



# COMMISSION AGENDA ITEM DOCUMENT ROUTING FORM

2 ✓ 2/9/17 L

Today's Date: 2/2/17

DOCUMENT TITLE: Land Swap Agreement – Barefoot Contessa, LLC

COMM. MTG. DATE: 12/20/16 CAM #: 16-1529 ITEM #: M-1 CAM attached: ☒ YES ☐ NO

Routing Origin: CAO Router Name/Ext: Shaniece Louis / Ext. 5036

CIP FUNDED: ☐ YES ☒ NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

2) City Attorney's Office # of originals attached: 2 Approved as to Form: ☒ YES ☐ NO

Date to CCO: 2/2/17 RBD  
Initials

3) City Clerk's Office: # of originals: 2 Routed to: Gina Ri/CMO/X5013 Date: 2/2/17

4) City Manager's Office: CMO LOG #: Feb-20 Date received from CCO: \_\_\_\_\_

Assigned to: L. FELDMAN ☐ S. HAWTHORNE ☐ C. LAGERBLOOM ☐  
L. FELDMAN as CRA Executive Director ☐

☐ APPROVED FOR LEE FELDMAN'S SIGNATURE ☐ N/A FOR L. FELDMAN TO SIGN

PER ACM: S. HAWTHORNE \_\_\_\_\_ (Initial/Date) C. LAGERBLOOM 2.2.17  
(Initial/Date) ☐ PENDING APPROVAL (See comments below)

Comments/Questions: \_\_\_\_\_

Forward 2 originals to ☒ Mayor ☐ CCO Date: 2.2.17

5) Mayor/CRA Chairman: Please sign as indicated. Forward 2 originals to CCO for attestation/City seal (as applicable) Date: 2/7/17

## INSTRUCTIONS TO CLERK'S OFFICE

City Clerk: Retains 0 original and forwards 1 original(s) to: Ryan Henderson (Name/Dept/Ext)

Attach \_\_\_\_\_ certified Reso # \_\_\_\_\_ ☐ YES ☒ NO Original Route form to CAO

~~\*\*Please email an executed copy to Shaniece Louis\*\*\*\*~~

and 1 original to Shaniece Louis

## LAND SWAP AGREEMENT

THIS LAND SWAP AND DEVELOPMENT AGREEMENT (hereinafter, "Agreement") is entered this 20th day of December, 2016 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-

**BAREFOOT CONTESSA, LLC**, a Delaware limited liability company, whose principal address is 1600 South Ocean Boulevard, #2001, Pompano Beach, FL 33062 its successors or assigns (hereinafter, "DEVELOPER")

### R E C I T A L S

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

### SEBASTIAN SITE

#### DESCRIPTION

**SEE EXHIBIT "A"**  
**SKETCH & DESCRIPTION**

BCPA Property ID #

5042 12 10 0460  
5042 12 10 0470  
5042 12 10 0490  
5042 12 10 0510  
5042 12 10 0520  
5042 12 10 0550  
5042 12 10 0560  
5042 12 10 0440

B. As of the Effective Date hereof DEVELOPER represents that it is the fee simple owner of the following described real property:

# NATCHEZ SITE

## DESCRIPTION

All of Block 10, BIRCH OCEAN FRONT SUBDIVISION NO. 2, according to the Plat thereof, as recorded in Plat Book 21, Page 22 of the Public Records of Broward County, Florida; together with the East Half (E ½) of that portion of vacated Breakers Avenue lying adjacent to Block 10, BIRCH OCEAN FRONT SUBDIVISION NO. 2, as was vacated per Official Records Book 16039, Page 239 of the Public Records of Broward County, Florida; said lands lying, situate and being in the City of Fort Lauderdale, Broward County, Florida

BCPA Property ID #s    5042 01 06 0100;  
                                 5042 01 06 0110;  
                                 5042 01 06 0120;  
                                 5042 01 06 0130;  
                                 5042 01 06 0140

C.      CITY is desirous of acquiring a parcel of land fronting North Fort Lauderdale Beach Boulevard (State Road A-1-A) bounded on the South by Vistamar Street for development as a public parking lot. The NATCHEZ SITE offers itself as a desirable location for such an acquisition.

D.      DEVELOPER is interested in acquiring and developing The SEBASTIAN SITE, owned by the CITY.

E.      CITY is interested in acquiring the NATCHEZ SITE which is owned by DEVELOPER.

F.      CITY staff has evaluated the relative values of the NATCHEZ SITE and the SEBASTIAN SITE and recommends that based on the Appraisal Report secured by the CITY from Allied Appraisal Services, Inc., the appraised fair market value of the SEBASTIAN SITE is \$ 23.6 million and further based on the Appraisal Report secured by the DEVELOPER from CBRE Valuation and Advisory Services, the appraised fair market value of the NATCHEZ SITE is \$25.0 million. Both CITY and DEVELOPER have had ample opportunity to review the Appraisal Reports.

G.      For the purposes of entering a Land Swap Agreement, CITY and DEVELOPER hereby stipulate to the above referenced appraised fair market values for the SEBASTIAN SITE and the NATCHEZ SITE. However, because of the exchange of other good and valuable considerations between the parties, there will be no obligation on the part of either party to pay the other a value differential as part of the purchase price at the time of the closing. Notwithstanding, it is the intent to the parties that the appraised values recited above will serve as the basis for the calculation of documentary stamp tax and amount of title insurance.

H. CITY acknowledges that the current zoning on the SEBASTIAN SITE is ABA, A-1-A Beachfront Area District. CITY further acknowledges that in addition to other regulations set forth in the CITY's Unified Land Development Regulations, that Section 47-12.5.B.2 provides that a structure may be approved and constructed up to two hundred forty (240) feet " . . . if the proposed development has a rating of at least nine (9) on the design compatibility and community character scale."

I. By execution hereof by the proper CITY officials, CITY finds and declares that this Land Swap Agreement serves a valid municipal purpose in that the NATCHEZ SITE to be acquired by the CITY is in a location where there is a need for public parking and the NATCHEZ SITE is of an appropriate site for such use.

J. By execution hereof by the proper CITY officials, CITY finds and declares that this Land Swap Agreement serves a further valid municipal purpose in that DEVELOPER has committed in the Declaration of Restrictive Covenants to permit the continued use of the SEBASTIAN SITE by the CITY for public parking purposes, with the CITY retaining all revenues associated with the public parking operations and the DEVELOPER furthermore commits, at its own cost, to replace and build the existing seventy-seven (77) public parking spaces, plus associated handicap spaces, currently located on the SEBASTIAN SITE to be located within the Development Project to be constructed by DEVELOPER.

K. CITY and DEVELOPER are desirous of entering a Land Swap Agreement exchanging the SEBASTIAN SITE and the NATCHEZ SITE upon the following terms and conditions.

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 Agreement and, accordingly the Real Estate Contracts and Addenda and Declaration of Restrictive Covenants (collectively, "Transaction Documents") shall be the first day of the month next succeeding the date the CITY'S City Commission authorizes execution of the Transaction Documents.

3. CITY shall sell and DEVELOPER shall buy the SEBASTIAN SITE, upon the terms and conditions hereinafter set forth.

4. DEVELOPER shall sell and CITY shall buy the NATCHEZ SITE, upon the terms and conditions hereinafter set forth.

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



The terms and conditions of the Declaration of Restrictive Covenants (**Exhibit "D"**) shall govern certain post-conveyance easement rights respecting the use of the SEBASTIAN SITE.

5. The terms and conditions set forth in the attached Deposit Receipt and Contract for Sale and Purchase ("Contract") (**Exhibit "E"**) and Addendum (**Exhibit "F"**) shall govern the conveyance of the NATCHEZ SITE from DEVELOPER to CITY and are hereby incorporated herein by reference.

