Assistant City Attorney

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by JOHN P. "JACK" SEILER, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by LEE R. FELDMAN, City Manager of the CITY OF FORT

Addendum / Land Swap & Lease-Back Agreement  
CITY to BOKAMPER - PARCEL ONE  
P.D.K.N. P-4, LLC  
City of Fort Lauderdale

LAUDERDALE, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

Addendum / Land Swap & Lease-Back Agreement  
CITY to BOKAMPER – PARCEL ONE  
P.D.K.N. P-4, LLC  
City of Fort Lauderdale



WITNESSES:

P.D.K.N. P-4, LLC, a Florida limited liability company

\_\_\_\_\_

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

\_\_\_\_\_  
[Witness print or type name]

\_\_\_\_\_  
[Type or print name and title]

\_\_\_\_\_

\_\_\_\_\_  
[Witness print or type name]

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2013, by \_\_\_\_\_, Managing Member of P.D.K.N. P-4, LLC, a Florida limited liability company. They are personally known to me or have produced \_\_\_\_\_ as identification and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

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Addendum / Land Swap & Lease-Back Agreement  
CITY to BOKAMPER – PARCEL ONE  
P.D.K.N. P-4, LLC  
City of Fort Lauderdale

PARCEL TWO  
BOKAMPERS TO CITY

\*\*ZONING DISTRICT

**DEPOSIT RECEIPT AND CONTRACT FOR SALE AND PURCHASE**

(If FHA, VA or CONDOMINIUM/HOMEOWNER'S ASSOCIATION CONTRACT, ADDENDUM REQUIRED)

BUYER CITY OF FORT LAUDERDALE, a Florida municipal corporation

SELLER P.D.K.N. P-4, LLC, a Florida limited liability company

Buyer and Seller agree Seller shall sell and Buyer shall buy the following real property ("Real Property") and personal property ("Personalty") (collectively "Property") upon the terms and conditions and any addendum to this Contract.

1. LEGAL DESCRIPTION of Real Property located in BROWARD County, FL.

SEE LANDSWAP AGREEMENT & ADDENDUM - PARCEL TWO

TAX FOLIO #: 4943 19 01 0700

1.1 PROPERTY ADDRESS: N/A  
(Address) (City) (Zip)

1.2. Seller represents the Property can be used for the following purposes: CITY OF FT LAUDERDALE CB\*\*

~~2. PURCHASE PRICE: (In U.S. funds) \$~~

~~2.1 Deposit made at the time Buyer executed this document \$~~

~~2.2 Additional deposit due within \_\_\_\_\_ United States business days after Effective Date.~~

~~Time is of the essence as to ALL deposits \$~~

~~All Deposits to be held by: \_\_\_\_\_ ("Escrow Agent")~~

~~2.3 Amount of new note and mortgage to be executed by Buyer to any lender other than Seller \$~~

~~Type of mortgage:~~

~~(CHECK ONE) ( ) Conventional, ( ) FHA, ( ) VA (If FHA or VA see Addendum)~~

~~(CHECK ONE) ( ) Prevailing Rate & Terms; OR ( ) Interest Rate \_\_\_\_\_% & Term \_\_\_\_\_ Years~~

~~(CHECK ONE) ( ) Fixed Rate, ( ) Variable rate with a maximum ceiling of \_\_\_\_\_%~~

~~Other terms: \_\_\_\_\_~~

~~2.4 Existing mortgage balance encumbering the Real Property~~

~~to be ASSUMED by Buyer approximately \$~~

~~Mortgagee Name \_\_\_\_\_ Loan # \_\_\_\_\_~~

~~(CHECK ONE) ( ) Fixed rate not to exceed the rate of \_\_\_\_\_%~~

~~( ) Variable current rate with a maximum ceiling of \_\_\_\_\_%~~

~~Balloon Mortgage: ( ) Yes ( ) No Balloon Due Date: \_\_\_\_\_~~

~~Other terms: \_\_\_\_\_~~

~~2.5 Purchase money note to Seller secured by a ( ) 1st OR ( ) 2nd purchase money mortgage,~~

~~bearing interest at the rate of \_\_\_\_\_% per annum with payments based on \_\_\_\_\_ years~~

~~amortization OR payable \$ \_\_\_\_\_ principal and interest per \_\_\_\_\_ \$~~

~~Balloon Mortgage: ( ) Yes ( ) No Balloon Due Date: \_\_\_\_\_~~

~~Due on sale: ( ) Yes ( ) No No prepayment penalty.~~

~~2.6 Other consideration: \_\_\_\_\_ \$~~

~~2.7 Approximate payment due at closing as described in paragraph 27.1~~

~~(This does not include closing costs and prepaid items) \$~~

~~2.8 PURCHASE PRICE \$~~

3. CLOSING DATE: This Contract shall be closed and the deed and possession shall be delivered on or before SEE ADDENDUM, 20\_\_\_\_ ("Closing Date") unless extended by other provisions of this Contract or separate agreement.

44 Property Address: CITY OF FORT LAUDERDALE / P.D.K.N.P-4, LLC

45

46 ~~4. TIME FOR ACCEPTANCE: If, by 5:00 p.m. 20 this offer is not~~  
47 ~~executed by all parties and a copy delivered to all parties or their Authorized Representative, this offer is withdrawn and~~  
48 ~~all deposits will be returned to Buyer.~~

49 5. PERSONALTY INCLUDED: All fixed items including: all landscaping; window screens, window treatments and  
50 hardware; wall-to-wall or attached floor coverings and attached lighting fixtures as now installed on the Real Property.  
51 Also included are the following checked items: ( ) range, ( ) oven, ( ) refrigerator, ( ) dishwasher, ( ) disposal,  
52 ( ) microwave oven, ( ) trash compactor, ( ) washer, ( ) dryer, ( ) ceiling fans ( \_\_\_\_\_ # of fans), ( ) solar  
53 equipment, ( ) satellite dishes, ( ) security/alarm systems, ( ) pool cleaning equipment (DESCRIBE): \_\_\_\_\_  
54 \_\_\_\_\_

55 5.1 ADDITIONAL PERSONALTY INCLUDED: \_\_\_\_\_  
56 \_\_\_\_\_

57  
58 5.2 PERSONALTY NOT INCLUDED: \_\_\_\_\_

59 5.3 LEASED ITEMS: ( ) security/alarm systems, ( ) propane tanks, ( ) solar equipment, ( ) satellite dishes,  
60 Other: \_\_\_\_\_

61 6. FACSIMILE/COUNTERPARTS: A legible facsimile copy of this entire Contract and any signatures shall be  
62 considered as originals. This Contract may be signed in counterparts and taken together shall be considered an original.

63 7. EFFECTIVE DATE: The Effective Date of this Contract ("Effective Date") shall be the day upon which it becomes  
64 fully executed by all parties and a copy delivered to all parties or their Authorized Representative.

65 8. TIME AND BUSINESS DAYS DEFINED: All time periods will be computed in business days unless otherwise  
66 indicated. A "business day" is every calendar day except Saturday, Sunday and national legal holidays. If any time  
67 period ends on a Saturday, Sunday or national legal holiday, performance will be due the next business day. All time  
68 periods will end at 5:00 p.m. local time in the county where the Real Property is located.

69 9. DELIVERY TO AUTHORIZED REPRESENTATIVE: Delivery of any document required or permitted by this  
70 Contract to be delivered to Buyer or Seller shall be deemed to be delivered when delivery has been made to such party's  
71 Authorized Representative ("Authorized Representative").

72 9.1 DEFINITION OF AUTHORIZED REPRESENTATIVE: Authorized Representative shall include:

73 9.1.1 any licensed Florida attorney representing Buyer or Seller in this transaction (as to the party the attorney represents);

74 9.1.2 any person specifically authorized in writing by Buyer or Seller to receive documents;

75 9.1.3 as to Seller, the Florida real estate licensee(s) shown as listing sales associate(s) and the active broker(s) ("Broker")  
76 of licensee's real estate firm;

77 9.1.4 as to Buyer, the Florida real estate licensee(s) presenting this document to Seller or Seller's Authorized  
78 Representative and the active broker(s) ("Broker") of licensee's real estate firm.

79 10. EVIDENCE OF TITLE: Seller shall, at Seller's expense, furnish to Buyer or Buyer's closing agent not less than  
80 fifteen (15) business days prior to the Closing Date either: 1) a certified abstract of title which shall commence with the  
81 earliest public records with certified search through the Effective Date; or 2) a prior owner's title insurance policy issued  
82 by a currently licensed title insurance company and partial certified abstract or certified search from the date of such  
83 policy through the Effective Date. Seller shall convey a marketable title, subject only to liens, encumbrances, exceptions  
84 on qualifications set forth in this Contract and those which shall be discharged by Seller at or before closing. Marketable  
85 title shall be determined according to applicable Title Standards adopted by The Florida Bar and in accordance with the law.

86 ~~10.1 PALM BEACH COUNTY: If the Real Property is located in Palm Beach County, Seller shall, at Seller's expense,~~  
87 ~~deliver to Buyer, a title insurance commitment and policy issued by a Florida licensed title insurer acceptable to major~~  
88 ~~institutional lenders located in Palm Beach County agreeing to issue to Buyer, upon recording of the deed, an owner's~~  
89 ~~policy of title insurance in the amount of the Purchase Price, insuring marketable title in Buyer to the Real Property~~  
90 ~~subject only to liens, encumbrances, exceptions or qualifications set forth in this Contract and those which shall be~~  
91 ~~discharged by Seller at or before closing.~~

92 Property Address: CITY OF FORT LAUDERDALE / P.D.K.N.P-4, LLC

93 10.2 RESERVATIONS: A right of entry in connection with oil, mineral or gas reservations shall constitute a title  
94 defect, unless such right of entry is prohibited by government regulations.

95 10.3 TITLE DEFECTS: Buyer shall have ten (10) business days from the date of receiving evidence of title to  
96 examine same. If title is found to be defective, Buyer shall within said period, notify Seller in writing specifying  
97 the defects. If such defects render the title unmarketable, Seller shall have thirty (30) business days from the receipt  
98 of such notice to cure the defects, and if after said period Seller shall not have cured the defects, Buyer shall have  
99 the option of: 1) accepting title as it then is; or 2) terminating this Contract by delivery of written notice to Seller or  
100 his Authorized Representative, and deposits shall be returned to Buyer and all parties shall be released from all  
101 further obligations herein.

102 11. SURVEY: Buyer, at Buyer's expense, within the time allowed to deliver evidence of title and to examine  
103 same, may have the Real Property surveyed and certified by a registered Florida surveyor. If the survey shows  
104 encroachment on the Real Property or that improvements located on the Real Property encroach on setback lines,  
105 easements, lands of others, or violate any restrictions, contract covenants or applicable governmental regulation,  
106 the same shall constitute a title defect. If the Real Property is located east of the Intracoastal Waterway it may be  
107 affected by the Coastal Construction Control Line as defined in F.S. 161.053.

108 12. CONVEYANCE: Seller shall convey title to the Real Property by statutory warranty, or fiduciary special warranty  
109 deed, if applicable, subject only to land use designation, zoning restrictions, prohibitions and other requirements  
110 imposed by governmental authority; restrictions, easements and matters appearing on the plat or otherwise common to  
111 the subdivision; ~~public utility easements of record which are located contiguous to the Real Property lines and not more~~  
112 ~~than twelve (12) feet in width as to the rear or front lines and seven and one half (7.5) feet in width as to the side lines~~  
113 ~~(unless otherwise specified herein);~~ taxes for year of closing and subsequent years; assumed mortgages and purchase  
114 money mortgages (provided there exists at closing no violation of the foregoing and none of them prevents the use of the  
115 Real Property for the purpose represented in this Contract); matters contained in this Contract and matters otherwise  
116 accepted by Buyer. Personalty shall, at request of Buyer, be transferred by an absolute bill of sale with warranty of title,  
117 subject only to such matters as are otherwise provided herein.

118 ~~13. EXISTING MORTGAGES: If Buyer is assuming an existing mortgage, Seller shall obtain and furnish a statement~~  
119 ~~from the mortgagee setting forth the principal balance, method of payment, interest rate and whether the mortgage is in~~  
120 ~~good standing. If there are charges for the change of ownership, including charges for assumption, they shall be paid by~~  
121 ~~Buyer unless the total charges exceed one percent (1%) of the unpaid balance of the mortgage to be assumed. If the total~~  
122 ~~cost of the above items exceed one percent (1%) of the unpaid balance of the mortgage to be assumed, then either party~~  
123 ~~shall have the option of paying any amount in excess so the entire cost is paid, and this Contract shall remain in full~~  
124 ~~force and effect. However, if neither party agrees to pay the additional amount, then either party may terminate this~~  
125 ~~Contract by delivery of written notice to the other party or his Authorized Representative, and deposits shall be returned~~  
126 ~~to Buyer and all parties shall be released from all further obligations herein.~~

127 13.1 APPLICATION AND QUALIFICATION: Buyer shall make application for assumption of the existing mortgage  
128 within \_\_\_\_\_ business days (five (5) business days if this blank is not filled in) after the Effective Date. Buyer agrees  
129 to make a good faith, diligent effort to assume the existing mortgage and agrees to execute all documents required by the  
130 mortgagee for the assumption. If the mortgagee does not give written consent to permit the Buyer to assume the existing  
131 mortgage at the rate and terms of payment specified herein within \_\_\_\_\_ business days (twenty (20) business days if  
132 this blank is not filled in) after the Effective Date, either party may terminate this Contract by delivery of written notice  
133 to the other party or his Authorized Representative, and deposits shall be returned to Buyer and all parties shall be  
134 released from all further obligations herein. This right of termination shall cease upon Buyer obtaining written approval  
135 for assumption of the mortgage prior to delivery of the notice of termination.

136 13.2 VARIANCE: Any variance in the amount of a mortgage to be assumed and the amount stated in this Contract shall be  
137 added to or deducted from the cash payment. If the mortgage balance is more than three percent (3%) less than the amount  
138 indicated in this Contract, Seller shall have the option of adjusting the Purchase Price to an amount where the differential is  
139 no more than three percent (3%), and if Seller declines to do so, then either party may terminate this Contract by delivery of  
140 written notice to the other party or his Authorized Representative, and deposits shall be returned to Buyer and all parties shall  
141 be released from all further obligations herein. This notice must be given not less than five (5) business days prior to closing.