6. The documentation underlying the agreement to swap the SEBASTIAN SITE and the NATCHEZ SITE" shall consist of the following:

Land Swap and Development Agreement ("Agreement")	
Exhibit "A"	Sketch and Description for SEBASTIAN SITE.
Exhibit "B"	Deposit Receipt Contract for Sale and Purchase of the SEBASTIAN SITE.
Exhibit "C"	Addendum to Exhibit "B"
Exhibit "D"	Declaration of Restrictive Covenants Respecting the SEBASTIAN SITE
Exhibit "E"	Deposit Receipt Contract for Sale and Purchase of NATCHEZ SITE
Exhibit "F"	Addendum to Exhibit "E"

7. The SEBASTIAN SITE and the NATCHEZ SITE shall be simultaneously conveyed at the time of the Closing. If there are impediments to the conveyance of either the SEBASTIAN SITE or the NATCHEZ SITE, then there shall be no conveyance of the other SITE.

8. **Land Swap.** The Closing Date for the Land Swap Agreement and Transaction Documents shall be two hundred (200) days from the Effective Date of this Agreement, unless the parties stipulate to an earlier date or later date as provided in the respective Addenda. On the Closing Date, the following shall occur:

8.2 CITY shall sell and convey title to the SEBASTIAN SITE to DEVELOPER, subject to the Declaration of Restrictive Covenants Respecting SEBASTIAN SITE hereinafter set forth as **Exhibit "D"**, and DEVELOPER shall buy and accept title to the SEBASTIAN SITE from CITY, subject to a Declaration of Restrictive Covenants Respecting SEBASTIAN SITE, hereinafter set forth as **Exhibit "D"**, in accordance with the Deposit Receipt Contract for Sale and Purchase and Addendum thereto, attached hereto as **Exhibits "B" & "C" (Contract – SEBASTIAN)** in addition to the terms and conditions set forth in this Agreement.

8.3 DEVELOPER shall sell and convey title to the NATCHEZ SITE to CITY, and CITY shall buy and accept title to the NATCHEZ SITE from DEVELOPER, in accordance with the Deposit Receipt Contract for Sale and Purchase and Addendum thereto, attached hereto as **Exhibits "E" & "F" (Contract – NATCHEZ)**, in addition to the terms and conditions set forth in this Agreement.

9. **Good Faith.** The parties agree that as to all contractual matters contemplated by this Agreement that they hereby covenant to perform in good faith and deal fairly each with the other to protect the parties' reasonable expectations hereunder.

## 10. **Miscellaneous.**

10.1 **Incorporation of Exhibits and Schedules.** All Exhibits and Schedules attached and referred to in this Agreement are hereby incorporated herein (and deemed to be a part of) this Agreement as fully set forth in this Agreement.

**10.2 Time of the Essence.** Time is of the essence of this Agreement.

**10.3 Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, 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 Agreement shall be valid and be enforced to the fullest extent permitted by law.

**10.4 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 Agreement, they should be interpreted in a non-exclusive manner. The captions and headings of the Sections of this Agreement 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 Section references in this Agreement shall be deemed to refer to the Exhibits and Sections in this Agreement. Each party acknowledges and agrees that this Agreement (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 Agreement, the parties agree that any ambiguity in the language of this Agreement is not to be resolved against CITY or DEVELOPER, but shall be given a reasonable interpretation in accordance with the plain meaning of the terms of this Agreement and the intent of the parties as manifested hereby.

**10.5 No Waiver.** Waiver by one party of the performance of any covenant, condition or promise of the other party shall not invalidate this Agreement, 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 Agreement or shall prevent the exercise of any right by such party while the other party continues to be so in default.

**10.6 Consents and Approvals.** Except as otherwise expressly provided herein, any approval or consent provided to be given by a party in their contractual capacity hereunder shall not be unreasonably withheld, delayed or conditioned.

**10.7 Governing Law.** The laws of the State of Florida shall govern this Agreement.

**10.8 Third Party Beneficiaries.** Except as otherwise expressly provided in this Agreement, CITY and DEVELOPER do not intend by any provision of this Agreement 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.



**10.9 Amendments.** This Agreement may be amended by written agreement of amendment executed by all parties, but not otherwise.

**10.10 Jurisdiction; Venue.** Each party hereby consents to the exclusive jurisdiction of any state or federal court located within the jurisdiction where the SEBASTIAN SITE or the NATCHEZ SITE is located. Each party further consents and agrees that venue of any action instituted under this Agreement shall be proper solely in the jurisdiction where the SEBASTIAN SITE and the NATCHEZ SITE is located, and hereby waives any objection to such venue.

**10.11 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 Agreement. This waiver shall apply to any subsequent amendments, renewals, supplements or modifications to this Agreement. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

**10.12 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.

L:\REALPROP\Barefoot Contessa\101 12 14 16 Clean Land Swap Agreement.Docx

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**



IN WITNESS WHEREOF, the parties have caused these presents to be executed by their proper public officials.

WITNESSES:

Jeanette A. Johnson  
[Witness type or print name]

Carla Foster  
[Witness type or print name]

(CORPORATE SEAL)

CITY OF FORT LAUDERDALE

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

By Lee R. Feldman  
FOR Lee R. Feldman, City Manager

ATTEST: Jeffrey A. Modarelli  
Jeffrey A. Modarelli, City Clerk

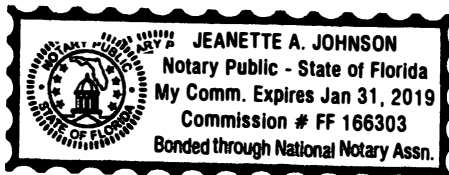
APPROVED AS TO FORM:  
Cynthia A. Everett, City Attorney

By Robert B. Dunckel  
Robert B. Dunckel, Asst. City Attorney

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 9th day of February, 2016, 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)

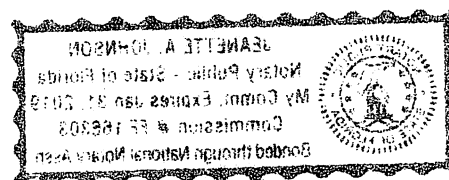
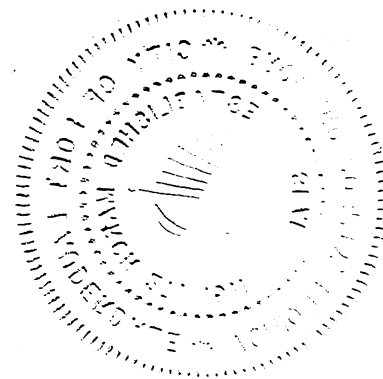


Jeanette A. Johnson  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)

Jeanette A. Johnson  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires: 1/31/19

Commission Number FF 166303



STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this February 2, 2016, by ~~LEE P. 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.

CHRISTOPHER J. LAFEBLOOM  
Acting City Manager

(SEAL)

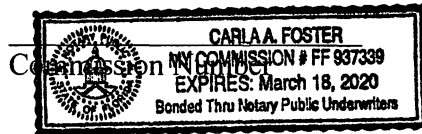


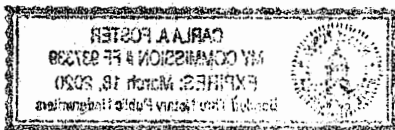
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)

Carla Foster

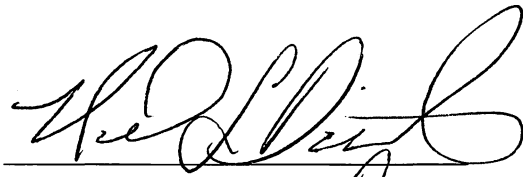
Name of Notary Typed,  
Printed or Stamped

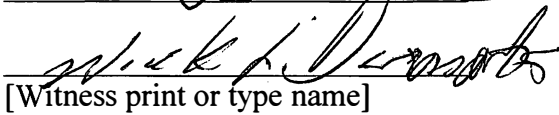
My Commission Expires:




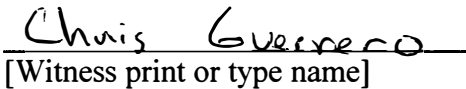


WITNESSES:



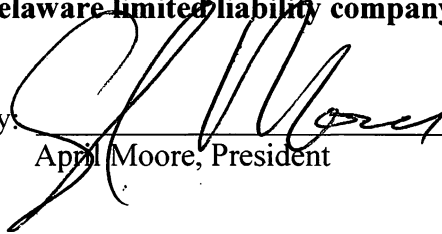
  
[Witness print or type name]



  
[Witness print or type name]

**BAREFOOT CONTESSA, LLC, a  
Delaware limited liability company**

By:

  
April Moore, President

STATE OF FLORIDA: - see attached  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by **April Moore, President** of BAREFOOT CONTESSA, LLC, a Delaware limited liability company. She 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





**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

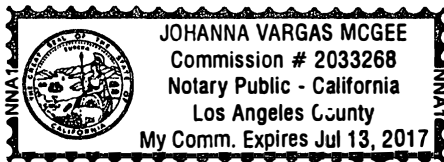
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
 County of Los Angeles )  
 On 11/9/17 before me, Johanna Vargas McGee Notary Public,  
 Date Here Insert Name and Title of the Officer  
 personally appeared April Moore  
 Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]  
 Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Land Swap Agreement  
 Document Date: N/A Number of Pages: 10 pages  
 Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer Is Representing: \_\_\_\_\_

**EXHIBIT "A"**

**SKETCH & DESCRIPTION  
SEBASTIAN SITE**

A handwritten signature in black ink, appearing to be 'J. B. B.', is located in the bottom right corner of the page.

# SKETCH AND DESCRIPTION

THIS IS NOT A SURVEY

## DESCRIPTION

ALL OF LOTS 1, 2, 3, 4, 5, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19 AND 20, BLOCK 5, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 7, PAGE 30, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

LESS AND EXCEPT RIGHT OF WAY FOR SEABREEZE BOULEVARD (R/W MAP BOOK 12, PG 9; ORB 17969, PG. 32) AND SR A-1-A (FLORIDA DEPARTMENT OF TRANSPORTATION SECTION MAP 86050-2112).

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF SAID LOT 8; THENCE S 01°02'50" E ALONG THE EAST LINE, A DISTANCE OF 125.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 14; THENCE N 88°57'10" E ALONG THE NORTH LINE OF SAID LOT 14, A DISTANCE OF 50.00 FEET TO A POINT ON THE WEST LINE OF LOT 6; THENCE S 01°02'50" E ALONG THE EAST LINE OF SAID LOT 14, A DISTANCE OF 25.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 4; THENCE N 88°57'10" E ALONG THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 13.98 FEET TO AN INTERSECTION WITH A CURVE CONCAVE TO THE NORTHWEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 800.00 FEET, A CENTRAL ANGLE OF 03° 34' 09" AND AN ARC DISTANCE OF 49.89 FEET TO A POINT OF TANGENCY; THENCE S 44°33'59" W, A DISTANCE OF 81.31 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE NORTHWEST; THENCE SOUTHWESTERLY AND WESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 44° 23' 11" AND AN ARC DISTANCE OF 19.37 FEET TO A POINT OF TANGENCY; THENCE S 88° 57'10" W, A DISTANCE OF 239.98 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE NORTHEAST; THENCE WESTERLY AND NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 85° 18' 33" AND AN ARC DISTANCE OF 37.23 FEET TO A POINT OF TANGENCY; THENCE N 05° 42'46" W, A DISTANCE OF 200.68 FEET; TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE SOUTHEAST; THENCE NORTHEASTERLY AND EASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 94° 39' 56" AND AN ARC DISTANCE OF 41.31 FEET TO A POINT OF TANGENCY; THENCE N 88° 57'10" E, A DISTANCE OF 152.47 FEET TO THE NORTHEAST CORNER OF SAID LOT 11; THENCE S 01° 02' 50" E, A DISTANCE OF 125.00 FEET; THENCE N 88° 57'10" E, A DISTANCE OF 50.00 FEET; THENCE N 01° 02' 50" W, A DISTANCE OF 125.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 9; THENCE N 88° 57'10" E, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

BEGIN AT P.O.B. (2) BEING THE NORTHWEST CORNER OF LOT 1; THENCE N 88°57'10" E ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 27.05 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE SOUTHWEST, THENCE SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 122° 00' 11" AND AN ARC DISTANCE OF 53.23 FEET TO AN INTERSECTION WITH A CURVE CONCAVE TO THE NORTHWEST, ALSO BEING A POINT ON THE WEST RIGHT OF WAY LINE OF SEABREEZE BOULEVARD; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 800.00 FEET, A CENTRAL ANGLE OF 06° 01' 31" AND AN ARC DISTANCE OF 84.13 FEET TO A POINT ON THE WEST LINE OF SAID LOT 3; THENCE N 01° 02'50" W, A DISTANCE OF 107.12 FEET TO POINT OF BEGINNING.

ALSO TOGETHER WITH:

COMMENCE AT THE SOUTHEAST CORNER OF LOT 5, BLOCK 5, THENCE N 07°40' 49" E ALONG THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 5, A DISTANCE OF 21.46 FEET TO THE POINT OF BEGINNING (3); THENCE CONTINUE N 07° 40' 49" E ALONG THE WEST RIGHT OF WAY OF SR A-1-A, A DISTANCE OF 95.69 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 5694.65 FEET, A CENTRAL ANGLE OF 01° 08' 54" AND AN ARC DISTANCE OF 114.14 FEET TO AN INTERSECTION WITH A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST, A RADIAL AT SAID INTERSECTION BEARING S 80° 16' 53" W, THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 07° 49' 10" AND AN ARC DISTANCE OF 3.41 FEET TO AN INTERSECTION WITH A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST, A RADIAL AT SAID INTERSECTION BEARING N 62° 41' 50" W, THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, ALSO BEING A POINT THE EAST RIGHT OF WAY OF SEABREEZE BOULEVARD, HAVING A RADIUS OF 850.00 FEET, A CENTRAL ANGLE OF 15° 54' 52" AND AN ARC DISTANCE OF 236.09 FEET TO A CURVE CONCAVE TO THE NORTHEAST; THENCE SOUTHWESTERLY AND SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 134° 15' 51" AND AN ARC DISTANCE OF 58.58 FEET TO A POINT OF TANGENCY; THENCE N 88° 57' 10" E, A DISTANCE OF 66.77 FEET TO A CURVE CONCAVE TO THE NORTHWEST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 81° 16' 22" AND AN ARC DISTANCE OF 35.46 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA. CONTAINING 93863 SQUARE FEET OR 2.1548 ACRES MORE OR LESS.