142 13.3 DISPOSITION OF ESCROW BALANCE: If Buyer assumes a mortgage, Seller shall receive as credit at closing an  
143 amount equal to the escrow funds held by the mortgagee, which funds shall thereupon be transferred to Buyer.

144 ~~14. NEW MORTGAGES: If Buyer executes a mortgage, all related costs and charges shall be paid by Buyer. Except as~~

145 Property Address: CITY OF FORT LAUDERDALE / P.D.K.N.P-4, LLC

146 ~~provided below, any purchase money note and mortgage to Seller shall follow a form with terms generally accepted and~~  
147 used by institutional lenders doing business in the county where the Real Property is located. A purchase money  
148 mortgage shall provide for an annual proof of payment of taxes and insurance against loss by fire with extended  
149 coverage in an amount not less than the full insurable value of the improvements. A first mortgage and note shall  
150 provide for acceleration at the option of the holder after thirty (30) calendar days default; for junior mortgages this shall  
151 be ten (10) calendar days. The note shall provide for a late charge of five percent (5%) of the payment due if payment is  
152 received by the mortgagee more than ten (10) calendar days after the due date and mortgagee has not elected to  
153 accelerate. Junior mortgages shall require the owner of the Real Property encumbered to keep all prior liens and  
154 encumbrances in good standing and shall forbid the owner from accepting modifications of future advances under any  
155 prior mortgages. Any prepayment shall apply against principal amounts last maturing.

156 14.1 PREQUALIFICATION: Within \_\_\_\_\_ business days (five (5) business days if this blank is not filled in) after  
157 the Effective Date, Buyer shall provide to Seller a letter from a lender stating that, based on a review of Buyer's  
158 application and credit report, Buyer is prequalified for the mortgage loan indicated in Paragraph 2.3. If Buyer fails to  
159 provide such letter within that time, Seller may terminate this Contract by delivery of written notice to Buyer or his  
160 Authorized Representative and deposits shall be returned to Buyer and all parties shall be released from all further  
161 obligations herein. This right of termination shall cease upon Buyer obtaining a loan commitment prior to delivery of the  
162 notice.

163 14.2 APPLICATION AND QUALIFICATION: If this Contract provides for Buyer to obtain new mortgage financing,  
164 then Buyer's performance under this Contract shall be contingent upon Buyer obtaining said mortgage financing upon  
165 the terms stated, or if none are stated, then upon the terms generally prevailing at such time in the county where the Real  
166 Property is located. Buyer agrees to apply within \_\_\_\_\_ business days (five (5) business days if this blank is not  
167 filled in) after the Effective Date and to make a good faith, diligent effort to obtain mortgage financing. The commission  
168 or omission of any act by Buyer calculated to produce a rejection by any mortgage lender shall be a default by Buyer.

169 14.3 RELEASE OF INFORMATION: Buyer authorizes their mortgage broker and/or lender to provide information to  
170 Buyer, Seller and their Authorized Representatives in accordance with Section VII of the Gramm-Leach-Bliley Act. The  
171 information to be provided is limited to information necessary to verify that Buyer is complying with this Contract and  
172 that there has been no material change in any information provided.

173 14.4 FAILURE TO OBTAIN LOAN COMMITMENT: If within \_\_\_\_\_ business days (thirty (30) business days if  
174 this blank is not filled in) after the Effective Date, or by the Closing Date, whichever occurs sooner, Buyer fails to obtain  
175 a loan commitment, or after diligent effort Buyer is not able to comply with the terms and conditions of the loan  
176 commitment, and Buyer does not waive Buyer's rights under this subparagraph within the time stated for obtaining the  
177 commitment, then either party may terminate this Contract by delivery of written notice to the other party or his  
178 Authorized Representative, and deposits shall be returned to Buyer and all parties shall be released from all further  
179 obligations herein. This right of termination for failure to obtain a loan commitment shall cease upon Buyer obtaining a  
180 ~~loan commitment prior to delivery of the notice of termination.~~

181 15. INSPECTIONS, ~~REPAIR AND MAINTENANCE~~: Buyer shall have the right, at Buyer's expense, to have ~~roof, seawall,~~  
182 ~~dock, pool, electrical, plumbing, sprinkler system, window, septic system, radon, mold, hazardous substance, environmental,~~  
183 ~~wood destroying organism, air conditioning and heating system, appliances, mechanical, structural~~ and other inspections  
184 made by a person who specializes in and holds an occupational license (if required by law) to conduct such inspections or  
185 who holds a Florida license to repair and maintain the items inspected ("Professional Inspector"). ~~All written reports of~~  
186 Buyer's inspections, together with the estimated cost of repairs and treatments, shall be delivered to Seller or Seller's  
187 Authorized Representative within \_\_\_\_\_ business days (fifteen (15) business days if this blank is not filled in) after the  
188 Effective Date except any wood destroying organism inspection report shall be delivered not later than fifteen (15) business  
189 days prior to the Closing Date. If such reports and estimates are not delivered within the stated time, Buyer is deemed to have  
190 accepted the Property "As Is."

191 15.1 DISPUTES: If Seller disagrees with Buyer's inspection reports, Seller shall have the right to have inspections of the  
192 disputed items made at Seller's expense by Professional Inspectors. All written reports of Seller's inspections together with  
193 the estimated cost of repairs and treatments, shall be delivered to Buyer or Buyer's Authorized Representative within  
194 five (5) business days from the date Seller receives Buyer's report. If Buyer's and Seller's inspection reports do not  
195 agree, Buyer and Seller shall agree on a third Professional Inspector, whose report shall be binding. The cost of the third  
196 Professional Inspector shall be paid equally by Buyer and Seller.

197 15.2 DEFECTS: If inspections reveal functional defects, code violations, open building permits, the existence of radon,  
198 mold, hazardous substances, environmental pollution, or wood destroying organism infestation or damage, the cost of  
199 ~~correction, treatment and repair shall be at the expense of Seller and shall be performed in a workmanlike manner.~~

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201 ~~15.2.1 WOOD DESTROYING ORGANISMS: Wood destroying organisms means arthropod or plant life which~~  
202 ~~damages and can reinfest seasoned wood in a structure, namely: termites, powder-post beetles, oldhouse borers, wood-~~  
203 ~~decaying fungi.~~

204 ~~15.2.1.1 TREATMENT: Seller shall have the Property treated and any tenting removed at least two (2) business days before~~  
205 ~~the Closing Date by a licensed pest control company if required to obtain a clear wood destroying organisms report.~~

206 ~~15.2.1.2 WOOD DAMAGE: Seller shall repair at least two (2) business days before the Closing Date all wood damage~~  
207 ~~required to obtain a clear wood destroying organisms report.~~

208 ~~15.2.2 EXCLUSIONS:~~

209 ~~15.2.2.1 AGE AND AESTHETIC DEFECTS: Age alone is not a functional defect nor are aesthetic defects which~~  
210 ~~include: cracked or broken roof tiles; pitted marcite; missing or torn window screens or screen doors (excluding pool or~~  
211 ~~patio screen enclosures); fogged windows; tears, worn spots and discoloration of floor coverings, wallpapers, window~~  
212 ~~treatments; nail holes; scratches, dents, scrapes, chips and caulking in ceilings, walls, flooring, tile, fixtures, mirrors; and~~  
213 ~~minor cracks in floor tiles, windows, driveways, sidewalks, pool decks, garage and patio floors.~~

214 ~~15.2.2.2 CODE: Seller is not obligated to bring any item into compliance with existing building code regulations if such~~  
215 ~~item complied with the building code or was granted a certificate of occupancy at the time it was constructed.~~

216 ~~15.2.2.3 FENCES AND UTILITY BUILDINGS: Wood destroying organism infestation or damage in fences or utility~~  
217 ~~structures more than three (3) feet from any residential structure is not a defect.~~

218 ~~15.2.2.4 EXISTING WOOD DESTROYING ORGANISMS WARRANTY: Seller is not obligated to treat the Property~~  
219 ~~if all of the following apply: 1) there is no visible live infestation and 2) the Property has been previously treated and 3)~~  
220 ~~assignment at closing from Seller to Buyer of a current full-treatment warranty that has at least twelve (12) months to~~  
221 ~~run is accepted by the warrantor and 4) Buyer's lender (if any) is willing to close with the above.~~

222

223 ~~15.3 LIMITATION: If the cost of repairs and treatments exceeds \_\_\_\_\_~~  
224 ~~(two percent (2%) of the Purchase Price if this blank is not filled in), Buyer or Seller may elect to pay the excess, failing~~  
225 ~~which, either party may terminate this Contract by delivery of written notice to the other party or his Authorized~~  
226 ~~Representative and deposits shall be returned to Buyer and all parties shall be released from all further obligations~~  
227 ~~herein.~~

228 ~~15.4 COMPLETION DATE AND ESCROW FOR REPAIRS: Seller shall complete all corrections, treatments and repairs at~~  
229 ~~least two (2) business days before the Closing Date and, if not, sufficient funds shall be escrowed at closing to effect such~~  
230 ~~corrections, treatments and repairs, unless prohibited by Buyer's lender. Funds equal to 150% of the maximum estimate for~~  
231 ~~corrections, treatments and repairs as set forth in the inspection reports shall be deemed sufficient funds.~~

232 ~~15.5 WALK THROUGH INSPECTION: Buyer is entitled to a walk through inspection immediately prior to closing to~~  
233 ~~verify compliance with this section and to verify that no functional defects have occurred subsequent to the inspections.~~  
234 ~~All appliances and machinery included in this sale shall be in working order at closing.~~

235 ~~15.6 UTILITIES: Seller shall provide utility services for all inspections including walk-thru inspections and until~~  
236 ~~closing is completed. All parties and their Authorized Representatives shall be given reasonable prior notice of all~~  
237 ~~inspections and shall have the right to be present at all inspections.~~

238 ~~15.7 MAINTENANCE: Between the Effective Date and the closing, Seller shall maintain the Property, including but not~~  
239 ~~limited to the lawn, shrubbery and pool in the same condition as it was on the Effective Date, ordinary wear and tear~~  
240 ~~excepted. Seller shall vacate the Property and remove all furniture and personal items not included in this sale and leave~~  
241 ~~the Property in a clean, broom-swept condition before the time set for closing.~~

242 ~~16. ENVIRONMENTAL CONDITION: Seller represents that Seller is not aware of any prior or existing environmental~~  
243 ~~condition, situation or incident on, at, or concerning the Property or any adjacent property that may give rise as against~~  
244 ~~Seller or the Property to an action or to liability under any law, rule, ordinance or common law theory.~~

245 ~~17. INSURANCE: If insurance cannot be obtained because of tropical storm activity, either party may delay closing~~  
246 ~~until tropical storm activity no longer prevents acquisition of insurance.~~

247 ~~18. SERVICE CONTRACTS: Buyer may accept or reject continuation of service contracts, provided they are~~  
248 ~~assignable to Buyer. If accepted, the cost shall be prorated. Any transfer fee shall be paid by Buyer.~~

249 ~~19. INGRESS AND EGRESS: Seller warrants there is ingress and egress to the Real Property over public or private~~  
250 ~~roads or easements.~~

251 ~~20. LEASES: Unless indicated under Special Clauses, at closing there shall be no lease or right of occupancy~~  
252 ~~encumbering the Real Property. If this Contract is subject to leases or rights of occupancy which will continue after~~  
253 ~~closing, Seller shall, ten (10) business days prior to the Closing Date, furnish to Buyer copies of all written leases or~~

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255 ~~written rights of occupancy and estoppel letters from each tenant specifying the nature and duration of said tenant's~~  
256 ~~occupancy, rental rate, prepaid rents or security deposits paid by tenant. If Seller is unable to obtain estoppel letters from~~  
257 ~~tenants, the same information may be furnished by Seller to Buyer in the form of a Seller's affidavit. Advance rents~~  
258 ~~shall be prorated and deposits credited to Buyer at closing.~~  
259 21. SELLER'S AFFIDAVIT: Seller shall furnish to Buyer at closing an affidavit attesting to the absence of any financing  
260 statements, claims of lien or potential lienors known to Seller. If the Real Property has been improved within ninety (90)  
261 calendar days prior to closing, Seller shall deliver to Buyer an affidavit setting forth names and addresses of all contractors,  
262 subcontractors, suppliers and materialmen and stating that all bills for work on the Real Property have been paid. Buyer may  
263 require releases of all such potential liens. The affidavit shall state that there are no matters pending against Seller that could  
264 give rise to a lien that would attach to the Property between the disbursing of the closing funds and the recording of the  
265 instrument of conveyance and that Seller has not, and will not, execute any instrument that could adversely affect title to the  
266 Property.  
267 22. DOCUMENTS FOR CLOSING: If applicable, Seller shall cause to be prepared and provided a deed, purchase  
268 money mortgage and note, assignment of leases, bill of sale, Seller's affidavits, FIRPTA affidavit, survey or affidavit  
269 regarding coastal construction control line, F.S. 161.57, and any corrective instruments that may be required in  
270 connection with perfecting the title. Buyer's closing agent shall prepare the closing statement.  
271 23. EXPENSES: Abstracting prior to closing, governmental lien searches, cost of obtaining payoff and estoppel letters, state  
272 documentary stamps on the deed and the cost of recording any corrective instruments shall be paid by Seller. Intangible  
273 personal property taxes and documentary stamps to be affixed to the purchase money mortgage or required on any mortgage  
274 modification, the cost of recording the deed and purchase money mortgage and documentary stamps and recording costs  
275 assessed in connection with assumption of any existing mortgage shall be paid by Buyer.  
276 24. PRORATION: Taxes, insurance, assumed interest, utilities, rents and other expenses and revenue of the Property shall be  
277 prorated through the day prior to closing. Taxes shall be prorated on the current year's tax, if available. If the closing occurs  
278 when the current year's taxes are not available, and the current year's assessment is available, taxes will be prorated based  
279 upon such assessment and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated  
280 on the prior year's tax; provided, if there are completed improvements on the Property by January 1st of the year of closing  
281 and these improvements were not in existence on January 1st of the prior year, then the taxes shall be prorated through the  
282 day prior to closing based upon the prior year's millage and at an equitable assessment to be agreed upon between the parties,  
283 failing which, requests will be made to the county tax assessor for an informal assessment taking into consideration the  
284 improvements. Any tax proration based on an estimate may, at the request of either party, be subsequently readjusted upon  
285 receipt of the tax bill. All such prorations whether based on actual tax or estimated tax will make appropriate allowance for  
286 the maximum allowable discount and for homestead or other exemptions if allowed for the current year. The provisions in this  
287 paragraph shall survive the closing.  
288 25. SPECIAL ASSESSMENT LIENS: Certified, confirmed and ratified governmental special assessment liens as of the  
289 Effective Date are to be paid by Seller. Pending liens as of the Effective Date shall be assumed by Buyer. The provisions in  
290 this paragraph shall survive the closing.  
291 26. PLACE OF CLOSING: Closing shall be held at the office of the Buyer's closing agent if located within the county where  
292 the Real Property is located, and if not, then at the office of Seller's closing agent if located within the county where the Real  
293 Property is located, and if not, then at such place as mutually agreed upon. If a portion of the Purchase Price is to be derived  
294 from institutional financing, the requirements of the lender as to place, time and procedures for closing shall control,  
295 notwithstanding anything in this Contract to the contrary.  
296 27. PROCEEDS OF SALE AND CLOSING PROCEDURE: The deed shall be recorded and evidence of the title continued at  
297 Buyer's expense to show title in Buyer without any encumbrances or changes which would render Seller's title unmarketable  
298 from the date of the last evidence, and the cash proceeds of sale may be held in escrow by Seller's attorney or by such other  
299 escrow agent as may be mutually agreed upon for a period of not longer than ten (10) business days. If Seller's title is  
300 rendered unmarketable, Buyer's closing agent shall, within said ten (10) day period, notify Seller in writing of the defect, and  
301 Seller shall have thirty (30) business days from receipt of such notice to cure the defect and shall use best efforts to do so. If  
302 Seller fails to timely cure the defect, all monies paid by Buyer shall, upon written demand and within five (5) business days  
303 thereafter, be returned to Buyer, and simultaneously with such repayment Buyer shall vacate the Property and reconvey the  
304 Property to Seller by special warranty deed. If Buyer fails to make timely demand for refund, he shall take title "As Is"  
305 waiving all rights against Seller as to such intervening defect except such rights as may be available to Buyer by virtue of  
306 warranties contained in the deed. Notwithstanding the above, if title insurance is available, at standard rates insuring  
307 Buyer as to any title defects arising between the effective date of the title commitment and the recording of Buyer's  
308 deed, the proceeds of sale shall be disbursed to Seller at closing. The provisions of this paragraph shall survive the  
309 closing.

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311 27.1 All payments including loan proceeds shall be made in U.S. funds in the form of a wire transfer, certified check,  
312 cashiers check, bank check, official check, treasurer's check, money order or equivalent instrument issued by a bank,  
313 savings and loan association, or credit union which must have at least one branch in the county where the Real Property  
314 is located.

315 ~~27.2 Possession and occupancy will be delivered to Buyer at closing and funding.~~

316 27.3 The Broker's professional service fee shall be disbursed simultaneously with Seller's closing proceeds.

317 ~~28. ESCROW DEPOSITS: The provisions of this Section 28 shall survive the termination or closing of this Contract.~~

318 28.1 The Escrow Agent agrees to promptly deposit, retain, and disburse all deposits in accordance with the terms of this  
319 Contract or as may be directed in writing by Seller and Buyer or as may be directed by a court of competent jurisdiction.

320 28.2 If the Escrow Agent is in doubt as to his duties, Escrow Agent shall retain the deposits until Seller and Buyer  
321 collectively agree in writing to the disposition thereof or until a court of competent jurisdiction has adjudicated the rights  
322 of Seller and Buyer.

323 28.3 If the Escrow Agent is a licensed real estate broker, Escrow Agent shall comply with the provisions of  
324 Chapter 475, Florida Statutes, as may be amended from time to time and with any regulations promulgated by the  
325 Department of Business and Professional Regulation pertaining to the duties and responsibilities of licensed real  
326 estate brokers.

327 28.4 Any suit between Buyer and Seller where Escrow Agent is made a party because of acting as Escrow Agent,  
328 or in any suit where Escrow Agent interpleads the deposits, Escrow Agent shall recover reasonable attorney's fees  
329 and costs from the deposits; as between Buyer and Seller, such fees and costs shall be charged and assessed against  
330 the non-prevailing party.

331 28.5 The parties agree that Escrow Agent shall not be liable to any party or person for misdelivery to Buyer or Seller of  
332 the deposits, unless such misdelivery is due to willful breach of Contract or gross negligence of Escrow Agent.

333 29. RISK OF LOSS: If the improvements are damaged by fire or other casualty before delivery of the deed and can be  
334 restored to substantially the same condition as existing on the Effective Date within a period of sixty (60) business days,  
335 Seller may restore the improvements and the Closing Date and date of delivery of possession shall be extended  
336 accordingly. If Seller fails to do so, Buyer shall have the option of: 1) taking the Property "As Is" together with  
337 insurance proceeds, if any, or 2) terminating this Contract by delivery of written notice to Seller or his Authorized  
338 Representative and deposits shall be returned to Buyer and all parties shall be released from all further obligations herein.

339 30. ASSIGNMENT: This Contract is not assignable without the specific written consent of Seller if new mortgage  
340 financing or an assumption of an existing mortgage is a contingency.

341 31. ATTORNEY FEES AND COSTS: In connection with any arbitration or litigation arising out of this Contract,  
342 the prevailing party, whether Buyer, Seller or Broker shall be entitled to recover all costs incurred including  
343 attorney's fees and legal assistant fees for services rendered in connection therewith, including appellate  
344 proceedings and postjudgment proceedings. The provisions in this paragraph shall survive the termination or  
345 closing of this Contract.

346 32. DEFAULT: If either party defaults, the rights of the non-defaulting party and the Broker(s) shall be as provided  
347 herein and such rights shall be deemed to be the sole and exclusive rights in such event. The provisions of this Section  
348 32 shall survive the termination of this Contract.

349 32.1 BUYER DEFAULT: If Buyer fails to perform any of the covenants of this Contract, **all money paid or to be paid**  
350 **as deposits by Buyer** pursuant to this Contract shall be retained by or for the account of Seller as consideration for the  
351 execution of this Contract and as liquidated damages and in full settlement of any claims for damages and specific  
352 performance by Seller against Buyer.

353 32.2 SELLER DEFAULT: If Seller fails to perform any of the covenants of this Contract, all money paid or  
354 deposited by Buyer pursuant to this Contract shall be returned to Buyer upon demand, or Buyer shall have the right  
355 of specific performance. In addition, Seller shall immediately pay to Brokers the full professional service fee  
356 provided for in this Contract or separate listing contract.

357 32.3 MEDIATION: Any controversy or claim between Buyer and Seller arising out of or relating to this Contract  
358 or a breach thereof may be submitted to mediation prior to arbitration or litigation. The mediator's fees shall be  
359 paid equally by the parties of the mediation. Any of the above proceedings shall be brought in the county where the  
360 Real Property is located and shall be conducted pursuant to Florida Statutes relating to mediation, arbitration or  
361 litigation.

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363 33. CONTRACT NOT RECORDABLE AND PERSONS BOUND: The benefits and obligations of the covenants  
364 herein shall inure to and bind the respective heirs, representatives, successors and assigns (when assignment is  
365 permitted) of the parties hereto. Neither this Contract nor any notice shall be recorded in any public records.

366 34. SURVIVAL OF COVENANTS: No provision, covenant or warranty of this Contract shall survive the closing  
367 except as expressly provided herein and except express representations and warranties contained herein.

368 35. CONCURRENCY: No representation is made regarding the ability to change the current use of or to improve the  
369 Property under the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163 et  
370 seq., Florida Statutes) or any comprehensive plan or other similar ordinance promulgated by controlling governmental  
371 authorities in accordance with the Act.

372 36. FIRPTA: All parties are advised that the I.R.S. code requires Buyer to withhold ten percent (10%) of the Purchase  
373 Price for tax on sales by certain foreigners. The tax will be withheld unless affidavits of compliance with the I.R.S. code  
374 or an I.R.S. qualifying statement are provided to Buyer at closing. If this paragraph applies, Buyer and Seller agree  
375 to obtain and/or disclose their U.S. Social Security Number or Taxpayers Identification Number if required by the  
376 Closing Agent.

377 37. DISCLOSURES:

378 37.1 RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in  
379 sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that  
380 exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding  
381 radon and radon testing may be obtained from your county public health unit.

382 37.2 MOLD: Mold and/or other microscopic organisms may exist at the Property and such microscopic organisms  
383 and/or mold may cause physical injuries, including but not limited to allergic and/or respiratory reactions or other  
384 problems, particularly in persons with immune system problems, young children and/or elderly persons.

385 37.3 ENERGY-EFFICIENCY RATING: "In accordance with the Florida Building Energy-Efficiency Rating Act  
386 {Chapter 553, Part XI, F.S. (1993)}, the Buyer of Real Property with a building for occupancy located thereon is  
387 notified that the Buyer may have the building's energy-efficiency rating determined." Buyer acknowledges receipt  
388 of the "Florida Building Energy-Efficiency Rating System" Disclosure.

389 37.4 FUTURE PROPERTY TAXES: The "Save Our Home" amendment of the Florida Constitution limits the  
390 increase in the tax assessed value of a homesteaded property until the title is transferred. In the year following the  
391 closing of this sale, the tax assessed value may change to its market value which may result in a tax amount  
392 significantly higher than this year's tax amount. Existence of (or loss of) homestead and other exemptions may also  
393 affect the new tax amount. Additional information may be obtained from the local Property Appraiser's office.

394 37.5 CLOSING COSTS: Buyer may be required to pay additional closing costs, including but not limited to:  
395 attorney's fees; casualty, hazard, windstorm and flood insurance premiums; title examination and closing service  
396 fees; taxes including property tax proration; recording costs; survey costs; courier fees; tax service fees;  
397 underwriting fees; document preparation fees; utility search fees; premiums for owner and mortgagee title  
398 insurance and endorsements; and costs associated with obtaining financing, such as: application fee, appraisal fee,  
399 credit report fee and points or assumption fee.

400 37.6 SELECTION OF SERVICE PROVIDERS: If Broker gives Buyer or Seller referrals to professional persons,  
401 service or product providers or vendors of any type, including, but not limited to: lending institutions, loan brokers,  
402 attorneys, title insurers, escrow companies, inspectors, structural engineers, pest control companies, contractors and  
403 home warranty companies ("Providers"), the referrals are given based on the following disclosures:

404 37.6.1 Buyer and Seller are free to select Providers other than those referred or recommended by Broker.

405 37.6.2 If Buyer or Seller instructs Broker to arrange for any Provider to perform services related to this Contract, Broker  
406 makes such arrangements only as Authorized Representative for the account of Buyer or Seller.

407 37.6.3 Broker does not guarantee the performance of any Providers.

408 ~~38. DISCLOSURE OF LATENT DEFECTS: Seller specifically acknowledges and understands that if Seller knows of~~  
409 ~~latent defects (defects not readily observable) materially affecting the value of the Property, then Seller is under a duty~~  
410 ~~to disclose these latent defects to Buyer. Seller represents that if Seller knows of latent defects, they are set forth in~~  
411 ~~writing under Special Clauses below or have been separately disclosed by Seller to Buyer. Seller and Buyer agree to~~  
412 ~~indemnify and hold harmless Broker from damages resulting from the inaccuracy of this information except to the extent~~  
413 ~~Broker was aware of latent defects and did not disclose them to Buyer.~~

*DBP*

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415 ~~39. HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE SUMMARY: For all properties which are~~  
416 ~~not condominiums or cooperative apartments: The Homeowners' Association/Community Disclosure Summary is~~  
417 ~~incorporated into and made a part of this Contract. BUYER SHOULD NOT EXECUTE THIS CONTRACT UNTIL~~  
418 ~~BUYER HAS RECEIVED AND READ THE DISCLOSURE SUMMARY.~~

419 ~~IF THE DISCLOSURE SUMMARY REQUIRED BY SECTION 689.26, FLORIDA STATUTES, HAS NOT~~  
420 ~~BEEN PROVIDED TO THE PROSPECTIVE PURCHASER BEFORE EXECUTING THIS CONTRACT FOR~~  
421 ~~SALE, THIS CONTRACT IS VOIDABLE BY BUYER BY DELIVERING TO SELLER OR SELLER'S AGENT~~  
422 ~~WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 3 DAYS AFTER RECEIPT OF~~  
423 ~~THE DISCLOSURE SUMMARY OR PRIOR TO CLOSING, WHICHEVER OCCURS FIRST. ANY~~  
424 ~~PURPORTED WAIVER OF THIS VOIDABILITY RIGHT HAS NO EFFECT. BUYER'S RIGHT TO VOID~~  
425 ~~THIS CONTRACT SHALL TERMINATE AT CLOSING.~~

426 40. FINAL AGREEMENT: This Contract represents the final agreement of the parties and no agreements or  
427 representations unless incorporated into this Contract shall be binding on the parties. Typewritten provisions shall  
428 supersede printed provisions and handwritten provisions shall supersede typewritten and/or printed provisions. Such  
429 handwritten or typewritten provisions as are appropriate may be inserted on this form or attached as an addendum.  
430 Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall  
431 include all genders.

432 SPECIAL CLAUSES:

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441 SEE ADDENDUM PARCEL TWO ATTACHED  
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458 ADDENDUM(S) ATTACHED: CHECK ALL THAT APPLY

- |     |   |  |
|-----|---|--|
| 459 | <input type="checkbox"/> AS-IS Addendum                           | <input type="checkbox"/> Homeowners' Assoc./Community Disclosure Summary |
| 460 | <input type="checkbox"/> Coastal Construction Control Line Waiver | <input type="checkbox"/> Interest-Bearing Escrow Agreement               |
| 461 | <input type="checkbox"/> Condominium Addendum                     | <input type="checkbox"/> Lead-Based Paint Disclosure                     |
| 462 | <input type="checkbox"/> FHA/VA Addendum                          | <input type="checkbox"/> Option To Purchase Addendum                     |
| 463 | <input type="checkbox"/> FIRPTA Addendum                          | <input type="checkbox"/> Seller's Disclosure                             |
| 464 | <input type="checkbox"/> Homeowners' Association Addendum         | <input checked="" type="checkbox"/> Other: <u>ADDENDUM</u>               |

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466 ~~BUYER~~ \_\_\_\_\_ Date \_\_\_\_\_ ~~BUYER~~ \_\_\_\_\_ Date \_\_\_\_\_

467 Printed Name \_\_\_\_\_ Printed Name \_\_\_\_\_

468 Social Security or Tax I.D. # \_\_\_\_\_ Social Security or Tax I.D. # \_\_\_\_\_

469 Address \_\_\_\_\_

470 Tele. #: ( ) \_\_\_\_\_ Fax #: ( ) \_\_\_\_\_ Tele. #: ( ) \_\_\_\_\_ Fax #: ( ) \_\_\_\_\_

471 E-Mail: \_\_\_\_\_ E-Mail: \_\_\_\_\_

472 DEPOSIT RECEIVED \_\_\_\_\_, 20 \_\_\_\_\_ to be held subject to this Contract; and to clearance.

473 Deposit Received By (print name): \_\_\_\_\_ (signature): \_\_\_\_\_

474 for delivery to Escrow Agent within one (1) business day.