## NOTES:

- 1) BEARINGS ARE BASED UPON A GRID BEARING OF N 88°57'10" E, ALONG THE NORTH LINE OF BLOCK 5.
- 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 RESRTICTIONS OF RECORD, IF ANY
- 4) THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CERTIFIED TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

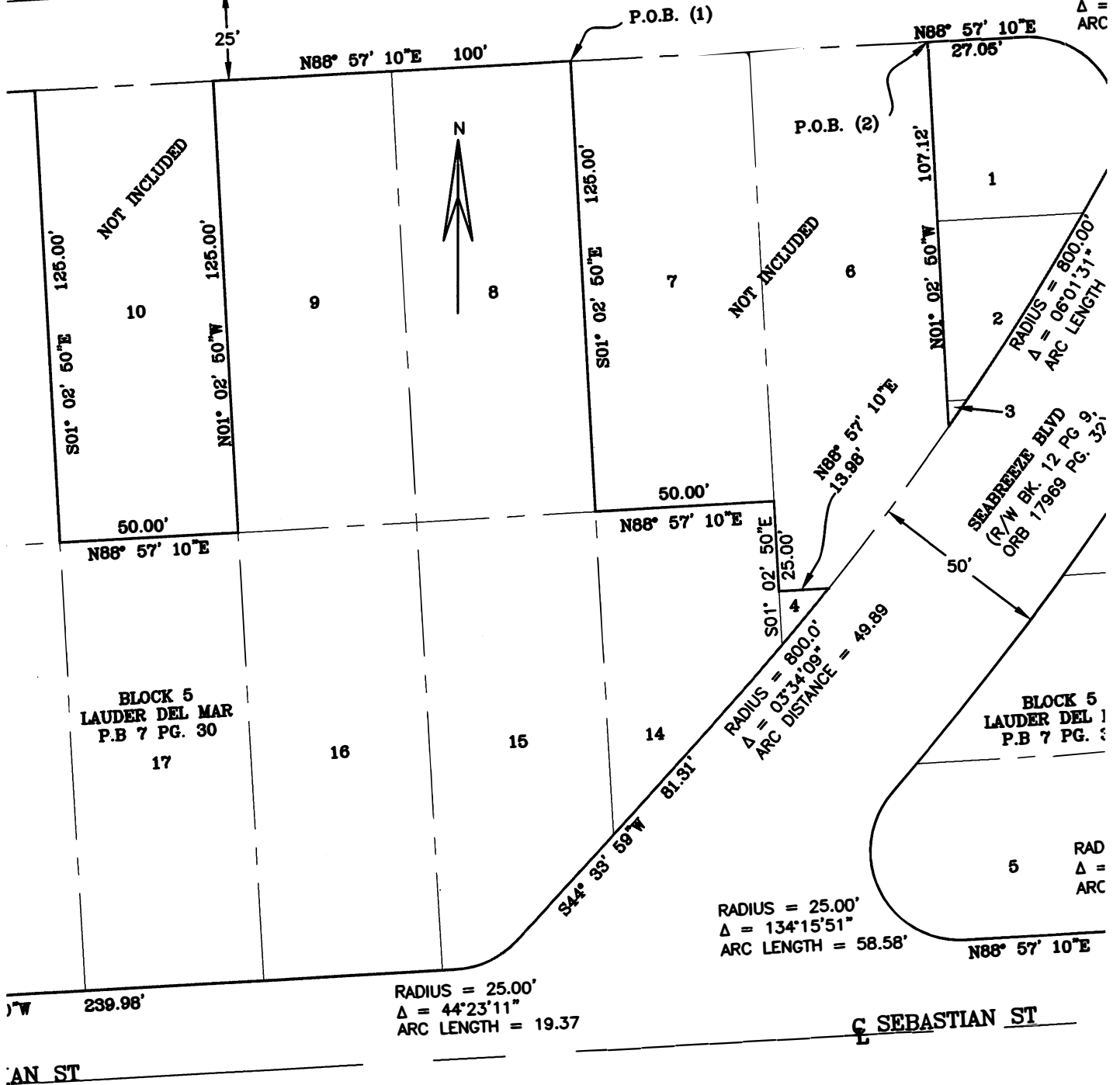
DATED: DECEMBER 12, 2016

MICHAEL W. DONALDSON  
PROFESSIONAL SURVEYOR AND MAPPER NO. 6490  
STATE OF FLORIDA

SHEET 1 OF 4

CITY OF FORT LAUDERDALE	
BLOCK 5, LAUDER DEL MAR	
PLAT BOOK 7, PAGE 30	
EXHIBIT 1	
BY: M.D.	ENGINEERING DATE: 12/12/16
CHK'D M.D.	DIVISION

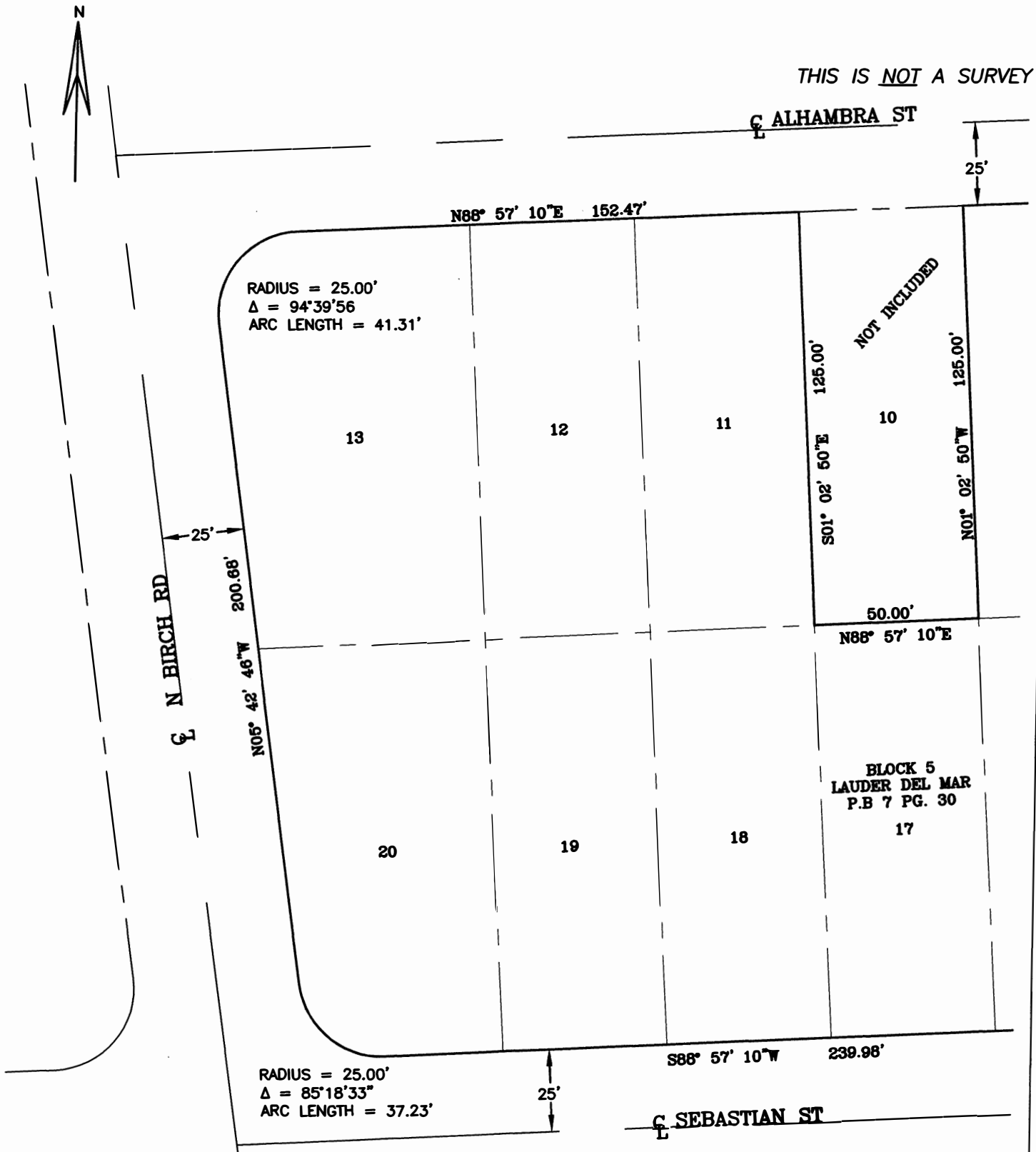
**RAD**  
**Δ =**  
**ARC**



CITY OF FORT LAUDERDALE		
BLOCK 5, LAUDER DEL MAR		
PLAT BOOK 7, PAGE 30		
EXHIBIT 1		
BY: M.D.	ENGINEERING DIVISION	DATE 12/12/16
CHK'D M.D.		SCALE: 1"=40'