475 ACCEPTANCE OF CONTRACT & PROFESSIONAL SERVICE FEE: Seller hereby accepts this offer and recognizes  
476 \_\_\_\_\_ as Listing Broker. Broker MLS ID # \_\_\_\_\_

477 Address: \_\_\_\_\_

478 Tele. # ( ) \_\_\_\_\_ Fax #: ( ) \_\_\_\_\_ Sales Associate \_\_\_\_\_

479 Sales Assoc. MLS ID#: \_\_\_\_\_ Sales Assoc. E-Mail: \_\_\_\_\_

480 and recognizes \_\_\_\_\_ as Selling Broker. Broker MLS ID # \_\_\_\_\_

481 Address: \_\_\_\_\_

482 Tele. # ( ) \_\_\_\_\_ Fax #: ( ) \_\_\_\_\_ Sales Associate \_\_\_\_\_

483 Sales Assoc. MLS ID#: \_\_\_\_\_ Sales Assoc. E-Mail: \_\_\_\_\_

484 (CHECK and COMPLETE THE ONE APPLICABLE)

485 ( ) IF A WRITTEN LISTING AGREEMENT IS CURRENTLY IN EFFECT: Seller agrees to pay Listing Broker named above  
486 according to an existing, separate written professional fee agreement as per MLS # \_\_\_\_\_. If Buyer fails to perform  
487 and deposits are retained, 50%, but not exceeding the professional fee, shall be equally divided between the Brokers as full  
488 consideration for Brokers' services including costs expended by Brokers, and the balance shall be paid to Seller. OR

489 ( ) IF NO WRITTEN LISTING AGREEMENT IS CURRENTLY IN EFFECT: Seller shall pay Brokers named above, at closing,  
490 from the proceeds of sale, a professional fee of \_\_\_\_\_% of the Purchase Price and a transaction fee of \$ \_\_\_\_\_  
491 for Brokers' services in effecting the sale by finding Buyer ready willing and able to purchase pursuant to the Contract. If Buyer  
492 fails to perform and deposits are retained, 50%, but not exceeding the professional fee, shall be evenly divided between the Brokers  
493 as full consideration for Brokers' services including costs expended by Brokers, and the balance shall be paid to Seller.  
494

495 SELLER \_\_\_\_\_ Date \_\_\_\_\_ SELLER \_\_\_\_\_ Date \_\_\_\_\_

496 Printed Name \_\_\_\_\_ Printed Name \_\_\_\_\_

497 Social Security or Tax I.D. # \_\_\_\_\_ Social Security or Tax I.D. # \_\_\_\_\_

498 Address \_\_\_\_\_

499 Tele. #: ( ) \_\_\_\_\_ Fax #: ( ) \_\_\_\_\_ Tele. #: ( ) \_\_\_\_\_ Fax #: ( ) \_\_\_\_\_

500 E-Mail: \_\_\_\_\_ E-Mail: \_\_\_\_\_

501 THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. If you do not fully understand this Contract, seek the advice  
502 of an attorney prior to signing. If you desire legal or tax advice consult an appropriate professional. This form has been approved  
503 by the Broward County Bar Association and the REALTOR® Association of Greater Fort Lauderdale, Inc. Approval does  
504 not constitute an opinion that any of the terms and conditions in this Contract should be accepted by the parties in a particular  
505 transaction. Terms and conditions should be negotiated based upon the respective interests, objections and bargaining positions of  
506 all parties.

IN WITNESS WHEREOF, the parties have set their hands and seal the day and year written above.

WITNESSES:

**CITY OF FORT LAUDERDALE**

\_\_\_\_\_

By \_\_\_\_\_  
John P. "Jack" Seiler, Mayor

\_\_\_\_\_  
[Witness type or print name]

By \_\_\_\_\_  
Lee R. Feldman, City Manager

\_\_\_\_\_  
[Witness type or print name]

ATTEST:

(CORPORATE SEAL)

\_\_\_\_\_  
Jonda K. Joseph, City Clerk

Approved as to form:

\_\_\_\_\_  
Robert B. Dunckel,  
Assistant City Attorney

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by JOHN P. "JACK" SEILER, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by LEE R. FELDMAN, City Manager of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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



WITNESSES:

**P.D.K.N. P-4, LLC**, a Florida limited liability company

\_\_\_\_\_

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

\_\_\_\_\_  
[Witness print or type name]

\_\_\_\_\_  
[Type or print name and title]

\_\_\_\_\_  
[Witness print or type name]

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2013, by \_\_\_\_\_, Managing Member of **P.D.K.N. P-4, LLC**, a Florida limited liability company. They are personally known to me or have produced \_\_\_\_\_ as identification and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

**ADDENDUM TO  
LAND SWAP  
AND  
LEASE-BACK AGREEMENT**

**BOKAMPER TO CITY  
PARCEL TWO**

**PARTIES:**

**CITY OF FORT LAUDERDALE**, a Florida municipal corporation, whose mailing address is 100 North Andrews Avenue, Fort Lauderdale, FL 33301 (hereinafter, "CITY")

-and-

**P.D.K.N. P-4, LLC**, a Florida limited liability corporation, whose mailing address is 1280 S. Pine Island Road, Plantation, FL 33324, (hereinafter, "BOKAMPER")

**PROPERTY:**

**PARCEL ONE:**

Lots 1, 2, 3, 4, 12, 13 and 14, Block 2 of GALT OCEAN MILE, according to the Plat thereof, as recorded in Plat Book 34, Page 16 of the Public Records of Broward County, Florida; said lands lying, situate and being in Broward County, Florida .

(Property ID No. 4943 19 01 0160)

**PARCEL TWO:**

Lots 2 through 6, Block 5, of GALT OCEAN MILE, according to the Plat thereof, as recorded in Plat Book 34, Page 16 of the Public Records of Broward County, Florida; LESS the West 18.67 feet thereof.

(Property ID No. 4943 19 01 0700)

**DRAINAGE EASEMENT**

**A 20 FOOT WIDE DRAINAGE EASEMENT, BEING A PORTION OF LOTS 6 AND 7, BLOCK 1, GALT OCEAN MILE, ACCORDING**

Addendum / Land Swap & Lease-Back Agreement  
BOKAMPER to CITY – PARCEL TWO  
P.D.K.N. P-4, L.L.C.  
City of Fort Lauderdale

**EXHIBIT "D"**

TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGE 16 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. THE CENTERLINE OF SAID STRIP OF LAND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID LOT 6;

THENCE N.05°20'27"E., ALONG THE EASTERNLY LINE OF SAID LOT 6, A DISTANCE OF 33.27 FEET, TO THE POINT OF BEGINNING OF THERE HEREIN DESCRIBED CENTERLINE;

THENCE N.86°44'45"W., A DISTANCE OF 13.22 FEET, TO A POINT ON THE WESTERLY LINE OF SAID LOT 7, SAID POINT BEING THE POINT OF TERMINATION OF THE HEREIN DESCRIBED EASEMENT.

THE SIDELINES OF SAID EASEMENT SHALL BE LENGTHED OR SHORTEN TO MEET ALL ANGLE POINTS AND TERMINATE ON THE WEST LINE OF SAID LOTS 6 AND 7.

SAID EASEMENT LYING AND BEING WITHIN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA AND CONTAINING 0.06 ACRES (2,989 SQUARE FEET), MORE OR LESS.

#### **MUNICIPAL UTILITY EASEMENT**

ALL THAT PORTION OF THE 20 FOOT ALLEY IN BLOCK 2, "GALT OCEAN MILE," ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 34, PAGE 16 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; LYING EAST OF THE EASTERLY RIGHT OF WAY LINE OF NORTHEAST 32<sup>ND</sup> AVENUE AND BOUNDED ON THE EAST BY A LINE BETWEEN THE SOUTHEAST CORNER OF LOT 11 AND THE NORTHEAST CORNER OF LOT 4 OF SAID PLAT.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, CONTAINING 3079 SUQRE FEET, MORE OR LESS.

The following Addendum is to the (i) Land Swap and Lease-Back Agreement (Land Swap Agreement) between the parties, and (ii) the Deposit Receipt and Contract for Sale and Purchase of PARCEL TWO (hereinafter, "Contract") attached to the Land Swap Agreement as **Exhibit "C"** and is hereby incorporated into that Land Swap Agreement and Contract between the parties and the parties do hereby agree as follows:

Addendum / Land Swap & Lease-Back Agreement  
BOKAMPER to CITY – PARCEL TWO  
P.D.K.N. P-4, L.L.C.  
City of Fort Lauderdale

**1. Purchase and Sale.** Subject to the terms and conditions of the Contract, as amended by this Addendum, BOKAMPER shall sell to CITY, and CITY shall purchase from BOKAMPER, all of BOKAMPER'S right, title and interest in and to PARCEL TWO.

**1.1 Effective Date.** The Effective Date of this Contract shall be the date the City Commission authorizes execution of the Land Swap and Lease-Back Agreement together with the respective Contracts and Addenda as set forth in the Land Swap Agreement.

**2. Closing Date.** This Contract shall be closed and the deed and possession of PARCEL TWO, DRAINAGE EASEMENT and MUNICIPAL UTILITY EASEMENT delivered no later than seventy (70) days after the Effective Date, unless extended by other provisions of this Contract or separate agreement; provided, however, in the event either party completes their Inspections, Testing and Examination sooner than the sixty (60) days under ¶ 5 (a) of this Addendum, such party may waive the balance of such Inspection Period by delivery of written notice thereof to the other party and the closing may go forward within ten (10) days of the last party indicating such waiver of the balance of the Inspection Period by delivery of written notice thereof to the other party.

**2.1 1<sup>st</sup> Condition Precedent to Closing.** CITY shall secure all relevant development permits for the construction of the New Fire Station 54 on PARCEL TWO in substantial accordance with that submittal to the City of Fort Lauderdale DRC, Case No. 38R13 prior to Closing. To that end BOKAMPER joins and consent to CITY applying for the relevant development permits required for construction of New Fire Station 54 prior to Closing and transferring title for PARCEL TWO from BOKAMPER to CITY and the parties agree to cooperate in good faith each with the other with respect to any applications for development permits for the construction of New Fire Station 54.

**2.2 2<sup>nd</sup> Condition Precedent to Closing.** At Closing CITY shall simultaneously convey PARCEL ONE to BOKAMPER subject to the terms and conditions of the Land Swap Agreement.

**2.3 3<sup>rd</sup> Condition Precedent to Closing.** At Closing CITY and BOKAMPER shall enter into that Lease-Back Agreement for PARCEL ONE as set forth in the Land Swap Agreement.

**2.4 Place of Closing.** Closing shall be at the office of the CITY's closing agent.

**3. Evidence of title.** Evidence of title shall be delivered to CITY within **ten (10) days** after the Effective Date of this Contract. Buyer shall have thirty (30) days from the date of receiving evidence of title to examine same. The time and procedure for curing title defects shall be in accordance with ¶s 10 ("Evidence of Title"), 10.2 ("Reservations") and 10.3 ("Title Defects") of the Contract.

**3.1 Conveyance of PARCEL TWO.** BOKAMPER'S conveyance of title to PARCEL TWO shall be by Statutory Warranty Deed, which shall convey good and marketable title, subject to (i) conditions, restrictions, limitations and easement of

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BOKAMPER to CITY – PARCEL TWO  
P.D.K.N. P-4, L.L.C.  
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record, if any, but this provision shall not operate to re-impose the same; (ii) zoning and other governmental regulations; (iii) taxes and assessments, if any, for 2013 and subsequent years.

**3.2 Conveyance of DRAINAGE EASEMENT and MUNICIPAL UTILITY EASEMENT.** BOKAMPER'S conveyance of the DRAINAGE EASEMENT and MUNICIPAL UTILITY EASEMENT shall be by the instruments attached hereto as **Exhibit "E"** and **Exhibit "F"**, and shall convey good and marketable title, subject to only (i) conditions, restrictions, limitations and easements of record, if any, but this provision shall not operate to re-impose the same; (ii) zoning and other governmental regulations; (iii) taxes and assessments, if any for 2014 and subsequent years.

**4. Survey.** If the survey shows encroachment(s) on PARCELS TWO, DRAINAGE EASEMENT or MUNICIPAL UTILITY EASEMENT or that improvements located on PARCELS TWO, DRAINAGE EASEMENT or MUNICIPAL UTILITY EASEMENT encroach on easements, lands of others, or violate any restrictions, contract covenants or applicable governmental regulation, the same shall constitute a title defect, the time and procedure for curing such shall be in accordance with ¶s 5, *Inspections, Testing and Examination*, 6, *Extension of Time*, 7, *Right of Cancellation*.

**5. Inspections, Testing and Examination.**

(a) CITY shall be provided a period ("Investigation Period") for investigation, testing and examination of PARCEL TWO and the parcel underlying the DRAINAGE EASEMENT and MUNICIPAL UTILITY EASEMENT as set forth herein. The "Investigation Period" under this Contract shall be a period starting with the Effective Date of the Contract and ending **sixty (60) days** thereafter, subject to the provisions set forth above in ¶ 2, Closing Date, regarding waive of the balance of the Inspection Period. During the Investigation Period, CITY shall have the absolute right, through its agents, servants, employees and contractors, to enter upon PARCEL TWO, the parcels underlying the DRAINAGE EASEMENT and MUNICIPAL UTILITY EASEMENT for the purpose of investigation, discovery, inspection and testing of such PARCEL and parcels as referenced above, including, without limitation soil testing and boring, environmental studies or any other testing CITY determines to be necessary or appropriate to the evaluation of the purchase, sale and development and usage of PARCEL TWO, the DRAINAGE EASEMENT and the MUNICIPAL UTILITY EASEMENT as the CITY'S New Fire Station 54, substantially consistent with the plans and specification submitted to the City of Fort Lauderdale DRC, Case No. 38R13, including inspection as provided in ¶ 15 ("*Inspections, Repair and Maintenance*") of the Contract and as required for the proper installation, operation, maintenance, repair and replacement of the respective DRAINAGE and MUNICIPAL UTILITY EASEMENTS. BOKAMPER agrees to cooperate, at no expense to BOKAMPER, in regard to CITY's efforts to obtain all relevant information respecting the investigation, discovery and testing of PARCEL TWO, DRAINAGE EASEMENT and MUNICIPAL UTILITY EASEMENT providing to CITY within **ten (10) days** of the Effective Date hereof copies of BOKAMPER'S Books and Records respecting any previous environmental assessments of PARCEL TWO, including those Books and Records in the possession of BOKAMPER'S or any of its agents.

(b) In connection with such inspection, there shall be no soil tests or other invasive tests that can or may cause damage to PARCEL TWO, the parcels underlying DRAINAGE

EASEMENT and MUNICIPAL UTILITY EASEMENT unless CITY has received BOKAMPER'S prior written approval of such tests. All such entries shall be at the risk of CITY; BOKAMPER shall have no liability for any injuries sustained by CITY or any of CITY's agents or contractors. CITY agrees to repair or restore promptly any damage to PARCEL TWO, DRAINAGE EASEMENT and MUNICIPAL UTILITY EASEMENT caused by CITY, its agents and contractors under this Paragraph. Upon completion of CITY's investigations and tests, PARCEL TWO, DRAINAGE EASEMENT and MUNICIPAL UTILITY EASEMENT will be restored, at CITY'S sole cost and expense, to the same condition as it existed before CITY's entry upon PARCEL TWO. In the event this Contract is terminated without a closing upon and passing title, CITY's obligations under this Paragraph shall survive termination of this Contract for a period of six (6) months.

**6. Extension of time.** In the event CITY's Investigation reveals a need for the parties to extend the times under this Contract, then either the (i) *Investigation Period* (§5 of the Addendum), (ii) *Right of Cancellation* (§7 of the Addendum), or (iii) *Closing Date* (§2 of the Addendum) or all (i), (ii), (iii) may be extended by written instrument signed by both BOKAMPER and CITY. As to the CITY, the CITY'S **City Manager** shall have the authority to execute any such instrument extending time under this ¶ 6 of the Addendum.

**7. Right of Cancellation.** CITY shall have the absolute and unqualified right to terminate and cancel this Contract and Land Swap Agreement by delivering written notice of such cancellation to BOKAMPER no later than 5:00 PM on the fifth (5<sup>th</sup>) business day after the Investigation Period has elapsed. The right of cancellation may be exercised upon the discovery of any condition determined to be unacceptable to CITY in its sole discretion. As to the CITY, the CITY'S **City Manager** shall have the authority to execute any such instrument exercising the Right of Cancellation under ¶ 7 of this Addendum.

**8. Waiver; Proceed to Closing.**

(a) In the event CITY completes its Inspections, Testing and Examination prior to the end of the Investigation Period, the CITY, through its City Manager, may provide written notice to BOKAMPER that CITY has completed its Inspections, Testing and Examination, finds the conditions acceptable and waives the balance of the Inspection Period and thereby accelerate time-frames hereunder and proceed to Closing as expeditiously as is practicable.

**9. Leases.** Conveyance of title to PARCEL TWO, DRAINAGE EASEMENT and MUNICIPAL UTILITY EASEMENT shall be free of any leasehold interests or claims by persons in possession of PARCEL TWO, DRAINAGE EASEMENT and MUNICIPAL UTILITY EASEMENT.

**9.1 Prohibition Against New Leases.** Between the Effective Date hereof and the date of the Closing, BOKAMPER shall not enter into any new Leases for any portion of PARCEL TWO, DRAINAGE EASEMENT or MUNICIPAL UTILITY EASEMENT.

**10. Possession and Occupancy.** Upon conveyance of title to PARCEL ONE from CITY to BOKAMPER, possession and occupancy of PARCEL ONE shall remain with CITY pursuant to the terms and conditions of the Lease-Back Agreement. As to PARCEL TWO,

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BOKAMPER to CITY – PARCEL TWO  
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exclusive use, possession and occupancy thereof shall be delivered to CITY at Closing. Upon execution and delivery of the DRAINAGE EASEMENT and MUNICIPAL UTILITY EASEMENT from BOKAMPER to CITY, CITY shall be vested with the easement rights delineated in the respective DRAINAGE EASEMENT DEED and MUNICIPAL UTILITY EASEMENT DEED, as referenced above.

**11. Personal Property.** BOKAMPER represents and acknowledges that there is no personal property located on or within PARCEL TWO, DRAINAGE EASEMENT and MUNICIPAL UTILITY EASEMENT that is a part of the sale and conveyance of the PARCEL TWO DRAINAGE EASEMENT and MUNICIPAL UTILITY EASEMENT. Except as otherwise referenced herein, all of BOKAMPER'S personal property located on or within PARCEL TWO, DRAINAGE EASEMENT and MUNICIPAL UTILITY EASEMENT shall be removed by BOKAMPER prior to the Closing.

**11. Service Contracts.** BOKAMPER represents and acknowledges that there are no Service Contracts concerning PARCEL TWO and BOKAMPER will not enter into any service contracts concerning PARCEL TWO after execution of this Contract which would bind CITY or PARCEL TWO without the written consent of CITY, which may not be unreasonably withheld.

**12. Destruction or Condemnation of PARCEL TWO.**

(a) In the event that all or any portion of PARCEL TWO is taken by condemnation under the provisions of eminent domain law after the Effective Date but prior to the Closing, BOKAMPER shall give CITY prompt written notice of same ("Condemnation Notice").

(b) Within **fifteen (15) days** after receipt of the Condemnation, CITY shall have the option of (i) taking PARCEL TWO in "AS IS" condition, together with condemnation proceeds, if any, or (ii) terminating this Land Swap Agreement, Contract and Addendum by delivery of written notice to BOKAMPER, in which case the condemnation awards would go to the BOKAMPER. If the Closing date falls within such **fifteen (15) day** period, the Closing date shall be extended until the day after the expiration of the **fifteen (15) day** period. As to the CITY, the CITY'S **City Manager** shall have the authority to execute any such instrument exercising the CITY'S rights under this ¶ 12 (b) of this Addendum.

(c) In the event CITY elects under subsection (b) (i) above to take PARCEL TWO in "AS IS" condition, then BOKAMPER shall, upon Closing, assign to CITY all claims of BOKAMPER under or pursuant to any provisions of eminent domain law, as applicable, and all proceeds from any such condemnation awards received by BOKAMPER on account of any such condemnation, and there shall be no reduction in Purchase Price.

(d) In light of the fact that the CITY will ultimately demolish the improvements on PARCEL ONE pursuant to the terms of this Agreement and the Land Swap Agreement, the parties agree that in the event of a casualty in which all or a portion of the improvements on PARCEL ONE are damaged or destroyed prior to Closing, the CITY may retain all proceeds from any casualty insurance coverage insuring such improvements.

**13. BOKAMPER Representations and Warranties.** BOKAMPER hereby represents and warrants the following to CITY:

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BOKAMPER to CITY – PARCEL TWO  
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City of Fort Lauderdale

(a) Authority. BOKAMPER has all requisite power and authority to execute and deliver, and to perform all of its obligations under, this Contract.

(b) Enforceability. This Contract constitutes a legal, valid and binding obligation of BOKAMPER enforceable against BOKAMPER in accordance with its terms, except as limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws of general applicability relating to or affecting the enforcement of creditor's rights and general equitable principles.

(c) No Bankruptcy or Dissolution. No "Bankruptcy/Dissolution Event" (as defined below) has occurred with respect to BOKAMPER. As used herein, a "Bankruptcy/Dissolution Event" means any of the following: (a) the commencement of a case under Title 11 of the U.S. Code, as now constituted or hereafter amended, or under any other applicable federal or state bankruptcy law or other similar law; (b) the appointment of a trustee or receiver of any property interest; (c) an assignment for the benefit of creditors; (d) an attachment, execution or other judicial seizure of a substantial property interest; (e) the taking of, failure to take, or submission to any action indicating an inability to meet its financial obligations as they accrue; or (f) a dissolution or liquidation, death or incapacity.

(d) Litigation. Except as may be set forth in **Exhibit "1"**, BOKAMPER has received no written notice of any pending or threatened action, litigation, condemnation or other proceeding against PARCEL TWO or against BOKAMPER with respect to PARCEL TWO or against BOKAMPER nor is BOKAMPER aware of any such pending or anticipated action or litigation regarding BOKAMPER or PARCEL TWO.

(e) Compliance. Except as may be set forth in **Exhibit "2"**, BOKAMPER has received no written notice from any governmental authority having jurisdiction over PARCEL TWO to the effect that PARCEL TWO is not in compliance with applicable laws, ordinances, rules or regulations.

(f) BOKAMPER is not a "foreign person" within the meaning of the Internal Revenue Code, and at Closing, BOKAMPER shall deliver to CITY an affidavit to such effect. BOKAMPER acknowledges and agrees that CITY shall be entitled to fully comply with Internal Revenue Code Section 1445 and all related sections and regulations, as same may be amended from time to time, and BOKAMPER shall act in accordance with all reasonable requirements of CITY in order to effect such full compliance by CITY

(g) At Closing, the BOKAMPER shall provide to the CITY an updated certification certifying that all the above representations and warranties of the BOKAMPER continue to be true and correct remain in full force and effect.

**14. Computation of Days.** In computing any period of time expressed in day(s) in this Contract, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the

period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

**15. Notice.** All notices under this Contract to be given by one party to the other shall be in writing and the same shall only be deemed given if forwarded as follows:

(a) By certified mail, return receipt requested, to the following addresses:

**BOKAMPER: P.D.K.N. P-4, LLC**  
1280 S. Pine Island Road  
Plantation, FL 33324  
Attn: [REDACTED]

with a copy to: Courtney Callahan Crush, Esq.  
333 North New River Drive, East  
Suite 2200  
Fort Lauderdale, FL 33301  
Telephone: (954) 522-2010  
Cell: (954) 632-3388  
FAX: (954) 522-2030

**CITY:** Lee R. Feldman, City Manager  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 828-5129  
FAX: (954) 828-5021

With copy to: Albert Carbon, Public Works Director  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301  
Telephone: (954) 828-5290

with a copy to: Robert B. Dunckel, Assistant City Attorney  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 828-5036  
FAX: (954) 828-5915

or to such other addresses as the parties may by writing designate to the other party from time to time. All notices, demands, deliveries, or other communications hereunder shall be deemed to have been given or served for all purposes hereunder forty-eight (48) hours after the time that such communication was deposited in the United States mails (Saturdays, Sundays and legal holidays excluded), postage prepaid, in the manner aforesaid, provided however, that for any distance in excess of five hundred (500) miles, overnight express service shall be utilized.

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(b) The notice may also be served by personal delivery to the BOKAMPER or CITY as indicated above.

**16. Documents for Closing.** All documents for closing prepared by BOKAMPER shall be submitted to CITY for approval at least two (2) days prior to Closing.

**17. Brokers.** BOKAMPER and CITY warrant and represent to each other that no broker or agent has been employed with respect to the sale of PARCEL TWO. Other than as represented above, neither this Contract nor any subsequent transaction between BOKAMPER and CITY involving PARCEL TWO has been brought about through the efforts of any Broker. BOKAMPER and CITY agree that in the event of a breach of this warranty and representation, the offending party shall indemnify and hold the non-offending party harmless with respect to any loss or claim for brokerage commission, including all attorneys' fees and costs of litigation through appellate proceedings. This paragraph shall survive expiration of this Contract.

**18. Proceeds of Sale.** The parties having equitably apportioned costs and expense of the transaction outlined in the Land Swap Agreement, there will be no "proceeds of sale" to be distributed at the Closing.

**19. Purchase "As Is".** Subject to the provisions herein, CITY acknowledges that it has performed sufficient physical inspections of PARCEL TWO in order to fully assess and make itself aware of the physical condition of PARCEL TWO, and that CITY is purchasing PARCEL TWO in an "AS IS" condition. Nothing contained in this Paragraph shall be construed as to negate BOKAMPER'S obligation to convey marketable title by Statutory Warranty Deed. Except as may be expressly set forth in or required by this Contract, CITY acknowledges that the BOKAMPER has made no other representations or warranties as to the condition or status of PARCEL TWO and that CITY is not relying on any other representations or warranties of the BOKAMPER, any broker(s), or any agent of BOKAMPER in purchasing PARCEL TWO. Except as may be expressly set forth in or required by this Contract, CITY acknowledges that neither BOKAMPER nor any agent of BOKAMPER has provided any other representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to:

- (a) The nature, quality or condition of PARCEL TWO, including, without limitation, the water, soil and geology;
- (b) The income to be derived from PARCEL TWO;
- (c) The suitability of PARCEL TWO for any and all activities and uses which CITY may conduct thereon;
- (d) The compliance of or by PARCEL TWO or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body;
- (e) The habitability, merchantability or fitness for a particular purpose of PARCEL TWO; or

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- (f) Any other matter with respect to PARCEL TWO.

Without limiting the foregoing, BOKAMPER does not and has not made and specifically disclaims any other representation or warranty regarding the presence or absence of any hazardous substances, as hereinafter defined, at, on, under or about PARCEL TWO or the compliance or non-compliance of PARCEL TWO with any laws, rules, regulations or orders regarding Hazardous Substances (collectively the "Hazardous Substance Laws") other than the representation that the BOKAMPER has not received any notice from any governmental agency of any violation of any Hazardous Substance Laws relating to PARCEL TWO. For purposes of this Contract, the term "Hazardous Substances" shall mean and include those elements or compounds which are contained in the list of Hazardous Substances adopted by the United States Environmental Protection Agency and the list of toxic pollutants designated by Congress or the Environmental Protection Agency or under any Hazardous Substance laws. Hazardous Substances shall also include Radon Gas. CITY further acknowledges that neither BOKAMPER nor any agent of BOKAMPER has provided any representation or warranty with respect to the existence of asbestos or other Hazardous Substances on PARCEL TWO other than as may be specifically set forth in this Contract.