# SKETCH AND DESCRIPTION

THIS IS NOT A SURVEY



## LEGEND:

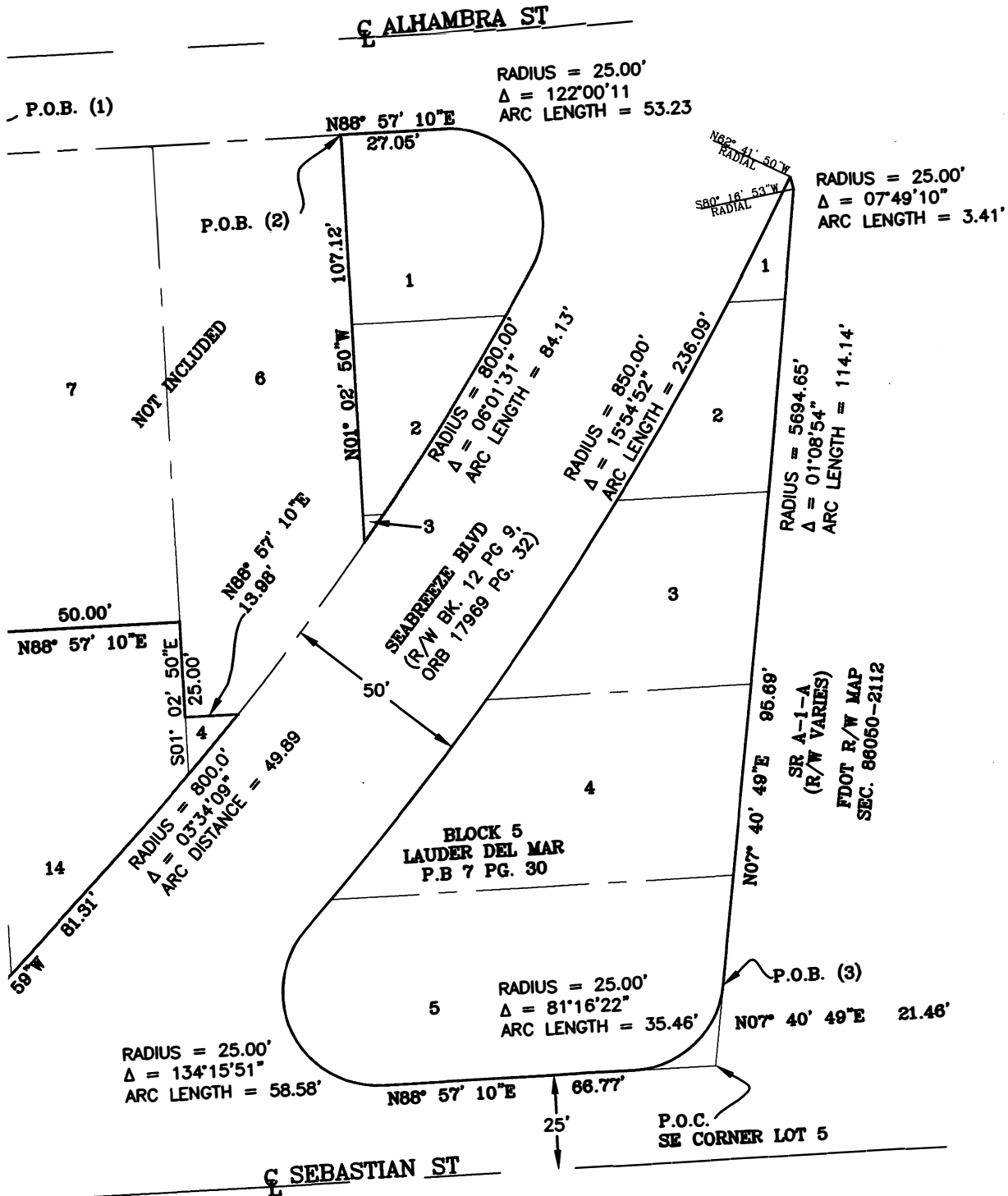
COR. = CORNER  
 Δ = DELTA ANGLE  
 P.B. = PLAT BOOK  
 PG. = PAGE  
 P.O.B. - POINT OF BEGINNING  
 P.O.C. - POINT OF COMMENCEMENT

R/W = RIGHT OF WAY  
 CL = CENTERLINE  
 ORB = OFFICIAL RECORDS BOOK

SHEET 3 OF 4

CITY OF FORT LAUDERDALE	
BLOCK 5, LAUDER DEL MAR	
PLAT BOOK 7, PAGE 30	
EXHIBIT 1	
BY: M.D.	ENGINEERING DATE: 12/16
CHK'D M.D.	DIVISION
SCALE: 1"=40'	

# SKETCH AND DESCRIPTION



CITY OF FORT LAUDERDALE		
BLOCK 5, LAUDER DEL MAR		
PLAT BOOK 7, PAGE 30		
EXHIBIT 1		
BY: M.D.	ENGINEERING	DATE: 12/12/16
CHK'D M.D.	DIVISION	SCALE: 1"=40'

2289

**EXHIBIT "B"**

**Deposit Receipt Contract for Purchase and Sale  
Of  
SEBASTIAN SITE**

A handwritten signature in black ink, appearing to be "BP" or similar, located at the bottom right of the page.

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

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

3 BUYER BAREFOOT CONTESSA, LLC, a Delaware limited liability company4 SELLER CITY OF FORT LAUDERDALE, a Florida municipal corporation5 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 LAND SWAP AGREEMENT9 TAX FOLIO #: SEE LAND SWAP AGREEMENT10 1.1 PROPERTY ADDRESS: N/A

11 (Address) (City) (Zip)

12 1.2 Seller represents the Property can be used for the following purposes: N/A

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        Years23 (CHECK ONE) ( ) Fixed Rate, ( ) Variable rate with a maximum ceiling of        %24 Other terms:       

25 2.4 Existing mortgage 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        years34 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.

200



44 Property Address: \_\_\_\_\_

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.~~

*QBP*

92 Property Address: \_\_\_\_\_

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~~

QBO

145 Property Address: \_\_\_\_\_

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 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.

*230*

200 Property Address: \_\_\_\_\_

~~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~~

BD

254 Property Address:

255 ~~written rights of occupancy and estoppel letters from each tenant specifying the nature and duration of said tenants~~  
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.

230



310 Property Address: \_\_\_\_\_

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.