CITY acknowledges that it has completed its own market due diligence of PARCEL TWO, and that the Purchase Price reflects CITY's informed judgment as to the matters set forth herein.

**20. Proration of ad valorem taxes.** In the event title to PARCEL TWO is acquired by CITY between January 1 and November 1 of any year for use as the New Fire Station 54, BOKAMPER shall, pursuant to Florida Statutes § 196.295 (2013), place in escrow with the Tax Collector for Broward County an amount equal to the current taxes prorated to the date of transfer of title, based upon the current assessment and millage rates on PARCEL TWO. According to Florida Statutes § 196.295 (2013), this fund shall be used to pay any ad valorem taxes due, and the remainder of taxes which would otherwise have been due for that current year shall stand canceled. Further, if there are any taxes due from prior years, pursuant to Florida Statutes § 196.295 (2013) BOKAMPER shall pay all such taxes due.

**21. Miscellaneous.**

(a) Incorporation of Exhibits. All exhibits attached and referred to in the Land Swap Agreement, Contract and Addendum are hereby incorporated herein as fully set forth in (and shall be deemed to be a part of) this Land Swap Agreement.

(b) Time of the Essence. Time is of the essence of this Agreement.

(c) Severability. If any term or provision of this Contract or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Contract, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Contract shall be valid and be enforced to the fullest extent permitted by law.

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(d) Interpretation. Words used in the singular shall include the plural and vice-versa, and any gender shall be deemed to include the other. Whenever the words "including", "include" or "includes" are used in this Contract, they should be interpreted in a non-exclusive manner. The captions and headings of the Paragraphs of this Contract are for convenience of reference only, and shall not be deemed to define or limit the provisions hereof. Except as otherwise indicated, all Exhibits and Paragraph references in this Contract shall be deemed to refer to the Exhibits and Paragraphs in this Contract. Each party acknowledges and agrees that this Contract (a) has been reviewed by it and its counsel; (b) is the product of negotiations between the parties, and (c) shall not be deemed prepared or drafted by any one party. In the event of any dispute between the parties concerning this Contract, the parties agree that any ambiguity in the language of the Contract is to not to be resolved against BOKAMPER or CITY, but shall be given a reasonable interpretation in accordance with the plain meaning of the terms of this Contract and the intent of the parties as manifested hereby.

(e) No Waiver. Waiver by one party of the performance of any covenant, condition or promise of the other party shall not invalidate this Contract, nor shall it be deemed to be a waiver by such party of any other breach by such other party (whether preceding or succeeding and whether or not of the same or similar nature). No failure or delay by one party to exercise any right it may have by reason of the default of the other party shall operate as a waiver of default or modification of this Contract or shall prevent the exercise of any right by such party while the other party continues to be so in default.

(f) Consents and Approvals. Except as otherwise expressly provided herein, any approval or consent provided to be given by a party hereunder shall not be unreasonably withheld, delayed or conditioned.

(g) Governing Law. The laws of the State of Florida shall govern this Contract.

(h) Third Party Beneficiaries. Except as otherwise expressly provided in this Contract, BOKAMPER and CITY do not intend by any provision of this Contract to confer any right, remedy or benefit upon any third party (express or implied), and no third party shall be entitled to enforce or otherwise shall acquire any right, remedy or benefit by reason of any provision of this Agreement.

(i) Amendments. This Agreement may be amended by written agreement of amendment executed by all parties, but not otherwise.

(j) Jurisdiction: Venue. Each party hereby consents to the exclusive jurisdiction of any state or federal court located within the jurisdiction where PARCEL TWO is located. Each party further consents and agrees that venue of any action instituted under this Contract shall be proper solely in the jurisdiction where PARCEL TWO is located, and hereby waives any objection to such venue.

(k) Waiver of Trial by Jury. The parties hereby irrevocably waive their respective rights to a jury trial of any claim or cause of action based upon or arising out of this Contract. This waiver shall apply to any subsequent amendments, renewals, supplements or modifications to this Contract. In the event of litigation, this Contract may be filed as a written consent to a trial by the court.

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IN WITNESS WHEREOF, the parties have set their hands and seal the day and year written above.

WITNESSES:

CITY OF FORT LAUDERDALE

\_\_\_\_\_

By \_\_\_\_\_  
John P. "Jack" Seiler, Mayor

\_\_\_\_\_  
[Witness type or print name]

By \_\_\_\_\_  
Lee R. Feldman, City Manager

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
[Witness type or print name]

(CORPORATE SEAL)

\_\_\_\_\_  
Jonda K. Joseph, City Clerk

Approved as to form:

\_\_\_\_\_  
Robert B. Dunckel,  
Assistant City Attorney

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by JOHN P. "JACK" SEILER, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

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City of Fort Lauderdale

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by LEE R. FELDMAN, City Manager of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

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*RBD*

WITNESSES:

**P.D.K.N. P-4, LLC**, a Florida limited liability company

\_\_\_\_\_

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

\_\_\_\_\_  
[Witness print or type name]

\_\_\_\_\_  
[Type or print name and title]

\_\_\_\_\_

\_\_\_\_\_  
[Witness print or type name]

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2013, by \_\_\_\_\_, Managing Member of **P.D.K.N. P-4, LLC**, a Florida limited liability company. They are personally known to me or have produced \_\_\_\_\_ as identification and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

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City of Fort Lauderdale

## LEASE-BACK AGREEMENT

This LEASE, is made as of this 16th day of April, 2013 by and between:

**P.D.K.N. P-4, LLC**, a Florida limited liability company, whose mailing address is 1280 S. Pine Island Road, Plantation, FL 33324, (hereinafter, "LANDDLORD")

-AND-

**CITY OF FORT LAUDERDALE**, a Florida municipal corporation, whose address is 100 North Andrews Avenue, Fort Lauderdale, FL 33301 (hereinafter referred to as TENANT)

### RECITALS

Contemporaneous herewith, LANDLORD and TENANT have entered a Land Swap and Lease-Back Agreement respecting the sale and purchase of certain parcels of land by way of exchange.

It is the intent of the parties that the Land Swap and Lease-Back Agreement are to be read *in pari materia*.

### WITNESSETH

NOW, THEREFORE, in consideration of the mutual covenants exchanged herein, and other good and valuable considerations exchanged between the parties, the sufficiency of which the parties hereby stipulate:

**1. Recitals.** The foregoing recitals are true and correct and are incorporated herein by reference.

**2. Lease.** LANDLORD hereby leases unto TENANT those certain premises located on PARCEL ONE described as follows:

Lots 1, 2, 3, 4, 12, 13 and 14, Block 2 of GALT OCEAN MILE, according to the Plat thereof, as recorded in Plat Book 34, Page 16 of the Public Records of Broward County, Florida; said lands lying, situate and being in Broward County, Florida.

(Property ID No. 4943 19 01 0160)

(Hereinafter, "Leased Premises")

**3. Term.** The term of this Lease shall commence on the date title to PARCEL ONE is conveyed from TENANT to LANDLORD and PARCEL TWO is conveyed from LANDLORD to

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**EXHIBIT "E"**

TENANT. The term of this Lease shall terminate on the date TENANT completes performance of the obligations set forth in Paragraph 9 of the Land Swap Agreement.

4. **Rent.** For and in the nature of Rent, TENANT shall pay unto LANDLORD the sum of TEN (\$10.00) AND NO/100 DOLLARS at the commencement of the Lease Term together with other good and valuable considerations exchanged between the parties, the receipt and sufficiency of which are hereby acknowledged. This Rent is in consideration of the granting of the leasehold estate to TENANT for the full term of the Lease.

5. **Use of Leased Premises.** TENANT may use and occupy the Leased Premises for the operation of City of Fort Lauderdale Old Fire Station 54. TENANT covenants that TENANT shall not, without the written consent of LANDLORD, permit the Leased Premises to be occupied by any person, firm, or corporation other than TENANT and its employees. Other than fire fighting, fire rescue and emergency medical services, TENANT further covenants that no nuisance or hazardous trade or occupation shall be permitted or carried on in or upon said Leased Premises, no act or thing shall be permitted and no thing shall be kept in or about said Premises which will increase the risk of hazard of fire, and no waste shall be permitted or committed upon or any damage done to said Leased Premises, and TENANT shall not use or occupy or permit the Leased Premises to be used or occupied in any manner which will violate any laws or regulations of any governmental authority, including without limitation the Hazardous Substances Law of any governmental unit having jurisdiction over the subject matter.

6. **Utilities and Other Services:** The following utilities, services and expenses shall be paid by the party identified:

|  | <u>LANDLORD</u> | <u>TENANT</u> |
|--|-----------------|---------------|
| Air conditioning unit maintenance                    |                 | X             |
| A/C filter maintenance and replacement when obsolete |                 | X             |
| Electricity  |                 | X             |
| Janitorial services and supplies                     |                 | X             |
| Water and sewer service                              |                 | X             |
| Heat   |                 | X             |
| Pest Control   |                 | X             |
| Trash removal  |                 | X             |
| Premises Maintenance and Repairs                     |                 | X             |
| Security for Premises                                |                 | X             |

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7. **Alterations and Improvements.** Unless otherwise prohibited by the terms of this Lease, TENANT may, at its own expense, make such non-structural changes, alterations, additions and improvements to the Leased Premises as it may deem necessary or expedient in its operation. If TENANT has need to make structural alterations or additions to the Leased Premises, then TENANT may make structural alterations or additions only after securing LANDLORD'S written consent. All such alterations and/or new construction shall, at the sole option of TENANT, be considered personalty and remain the exclusive property of TENANT. TENANT may remove all such property from the Leased Premises upon the termination of this Lease.

8. **Hold Over by Tenant.** TENANT may not, under any circumstances, hold over and remain in possession of the Leased Premises after the expiration of this Lease.

9. **Assignment or Subletting.** TENANT shall not assign the Lease or sublet all or any portion of the Leased Premises. In the event TENANT assigns this Lease or sublets the Leased Premises or any portion of the Leased Premises, TENANT shall be in default of this Lease and LANDLORD shall have the right to cancel this Lease and thereupon TENANT shall immediately vacate the Leased Premises and surrender same to LANDLORD.

10. **Surrender upon Termination.** TENANT agrees that upon expiration of the Lease term, or upon the termination of the Lease for any cause, it will, without any further notice or demand, peaceably surrender and deliver the premises to LANDLORD, its agents or assigns.

11. **Recovery of Possession on Default.** In the event of any default by TENANT under this Lease, LANDLORD may give TENANT notice thereof, by certified U.S. mail, and only if TENANT shall fail to remedy such default within ten (10) days after receipt of such notice shall LANDLORD have the right to declare a default of this Lease by TENANT and institute proceedings for the recovery of possession of the Leased Premises.

12. **Change in Ownership.** Should LANDLORD sell the Leased Premises herein, it shall immediately, together with the new owners, notify TENANT by certified U.S. mail of the identity of the new owners together with the respective mailing address (es) of the new owners.

13. **Damage to Leased Premises.** TENANT agrees that all personal property placed upon or within the Leased Premises shall be at the risk of TENANT. TENANT shall give LANDLORD, or to its agent, prompt written notice of any accident to, or defect in, the roof, outside walls, foundations, sidewalks, interior walls, floors, windows, ceilings, sprinkler and hot water systems, elevators, heating units, air conditioning units, plumbing and electrical wiring, utilities or other building components, and the same will be remedied by TENANT with due diligence, subject to the provisions of this Lease dealing with repairs and exterior maintenance, provided however that nothing herein is intended to relieve TENANT of the obligations imposed on it under Paragraph 6, *Utilities and Other Services* or Paragraph 15, *Maintenance and Repairs*.

14. **Fire or other Casualty.** In the event of damage to the Leased Premises or any part thereof during said term by fire or other casualty, TENANT shall give immediate notice thereof to LANDLORD. The Leased Premises shall at TENANT'S option, be repaired immediately at the expense of TENANT. In the event TENANT elects to repair and restore the Leased Premises to the condition at which they existed immediately prior to the casualty, and provided that the repair and restoration shall be completed within ninety (90) days from date of

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Telephone: (954) 522-2010  
Cell: (954) 632-3388  
FAX: (954) 522-2030

Notice to the **TENANT** shall be addressed to:

Lee R. Feldman, City Manager  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301

With copy to: Robert Hoerchl, Fire Chief  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301

With copy to: Cynthia Everett, City Attorney  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301  
Attn: Robert B. Dunckel, Assistant City Attorney

**20. Terms.** Every term of this Lease shall be deemed and construed to be of the essence thereof, and any breach shall be deemed and construed to be the very substance of this Lease.

**21. Successors and Assigns.** This Lease shall inure to and be binding upon the successors and authorized assigns of the parties.

**22. Right to Mortgage or Sell.**

(a) LANDLORD may encumber the Leased Premises by mortgage or mortgages, securing such sum or sums and upon such terms and conditions as LANDLORD may desire, and any such mortgage or mortgages so given shall be subordinate and inferior to TENANT'S leasehold upon the Leased Premises and TENANT's personal property located on the Leased Premises.

(b) LANDLORD may sell the Leased Premises as set forth herein; however, this Lease shall be expressly assumed by LANDLORD's successor in interest.

(c) LANDLORD shall give the TENANT prior written notice at least 30 days before the sale of the Leased Premises or any assignment of rents to LANDLORD's mortgagee or vendee. Such notice shall be given in the manner specified for notices under this Lease.

**23. Non-disturbance.** MORTGAGEE agrees that so long as the Lease is in full force and effect and TENANT is not in default in the payment of rent, or other payments required by the LEASE or in the performance of any of the other terms, covenants or conditions

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of the LEASE on TENANT'S part to be performed (beyond the period, if any, specified in the LEASE within which TENANT may cure such default), then:

(a) TENANT'S possession of the Leased Premises under the Lease shall not be disturbed or interfered with by MORTGAGEE, its successors and/or assigns, in the exercise of any of its foreclosure rights under the MORTGAGE, or conveyance in lieu of foreclosure; and

(b) except as may be required by applicable law, MORTGAGEE will not join TENANT as a party defendant for the purpose of terminating TENANT'S interest and estate under the LEASE in any proceeding for foreclosure of the MORTGAGE, and MORTGAGEE or any third party acquiring the Leased Premises pursuant to any foreclosure sale arising from the MORTGAGE, or conveyance in lieu of foreclosure shall recognize the LEASE and the TENANT'S interest therein.

**24. Prior Agreements.** This document, together with the exhibits hereto, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Lease that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document utilizing the same formalities as were used in the execution of this Lease.

**25. Condemnation.** LANDLORD reserves unto itself, and TENANT assigns to LANDLORD, all right to damages accruing on account of any taking or condemnation of all or any part of the Leased Premises, or by reason of any act of any public or quasi-public authority for which damages are payable. TENANT agrees to execute such instruments of assignments as may be required by LANDLORD, to join with LANDLORD in any petition for the recovery of damages, if requested by LANDLORD, and to turn over to LANDLORD any such damages that may be recovered in any such proceeding.

**26. Public Entity Crimes Act.**

(a) LANDLORD represents that the execution of this Lease will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to TENANT and may not submit bids on leases of real property to TENANT for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this lease agreement and recovery of all monies paid hereto.

(b) In addition to the foregoing, LANDLORD further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with

committing an act defined as a "public entity crime" regardless of the amount of money involved or whether LANDLORD has been placed on the convicted vendor list.

**27. Third Party Beneficiaries.** Neither LANDLORD nor TENANT intends to directly or substantially benefit a third party by this Lease. Therefore, the parties agree that there are no third party beneficiaries to this Lease and that no third party shall be entitled to assert a claim against either of them based upon this Lease. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Lease.

**28. Conflicts.**

**28.1** Neither LANDLORD nor TENANT nor any of their respective members, officers or employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with the other party's loyal and conscientious exercise of judgment related to its performance under this Lease.

**28.2** LANDLORD and TENANT agree that none of its respective members, officers or employees shall, during the term of this Lease, serve as an expert witness against the other party in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of the other party or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding.

**28.3** In the event either party is permitted to utilize subcontractors to perform any services required by this Lease, that party agrees to prohibit such subcontractors, by written contract, from having any conflicts as within the meaning of this section.

**29. Compliance with Laws.** LANDLORD and TENANT shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Lease.

**30. Joint Preparation.** Preparation of this Lease has been a joint effort of TENANT and LANDLORD and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

**31. Priority of Provisions.** If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Lease by reference and a term, statement, requirement, or provision of this Lease, the term, statement, requirement, or provision contained in this Lease shall prevail and be given effect.

**32. ADA.** As between LANDLORD and TENANT, TENANT assumes all responsibility for compliance with all accessibility requirements of the Federal Americans with Disabilities Act (ADA), Florida Accessibility Code for Building Construction implemented under the Florida Americans with Disabilities Implementation Act, except as modified by State

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Requirements for Educational Facilities, for the use or occupancy of the Leased Premises intended by the TENANT.

**33. Indemnification.** TENANT agrees, to the extent permitted by law and within the limitations set forth in Florida Statute § 768.28 (2013) and subject to the terms and conditions hereof, to indemnify and save LANDLORD harmless from and against all claims, suits, actions, damages, losses and causes of action arising against LANDLORD, for any bodily injury, loss of life or damage to property sustained as a result of any negligent act or omission of TENANT, its officers, employees or agents performed in the course and scope of their office, employment or agency during the term of possession under this Lease.

**34. Miscellaneous.**

(a) Incorporation of Exhibits. All exhibits attached and referred to in the Land Swap Agreement, Contract and Addendum are hereby incorporated herein as fully set forth in (and shall be deemed to be a part of) this Land Swap Agreement.

(b) Time of the Essence. Time is of the essence of this Agreement.

(c) Severability. If any term or provision of this Contract or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Contract, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Contract shall be valid and be enforced to the fullest extent permitted by law.

(d) Interpretation. Words used in the singular shall include the plural and vice-versa, and any gender shall be deemed to include the other. Whenever the words "including", "include" or "includes" are used in this Contract, they should be interpreted in a non-exclusive manner. The captions and headings of the Paragraphs of this Contract are for convenience of reference only, and shall not be deemed to define or limit the provisions hereof. Except as otherwise indicated, all Exhibits and Paragraph references in this Contract shall be deemed to refer to the Exhibits and Paragraphs in this Contract. Each party acknowledges and agrees that this Contract (a) has been reviewed by it and its counsel; (b) is the product of negotiations between the parties, and (c) shall not be deemed prepared or drafted by any one party. In the event of any dispute between the parties concerning this Contract, the parties agree that any ambiguity in the language of the Contract is to not to be resolved against CITY or BOKAMPERS, but shall be given a reasonable interpretation in accordance with the plain meaning of the terms of this Contract and the intent of the parties as manifested hereby.

(e) No Waiver. Waiver by one party of the performance of any covenant, condition or promise of the other party shall not invalidate this Contract, nor shall it be deemed to be a waiver by such party of any other breach by such other party (whether preceding or succeeding and whether or not of the same or similar nature). No failure or delay by one party to exercise any right it may have by reason of the default of the other party shall operate as a waiver of default or modification of this Contract or shall prevent the exercise of any right by such party while the other party continues to be so in default.

(f) Consents and Approvals. Except as otherwise expressly provided herein, any approval or consent provided to be given by a party hereunder shall not be unreasonably withheld, delayed or conditioned.

(g) Governing Law. The laws of the State of Florida shall govern this Contract.

(h) Third Party Beneficiaries. Except as otherwise expressly provided in this Contract, CITY and BOKAMPERS do not intend by any provision of this Contract to confer any right, remedy or benefit upon any third party (express or implied), and no third party shall be entitled to enforce or otherwise shall acquire any right, remedy or benefit by reason of any provision of this Agreement.

(i) Amendments. This Agreement may be amended by written agreement of amendment executed by all parties, but not otherwise.

(j) Jurisdiction: Venue. Each party hereby consents to the exclusive jurisdiction of any state or federal court located within the jurisdiction where PARCEL ONE is located. Each party further consents and agrees that venue of any action instituted under this Contract shall be proper solely in the jurisdiction where PARCEL ONE is located, and hereby waives any objection to such venue.

(k) Waiver of Trial by Jury. The parties hereby irrevocably waive their respective rights to a jury trial of any claim or cause of action based upon or arising out of this Contract. This waiver shall apply to any subsequent amendments, renewals, supplements or modifications to this Contract. In the event of litigation, this Contract may be filed as a written consent to a trial by the court.

(l) LANDLORD and TENANT acknowledge and agree that the LANDLORD is not providing any maintenance, repairs or other services in connection with this Lease. TENANT accepts the premises in "AS IS" condition and shall be responsible for the payments of all expenses, utilities, repairs and maintenance in connection with this Lease of the Premises.

**35. Other Provisions.** Any additional provisions entered into any the time of execution of this Lease shall require approval of the parties by initialing at the bottom of any additional page(s), which must be affixed to the Lease.

IN WITNESS WHEREOF, the said grantor has caused these presents to be executed in its name by its Mayor, and its seal to be hereto affixed, attested by it City Clerk, the date first above written.

[THE BALANCE OF THIS PAGE INTENTIONALLY REMAINS BLANK.]

WITNESSES:

CITY OF FORT LAUDERDALE

\_\_\_\_\_

By \_\_\_\_\_  
John P. "Jack" Seiler Mayor

\_\_\_\_\_  
[Witness type or print name]

By \_\_\_\_\_  
Lee R. Feldman, City Manager

\_\_\_\_\_  
[Witness type or print name]

ATTEST:

(CORPORATE SEAL)

\_\_\_\_\_  
Jonda K. Joseph, City Clerk

Approved as to form:

\_\_\_\_\_  
Robert B. Dunckel, Assistant City Attorney

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2014, by JOHN P. "JACK" SEILER, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2014, by LEE R. FELDMAN, City Manager of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

Fire Station 54  
Lease-Back Agreement  
P.D.K.N. P-4, L.L.C.  
City of Fort Lauderdale

WITNESSES:

P.D.K.N. P-4, LLC, a Florida limited liability company

\_\_\_\_\_

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

\_\_\_\_\_  
[Witness print or type name]

\_\_\_\_\_  
[Type or print name and title]

\_\_\_\_\_  
[Witness print or type name]

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2014, by \_\_\_\_\_, Managing Member of P.D.K.N. P-4, LLC, a Florida limited liability company. They are personally known to me or have produced \_\_\_\_\_ as identification and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

- F:\rbdoffice\2013\FireStation\304.02.01.13.doc
- F:\rbdoffice\2013\FireStation\304.02.01.13(b).docx
- F:\rbdoffice\2013\FireStation\304.02.01.13(c).docx
- L:\REALPROP\FireStations\FireStation54\304.02.01.13(c).docx
- USB DISK:rbd office:2013:Real Property:FireStation54:Bokamper's:304.02.01.13(c).docx
- G:\rbd office\2013\Real Property\FireStation54\Bokamper's\304.02.01.13(d).docx

Fire Station 54  
Lease-Back Agreement  
P.D.K.N. P-4, L.L.C.  
City of Fort Lauderdale

PREPARED BY & RETURN TO:  
Robert B. Dunkel, Esq.  
City Attorney's Office  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33302

Space Reserved for Recording Information

**DRAINAGE EASEMENT**

THIS INDENTURE, made this \_\_\_\_ day of \_\_\_\_\_, 2014, by and between:

**P.D.K.N. P-4, LLC**, a Florida limited liability company, whose mailing address is 1280 S. Pine Island Road, Plantation, FL 33324, hereinafter, "GRANTOR",

and

**CITY OF FORT LAUDERDALE**, a municipal corporation, whose Post Office address is 100 North Andrews Avenue, Fort Lauderdale, Florida, 33301, Federal Tax I.D. No. 59-6000319, hereinafter, "GRANTEE"

**WITNESSETH:**

That the said GRANTOR, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable considerations to said GRANTOR in hand paid by said GRANTEE, receipt of which is hereby acknowledged, has granted, bargained and sold unto the said GRANTEE, its successors and assigns an easement for storm drainage facilities including the right to access, construct, place, operate, maintain, repair, and reconstruct improvements or facilities for storm drainage purposes over, along, through, in, above and under that certain parcel of land situated, lying and being in the City of Fort Lauderdale, Broward County, Florida described as follows:

SEE SKETCH AND DESCRIPTION  
ATTACHED HERETO AS

**EXHIBIT "A"**

(Hereinafter, "Easement Area")

Drainage Easement  
Grantor: P.D.K.N. P-4, LLC  
Grantee: City of Fort Lauderdale

**EXHIBIT "F"**

GRANTOR hereby covenants with said GRANTEE that said GRANTOR is lawfully seized of fee simple title to the Easement Area, free and clear of all liens and encumbrances which might be superior to the Easement rights granted herein (other than those for which a Joinder, Consent and Partial Subordination has been executed and attached hereto) and that GRANTOR hereby fully warrants and defends the title to this Easement Area hereby granted and conveyed against the lawful claims of all persons whomsoever.

TO HAVE AND TO HOLD the same unto the GRANTEE, its successors and assigns forever.

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal the day and year first above written.

WITNESSES:

P.D.K.N. P-4, a Florida Limited Liability Company

\_\_\_\_\_

By: \_\_\_\_\_  
Damon DeSantis, Managing Member

[Witness print or type name]

\_\_\_\_\_

[Witness print or type name]

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2014, by Damon DeSantis, Managing Member of P.D.K.N. P-4, a Florida Limited Liability Company. He is personally known to me or has produced \_\_\_\_\_ as identification and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,

Drainage Easement  
Grantor: P.D.K.N. P-4, LLC  
Grantee: City of Fort Lauderdale



Printed or Stamped

My Commission Expires:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert B. Dunkel,  
Assistant City Attorney

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Drainage Easement  
Grantor: P.D.K.N. P-4, LLC  
Grantee: City of Fort Lauderdale





**STONER & ASSOCIATES, INC.**

**SURVEYORS - MAPPERS**  
Florida Licensed Survey  
and Mapping Business No. 6633

4341 S.W. 62nd Avenue  
Davie, Florida 33314

Tel. (954) 585-0997  
Fax (954) 585-3927

RECORDING AREA

**SKETCH AND LEGAL DESCRIPTION OF:  
A 20 FOOT DRAINAGE EASEMENT  
BEING PORTION OF LOTS 6 AND 7, BLOCK 1  
GALT OCEAN MILE (P.B. 34, PG. 16, B.C.R.)  
CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA**

**LEGAL DESCRIPTION: 20 FOOT DRAINAGE EASEMENT**

A 20 FOOT WIDE DRAINAGE EASEMENT, BEING A PORTION OF LOTS 6 AND 7, BLOCK 1, GALT OCEAN MILE, ACCORDING TO THE PLAT, THEREOF AS RECORDED IN PLAT BOOK 34, PAGE 16, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. THE CENTERLINE OF SAID STRIP OF LAND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID LOT 6;

THENCE N.05°20'27"E., ALONG THE EASTERLY LINE OF SAID LOT 6, A DISTANCE OF 33.27 FEET, TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED CENTERLINE;

THENCE N.82°32'08"W., A DISTANCE OF 136.23 FEET;

THENCE N.86°44'45"W., A DISTANCE OF 13.22 FEET, TO A POINT ON THE WESTERLY LINE OF SAID LOT 7, SAID POINT BEING THE POINT OF TERMINATION OF THE HEREIN DESCRIBED EASEMENT.

THE SIDELINES OF SAID EASEMENT SHALL BE LENGTHEN OR SHORTEN TO MEET AT ANGLE POINTS AND TERMINATE ON THE WEST LINE OF SAID LOTS 6 AND 7.

SAID EASEMENT LYING AND BEING WITHIN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA AND CONTAINING 0.06 ACRES (2,989 SQUARE FEET), MORE OR LESS.

**NOTES:**

1. THE PROPERTY SHOWN HEREON WAS NOT ABSTRACTED FOR OWNERSHIP, RIGHTS-OF-WAY, EASEMENTS OR OTHER MATTERS OF RECORD.
2. THIS SKETCH IS "NOT VALID" WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. BEARINGS SHOWN HEREON ARE BASED UPON AN ASSUMED BEARING OF N.90°00'00"W. ALONG THE SOUTH LINE OF LOT 6, BLOCK 1, GALT OCEAN MILE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 34, AT PAGE 16, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.
4. THIS SKETCH DOES NOT REPRESENT A FIELD SURVEY. (THIS IS NOT A SURVEY).
5. THIS SKETCH OF DESCRIPTION WAS PREPARED BY THIS FIRM WITHOUT THE BENEFIT OF A TITLE SEARCH. THE LEGAL DESCRIPTION SHOWN HEREON WAS AUTHORED BY STONER & ASSOCIATES, INC.