362 Property Address: \_\_\_\_\_

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: \_\_\_\_\_

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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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         | ( ) Other: _____                                    |

*BBP*



Property Address: \_\_\_\_\_

472 BUYER \_\_\_\_\_ Date \_\_\_\_\_ BUYER \_\_\_\_\_ Date \_\_\_\_\_

473 Printed Name \_\_\_\_\_ Printed Name \_\_\_\_\_

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

475 Address \_\_\_\_\_

476 Tele. #: \_\_\_\_\_ Fax #: \_\_\_\_\_ Tele. #: \_\_\_\_\_ Fax #: \_\_\_\_\_

477 E-Mail: \_\_\_\_\_ E-Mail: \_\_\_\_\_

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

479 Deposit received by (print name): \_\_\_\_\_ (signature): \_\_\_\_\_

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

481 ACCEPTANCE OF CONTRACT AND PROFESSIONAL SERVICE FEE: Seller hereby accepts this offer and

482 recognizes \_\_\_\_\_ as Listing Broker. Broker MLS ID # \_\_\_\_\_

483 Address: \_\_\_\_\_

484 Tele. # \_\_\_\_\_ Fax #: \_\_\_\_\_ Sales Associate \_\_\_\_\_

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

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

487 Address: \_\_\_\_\_

488 Tele. # \_\_\_\_\_ Fax #: \_\_\_\_\_ Sales Associate \_\_\_\_\_

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

490 (CHECK and COMPLETE THE ONE APPLICABLE)

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

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

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

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

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

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

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

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

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

500

501 SELLER \_\_\_\_\_ Date \_\_\_\_\_ SELLER \_\_\_\_\_ Date \_\_\_\_\_

502 Printed Name \_\_\_\_\_ Printed Name \_\_\_\_\_

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

504 Address \_\_\_\_\_

505 Tele. #: \_\_\_\_\_ Fax #: \_\_\_\_\_ Tele. #: \_\_\_\_\_ Fax #: \_\_\_\_\_

506 E-Mail: \_\_\_\_\_ E-Mail: \_\_\_\_\_

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

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

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

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

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

512 all parties.

**EXHIBIT "C"**  
**Addendum to Exhibit "B"**

**ADDENDUM TO  
DEPOSIT RECEIPT CONTRACT FOR PURCHASE AND SALE  
OF  
SEBASTIAN SITE**

**CITY TO DEVELOPER**

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

-and-

**BAREFOOT CONTESSA, LLC**, a Delaware limited liability company, whose principal address is 1600 South Ocean Boulevard, #2001, Pompano Beach, FL 33062 its successors or assigns (hereinafter, "Developer")

**PROPERTY:**

**SEBASTIAN SITE**

**SKETCH & DESCRIPTION**

**SEE EXHIBIT "A"  
TO  
LAND SWAP AGREEMENT**

BCPA Property ID #s

5042 12 10 0460  
5042 12 10 0470  
5042 12 10 0490  
5042 12 10 0510  
5042 12 10 0520  
5042 12 10 0550  
5042 12 10 0560  
5042 12 10 0440



## NATCHEZ SITE

All of Block 10, BIRCH OCEAN FRONT SUBDIVISION NO. 2, according to the Plat thereof, as recorded in Plat Book 21, Page 22 of the Public Records of Broward County, Florida; together with the East Half (E ½) of that portion of vacated Breakers Avenue lying adjacent to Block 10, BIRCH OCEAN FRONT SUBDIVISION NO. 2, as was vacated per Official Records Book 16039, Page 239 of the Public Records of Broward County, Florida; said lands lying, situate and being in the City of Fort Lauderdale, Broward County, Florida

BCPA Property ID #s    5042 01 06 0100;  
                                 5042 01 06 0110;  
                                 5042 01 06 0120;  
                                 5042 01 06 0130;  
                                 5042 01 06 0140

The following Addendum is to the Deposit Receipt and Contract for Sale and Purchase for the SEBASTIAN SITE (hereinafter, "Contract – SEBASTIAN ") attached to the Land Swap Agreement as **Exhibit "B"** and is hereby incorporated into that Land Swap Agreement and Contract – SEBASTIAN between the parties and the parties do hereby agree as follows:

**1. Purchase and Sale.** Subject to the terms and conditions of the Contract – SEBASTIAN, as amended by this Addendum, CITY shall sell to DEVELOPER, and DEVELOPER shall purchase from CITY, all of CITY'S right, title and interest in and to SEBASTIAN, except as otherwise provided herein and in the Declaration of Restrictive Covenants.

**1.1. Effective Date.** The Effective Date of this Contract – SEBASTIAN shall be the first day of the month next succeeding that date (i) upon which the CITY'S City Commission authorizes execution of this Contract – SEBASTION and (ii) the Contract – SEBASTIAN is executed by both CITY and DEVELOPER. CITY shall not execute the Contract – SEBASTIAN until (i) there has been an appropriation of funds for this Land Swap Agreement, (ii) DEVELOPER has authorized execution of the Contract – SEBASTIAN (iii) and has executed the Contract – SEBASTIAN.

**2. Closing Date.** This Contract – SEBASTIAN shall be closed and the deed and possession of the SEBASTIAN SITE delivered no later than twenty (20) days after the close of the Investigation Period, unless extended by other provisions of this Contract or separate agreement. Authority is hereby delegated to the City Manager to execute any agreements or amendments respecting extension or acceleration of the Closing Date.

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

**2.2** CITY's Closing Agent shall prepare the Closing Statement.

**3. Evidence of title.** Evidence of title for the SEBASTIAN SITE shall be delivered to DEVELOPER within **ten (10) days** after the Effective Date of this Contract. DEVELOPEER 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 (“Release of Reservations”), and 10.3 (“Title Defects”) of the Contract.

**3.1 Conveyance.** CITY’s conveyance of title to the SEBASTIAN SITE shall be by Quit Claim Deed and may be subject to public utility easements of record which are located contiguous to the SEBASTIAN SITE lines and not more than seven (7) feet in width. DEVELOPER stipulates and agrees that anything herein to the contrary notwithstanding, the Grantee in the conveyance of the SEBASTIAN SITE shall be BAREFOOT CONTESSA, LLC, a Delaware limited liability company.

**3.2 Owner’s Title Insurance Policy.** The expense of the Owner’s Title Insurance Policy for the DEVELOPER shall be paid by the DEVELOPER.

**4. Survey.** If the survey shows encroachment(s) on the SEBASTIAN SITE or that improvements located on the SEBASTIAN SITE 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 10. (“Evidence of Title”), 10.2 (“Reservations”), and 10.3 (“Title Defects”) of the Contract.

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

(a) DEVELOPER shall be provided a period (“Investigation Period”) for investigation, testing and examination of the SEBASTIAN SITE as set forth herein. The "Investigation Period" under this Contract – SEBASTIAN shall be a period starting with the Effective Date of the Contract – SEBASTIAN and ending **one hundred eighty (180) days** thereafter. During the Investigation Period, DEVELOPER shall have the absolute right, through its agents, servants, employees and contractors, to enter upon the SEBASTIAN SITE for the purpose of investigation, discovery, inspection and testing of the SEBASTIAN SITE, including, without limitation soil testing and boring, environmental studies or any other testing DEVELOPER determines to be necessary or appropriate to the evaluation of the purchase and sale of the SEBASTIAN SITE 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 DEVELOPER’S efforts to obtain all relevant information respecting the investigation, discovery and testing, providing to DEVELOPER within **ten (10) days** of the Effective Date hereof copies of (i) CITY’S Books and Records respecting any previous environmental assessments of the SEBASTIAN SITE in question, including those Books and Records in the possession of CITY or any of its agents, (ii) a copy of the recent owner’s title insurance policy in CITY’s possession with respect to the SEBASTIAN SITE and (iii) any surveys pertaining to the SEBASTIAN SITE in CITY’s possession.