**CERTIFICATE:**

THIS IS TO CERTIFY THAT THE SKETCH AND LEGAL DESCRIPTION SHOWN HEREON IS ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SKETCH AND LEGAL DESCRIPTION MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.07, FLORIDA STATUTES.

| REVISIONS | DATE | BY |
|-----------|------|----|
|           |      |    |
|           |      |    |
|           |      |    |

DATE: Jan 09, 2014  
**Richard G. Crawford, Jr.**  
PROFESSIONAL SURVEYOR AND MAPPER NO. 5371 - STATE OF FLORIDA

|                           |                 |                   |                   |
|---------------------------|-----------------|-------------------|-------------------|
| DATE OF SKETCH:<br>1/9/14 | DRAWN BY<br>DRL | CHECKED BY<br>RGC | FIELD BOOK<br>N/A |
|---------------------------|-----------------|-------------------|-------------------|

SEAL  
NOT VALID UNLESS  
SEALED HERE WITH  
AN EMBOSSED  
SURVEYOR'S SEAL  
NO. 12-7857 DE  
SHEET 1 OF 2

FILE: F:\Draw\L.M. DEVELOPMENT\12-7857-LM DEVELOPMENT-Bokompa\12-7857-20 DRAINAGE EASEMENT.dwg

**EXHIBIT "A"**



**STONER & ASSOCIATES, INC.**

**SURVEYORS - MAPPERS**

Florida Licensed Survey  
and Mapping Business No. 6633

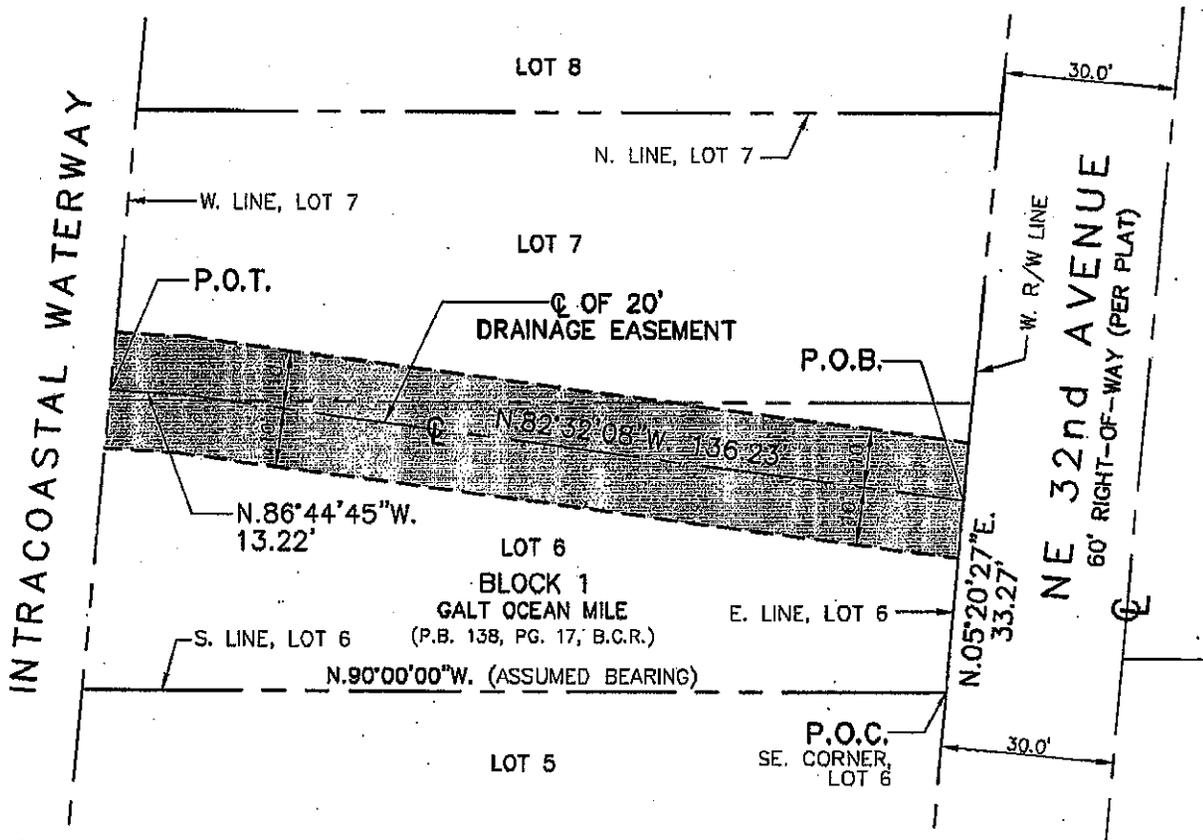
4341 S.W. 62nd Avenue  
Davie, Florida 33314

Tel. (954) 585-0997

Fax (954) 585-3927

RECORDING AREA

**SKETCH AND LEGAL DESCRIPTION OF:  
A 20 FOOT DRAINAGE EASEMENT  
BEING PORTION OF LOTS 6 AND 7, BLOCK 1  
GALT OCEAN MILE (P.B. 34, PG. 16, B.C.R.)  
CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA**



**LEGEND:**

- B.C.R. . . . BROWARD COUNTY RECORDS
- P.B. . . . . PLAT BOOK
- PG. . . . . PAGE
- PLS . . . . . PROFESSIONAL LAND SURVEYOR
- LB. . . . . LICENSED BUSINESS
- ⊕ . . . . . CENTERLINE
- P.O.C. . . . . POINT OF COMMENCEMENT
- P.O.B. . . . . POINT OF BEGINNING
- P.O.T. . . . . POINT OF TERMINATION

SPRINT  
NO. 12-7857\_DE

PREPARED BY AND RETURN TO:  
Robert B. Dunckel, Asst. City Attorney  
City Attorney's Office  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301

**MUNICIPAL UTILITY EASEMENT**

THIS INDENTURE, made this \_\_\_\_ day of \_\_\_\_\_, 2012, by and between:

**P.D.K.N. P-4, LLC**, a Florida limited liability company, whose mailing address is 1280 S. Pine Island Road, Plantation, FL 33324, hereinafter, "GRANTOR",

and

**CITY OF FORT LAUDERDALE**, a municipal corporation existing under the laws of the State of Florida, whose Post Office address is P.O. Drawer 14250, Fort Lauderdale, Florida 33302-4250, Federal Tax ID No. 02-1234-00001-04-47, hereinafter "GRANTEE".

**WITNESSETH:**

That said GRANTOR, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable considerations to said GRANTOR in hand paid by said GRANTEE, the receipt of which is hereby acknowledged, has granted, bargained and sold unto GRANTEE, its successors and assigns, an easement for municipal utilities and the right to provide service to, install, maintain, repair and replace and have access to municipal utility facilities on the property for said municipal utilities over, along, through, in, above and under that certain parcel of land lying, situate and being in the City of Fort Lauderdale, County of Broward, and State of Florida, more particularly described as follows:

SEE SKETCH AND DESCRIPTION ATTACHED HERETO AS  
**EXHIBIT "A"** (hereinafter "Easement Area")

GRANTOR hereby covenants with said GRANTEE that said GRANTOR is lawfully seized of fee simple title to the Easement Area, free and clear of all liens and encumbrances which might be superior to the Easement rights granted herein (other than those for which a Joinder, Consent and Partial Subordination has been executed and attached hereto) and that GRANTOR hereby fully warrants and defends the title to this Easement Area hereby granted and conveyed against the lawful claims of all persons whomsoever.

\*("GRANTOR" and "GRANTEE" are used for singular or plural, as context requires.)

Municipal Utility Easement

Grantor: P.D.K.N. P-4, LLC

Grantee: City of Fort Lauderdale

**EXHIBIT "G"**



TO HAVE AND TO HOLD the same unto the GRANTEE, its successors and assigns forever.

IN WITNESS WHEREOF, the GRANTOR has hereunto set GRANTOR'S hand and seal the day and year first above written.

WITNESSES:

P.D.K.N. P-4, a Florida Limited Liability Company

\_\_\_\_\_

By: \_\_\_\_\_  
Damon DeSantis,  
Managing Member

\_\_\_\_\_  
[Witness print or type name]

\_\_\_\_\_  
[Witness print or type name]

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2014, by Damon DeSantis, Managing Member of P.D.K.N. P-4, a Florida Limited Liability Company. He is personally known to me or has produced as identification and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

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

Municipal Utility Easement  
Grantor: P.D.K.N. P-4, LLC  
Grantee: City of Fort Lauderdale

APPROVED AS TO FORM:

---

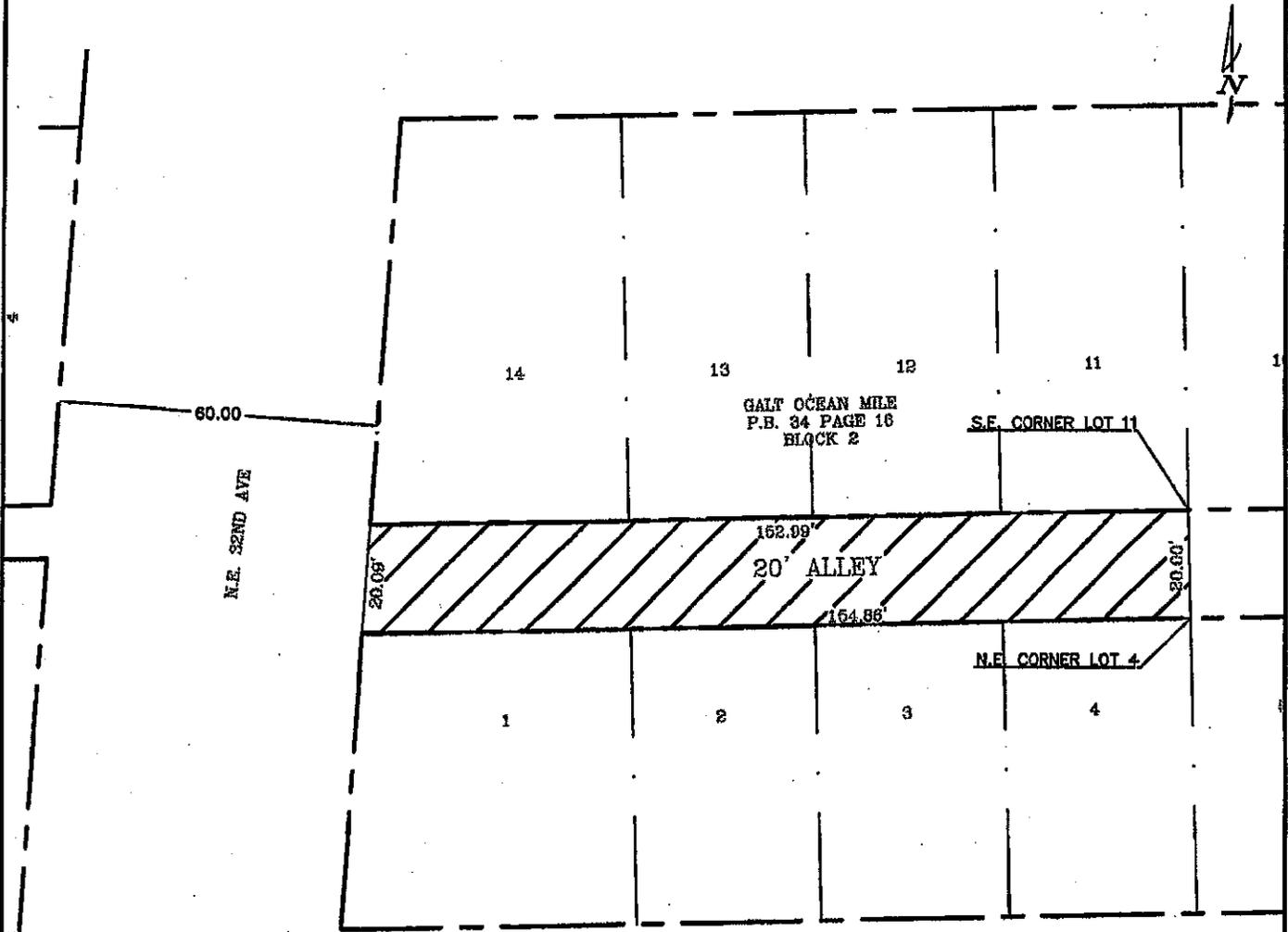
Robert B. Dunckel,  
Assistant City Attorney

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Municipal Utility Easement  
Grantor: P.D.K.N. P-4, LLC  
Grantee: City of Fort Lauderdale



# SKETCH AND DESCRIPTION



**NOTES:**

- 1) THIS DRAWING IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
- 2) THIS IS NOT A SKETCH OF SURVEY AND DOES NOT REPRESENT A FIELD SURVEY
- 3) SUBJECT TO EXISTING EASEMENTS, RIGHT-OF-WAYS, COVENANTS, RESERVATIONS AND RESTRICTIONS OF RECORD, IF ANY.

**DESCRIPTION: UTILITY EASEMENT**

ALL THAT PORTION OF THE 20 FOOT ALLEY IN BLOCK 2, "GALT OCEAN MILE", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 34, PAGE 16 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; LYING EAST OF THE EASTERLY RIGHT OF WAY LINE OF NORTHEAST 32ND AVENUE AND BOUNDED ON THE EAST BY A LINE BETWEEN THE SOUTHEAST CORNER OF LOT 11 AND THE NORTHEAST CORNER OF LOT 4 OF SAID PLAT.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA CONTAINING 3079 SQUARE FEET, MORE OR LESS.

BY: \_\_\_\_\_  
**MICHAEL W. DONALDSON**  
 PROFESSIONAL SURVEYOR AND MAPPER  
 NO. 6490 STATE OF FLORIDA

|                                |             |               |
|--------------------------------|-------------|---------------|
| <b>CITY OF FORT LAUDERDALE</b> |             |               |
| BLOCK 2, GALT OCEAN MILE       |             |               |
| PROPOSED 20 FOOT               |             |               |
| UTILITY EASEMENT               |             |               |
| BY: S.P.                       | ENGINEERING | DATE: 1/9/14  |
| _____'D M.D.                   | DIVISION    | SCALE: 1"=30' |

**EXHIBIT "A"**