(b) In connection with such inspection, there shall be no soil tests or other invasive tests that can or may cause damage to the SEBASTIAN SITE unless DEVELOPER has received CITY’S prior written approval of such tests. The City Manager is authorized hereby to provide such written approval of such tests on behalf of CITY. All such entries shall be at the risk of

DEVELOPER; CITY shall have no liability for any injuries sustained by DEVELOPER or any of DEVELOPER's agents or contractors. DEVELOPER agrees to repair or restore promptly any damage to the SEBASTIAN SITE caused by DEVELOPER, its agents and contractors under this Paragraph. Upon completion of DEVELOPER'S investigations and tests, the SEBASTIAN SITE will be restored to the same condition, as it existed before DEVELOPER's entry upon the SEBASTIAN SITE. In the event this Contract is terminated without a closing upon and passing title, DEVELOPER's obligations under this Paragraph shall survive termination of this Contract for a period of six (6) months.

(c) In the event that DEVELOPER is satisfied with the results of the Inspections prior to the expiration of the Inspection Period and DEVELOPER is not opposed to waiving its Right of Cancellation under ¶ 7 hereof, DEVELOPER shall provide CITY with written notice that it is satisfied with the Inspections and waives any further Right of Cancellation, thereby allowing the parties to accelerate the date of the Closing, subject to the CITY providing DEVELOPER with reciprocal written notice as to satisfaction of Inspections and waiver of Right of Cancellation as to the purchase and sale of the NATCHEZ SITE.

**6. Extension of time.** In the event DEVELOPER'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 DEVELOPER. 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. Any such extension of time for Closing shall also include an extension of time for Closing on the NATCHEZ SITE, as it is contemplated by the parties that there will be a simultaneous Closing on or under the Land Swap Agreement.

**7. Right of Cancellation.** DEVELOPER 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>) 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 DEVELOPER in its sole discretion.

**8. Leases.** Other than (i) Casa Blanca's leasehold interest in any portion of the SEBASTIAN SITE and CITY'S retention of revenues generated therefrom during Phase I Declaration Period as set forth in the Declaration of Restrictive Covenants and (ii) reservation of interests and easements in the SEBASTIAN SITE by CITY as more particularly referenced in the Declaration of Restrictive Covenants attached to the Quit Claim Deed, conveyance of title to the SEBASTIAN SITE shall be free of any leasehold interests or claims by persons in possession of the SEBASTIAN SITE.

**9. Possession and Occupancy.** Other than reservation of interests and easement rights in the SEBASTIAN SITE by CITY as more particularly referenced in the Declaration of Restrictive Covenants attached to the Quit Claim Deed conveying title to the SEBASTIAN SITE, title, use, possession and occupancy of the SEBASTIAN SITE shall pass to DEVELOPER at Closing.

**10. Personal Property.** CITY represents and acknowledges that, other than Parking Meter Pay Stations, there is no personal property located on the SEBASTIAN SITE that is a part of the sale of the SEBASTIAN SITE. All of CITY's personal property shall be removed from the SEBASTIAN SITE by the CITY prior to Closing, except as to personal property appurtenant to the reservation of interests and easement rights in the SEBASTIAN SITE by CITY as more particularly referenced in the Declaration of Restrictive Covenants attached to the Quit Claim Deed conveying the SEBASTIAN SITE.

**11. Service Contracts.** Except as specifically referenced herein, CITY represents and acknowledges that there are no Service Contracts concerning the SEBASTIAN SITE and CITY will not enter into any service contracts concerning the SEBASTIAN SITE prior to or after the Closing which would bind DEVELOPER or the SEBASTIAN SITE without the written consent of DEVELOPER, which may not be unreasonably withheld, except as is otherwise provided in the Declaration of Restrictive Covenants relative to the reservation of interests and easement rights in the SEBASTIAN SITE by the CITY.

**12. Destruction or Condemnation of the SEBASTIAN SITE.**

(a) In the event that all or any portion of the SEBASTIAN SITE is damaged or destroyed by any casualty or by a taking or condemnation under the provisions of eminent domain law after the Effective Date but prior to the Closing, CITY shall give DEVELOPER prompt written notice of same ("Condemnation/Casualty Notice").

(b) Within **fifteen (15) days** after receipt of the Condemnation/Casualty Notice, DEVELOPER shall have the option of (i) taking the SEBASTIAN SITE in "AS IS" condition, together with insurance proceeds, if any, or (ii) terminating this Land Swap Agreement, Contract and Addendum by delivery of written notice to 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.

(c) In the event CITY elects under subsection (b)(i) above to take PARCEL "B" in "AS IS" condition, then DEVELOPER shall, upon Closing, assign to CITY all claims of DEVELOPER under or pursuant to any casualty insurance coverage, or under any provisions of eminent domain law, as applicable, and all proceeds from any such casualty insurance or condemnation awards received by DEVELOPER on account of any such casualty or condemnation, as the case may be (to the extent the same have not been applied by DEVELOPER prior to the Closing Date to repair the resulting damage), and there shall be no reduction in Purchase Price (except that in connection with a casualty covered by insurance, CITY shall be credited with the lesser of the remaining cost to repair the damage or destruction caused by such casualty or the amount of the deductible under DEVELOPER's insurance policy [except to the extent such deductible was expended by DEVELOPER to repair the resulting damage]).

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



(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"**, CITY has received no written notice of any pending or threatened action, litigation, condemnation or other proceeding against the SEBASTIAN SITE or against CITY with respect to the SEBASTIAN SITE, nor is CITY aware of any such pending or anticipated action or litigation regarding the SEBASTIAN SITE or against CITY with respect to the SEBASTIAN SITE. Exhibit "1" shall be completed by CITY and attached to this Addendum no later than fifteen (15) days after the Effective Date of the Land Swap Agreement.

(e) Compliance. Except as may be set forth in **Exhibit "2"**, CITY has received no written notice from any governmental authority having jurisdiction over the SEBASTIAN SITE to the effect that the SEBASTIAN SITE is not in compliance with applicable laws, ordinances, rules or regulations. Exhibit "2" shall be completed by CITY and attached to this Addendum no later than fifteen (15) days after the Effective Date of this Land Swap Agreement.

(f) Foreign Person. CITY is not a "foreign person" within the meaning of the Internal Revenue Code, and at Closing, CITY shall deliver to DEVELOPER an affidavit to such effect. CITY acknowledges and agrees that DEVELOPER 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 DEVELOPER in order to effect such full compliance by DEVELOPER

(g) Updated Certification. At Closing, the CITY shall provide to the DEVELOPER 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.

**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. Notices.** All notices, requests and consents hereunder to any party, shall be deemed to be sufficient if in writing and (i) delivered in person, (ii) delivered via facsimile or via e-mail, if a confirmatory mailing in accordance herewith is also contemporaneously made, (iii) duly sent by first class registered or certified mail, return receipt requested, and postage prepaid or (iv) duly sent by overnight delivery service, addressed to such party at the address set forth below (or at such other addresses as shall be specified by like notice):

**DEVELOPER:** BAREFOOT CONTESSA, LLC  
1699 South Ocean Boulevard, #2001  
Pompano Beach, FL 33062  
Fort Lauderdale, FL 33311  
April Moore, President

with a copy to: Stephanie J. Toothaker, Esq.  
Tripp Scott  
110 S.E. Sixth Street  
Fort Lauderdale, FL 33301-5000  
Office (954) 765-2905  
Facsimile (954) 761-8475  
E-mail [SToothaker@hotmail.com](mailto:SToothaker@hotmail.com)

**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  
[LFeldman@fortlauderdale.gov](mailto:LFeldman@fortlauderdale.gov)

with a copy to: Cynthia A. Everett, City Attorney  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 828-5036  
FAX: (954) 828-5915  
[CEverett@fortlauderdale.gov](mailto:CEverett@fortlauderdale.gov)

All such notices and communications shall be deemed to have been given when transmitted in accordance herewith to the foregoing persons at the addresses set forth above; provided, however, that the time period in which a response to any such notice must be given shall commence on the

date of receipt thereof; provided, further, that rejection or other refusal to accept or inability to deliver because of changed address for which no notice has been received shall also constitute receipt. The respective attorneys for CITY and DEVELOPER are authorized to send notices and demands hereunder on behalf of their respective clients.

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

**17. Brokers.** CITY and DEVELOPER warrant and represent to each other that no broker or agent has been employed with respect to the sale of the SEBASTIAN SITE. Other than as represented above, neither this Contract nor any subsequent transaction between CITY and DEVELOPER involving the SEBASTIAN SITE has been brought about through the efforts of any Broker. CITY and DEVELOPER 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.** All payments made by DEVELOPER shall be made in the form of U.S. currency, or escrow account check drawn on the account of the Title Insurance Agent or Attorney licensed to practice law in the State of Florida or wire transfer of funds or equivalent drawn on a financial institution with branches in Broward, Miami-Dade or Palm Beach County which must have at least one branch in Broward County.

**19. Purchase "As Is".** Subject to the provisions herein, DEVELOPER acknowledges that it has performed, or will perform pursuant to this Contract, sufficient physical inspections of the SEBASTIAN SITE in order to fully assess and make itself aware of the physical condition of the SEBASTIAN SITE, and that DEVELOPER is purchasing the SEBASTIAN SITE in an "AS IS" condition. Except as may be expressly set forth in or required by this Contract, DEVELOPER acknowledges that the CITY has made no other representations or warranties as to the condition or status of the SEBASTIAN SITE and that DEVELOPER is not relying on any other representations or warranties of the CITY, any broker(s), or any agent of CITY in purchasing the SEBASTIAN SITE. Except as may be expressly set forth in or required by this Contract, DEVELOPER 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 the SEBASTIAN SITE, including, without limitation, the water, soil and geology;
- (b) The income to be derived from the SEBASTIAN SITE;
- (c) The suitability of the SEBASTIAN SITE for any and all activities and uses which DEVELOPER may conduct thereon;

- (d) The compliance of or by the SEBASTIAN SITE 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 the SEBASTIAN SITE ; or
- (f) Any other matter with respect to the SEBASTIAN SITE .

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 the SEBASTIAN SITE or the compliance or non-compliance of the SEBASTIAN SITE 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 the SEBASTIAN SITE . 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. DEVELOPER 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 the SEBASTIAN SITE other than as may be specifically set forth in this Contract.

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

**20. Disclosure Of Beneficial Interest(s).** [This Paragraph intentionally deleted.]

**21. Conflict.** In the event of any conflict or ambiguity between this Addendum and the underlying Land Swap Agreement and Contract that it modifies, this Addendum shall control.

**22. Expenses of Closing.** Documentary Stamps on the deed of conveyance shall be paid by DEVELOPER in accordance with Florida Statute Sec. 201.01 (2016). DEVELOPER shall pay CITY's attorneys' fees for services rendered in conjunction with the negotiation, draftsmanship and administration of this Land Swap Agreement, through Closing, in an amount not exceeding Five thousand (\$5,000.00) and no/100 Dollars.

**23. 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 DEVELOPER, 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 DEVELOPER 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 the SEBASTIAN SITE 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 the SEBASTIAN SITE 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:

Jeannette A. Johnson  
Jeannette A. Johnson  
[Witness type or print name]

[Signature]  
Carla Foster  
[Witness type or print name]

(CORPORATE SEAL)



CITY OF FORT LAUDERDALE

By

[Signature]  
John P. "Jack" Seiler, Mayor

By

[Signature]  
FOR Lee R. Feldman, City Manager

ATTEST:

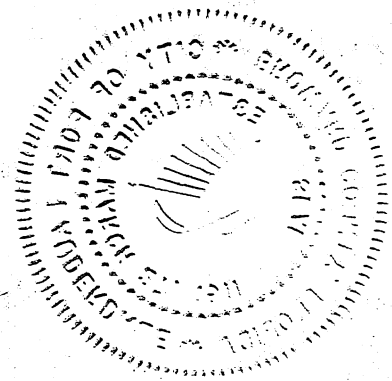
[Signature]  
Jeffrey A. Modarelli, City Clerk

APPROVED AS TO FORM:  
Cynthia A. Everett, City Attorney

By

[Signature]  
Robert B. Dunckel  
Assistant City Attorney

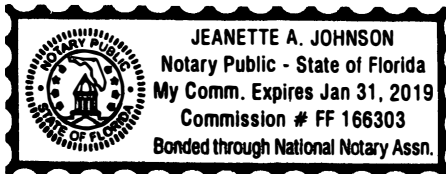
[Signature]



STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of February, 2016, 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)



Jeanette A. Johnson  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)

Jeanette A. Johnson  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires: 1/31/19

Commission Number FF 166303

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of February, 2016, 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.

Christopher J. Lagerboom  
Acting City Manager

(SEAL)

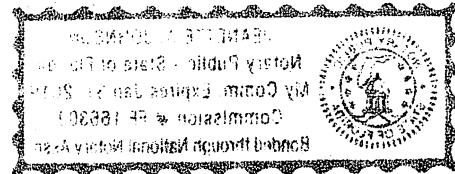


Carla Foster  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)

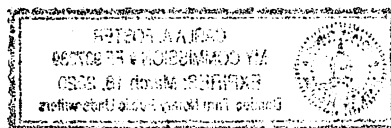
Carla Foster  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

Commission Number

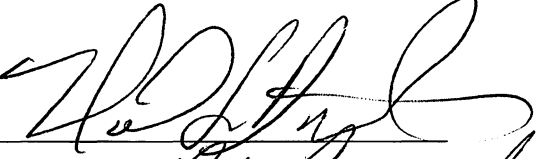


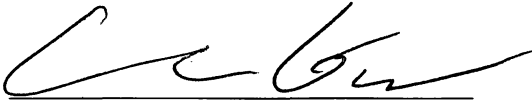
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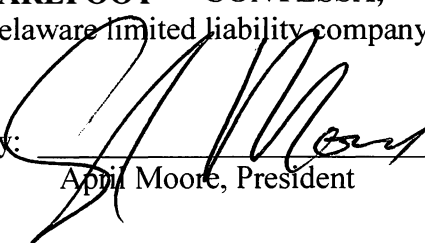


WITNESSES:

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

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

**BAREFOOT CONTESSA, LLC,** a  
Delaware limited liability company

By:   
\_\_\_\_\_  
April Moore, President

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by **April Moore, President of BAREFOOT CONTESSA, LLC**, a Delaware limited liability company. He/she is personally known to me or has produced \_\_\_\_\_ as identification and did not take an oath.

(SEAL)

*see attached*

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

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

My Commission Expires:

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

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

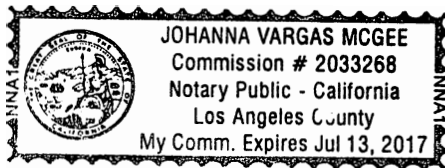
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
 County of Los Angeles )  
 On 11/9/17 before me, Johanna Vargas McGee Notary Public,  
 Date Here Insert Name and Title of the Officer  
 personally appeared April Moore  
 Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

*[Handwritten Signature]*  
 Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Addendum to Deposit Receipt Contract (Sebastian Site)  
 Document Date: N/A Number of Pages: 15 pages  
 Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer Is Representing: \_\_\_\_\_

**EXHIBIT "1"**

**PENDING LITIGATION  
RESPECTING  
SEBASTIAN SITE**

*NONE 12/20/14*

A handwritten signature in black ink, appearing to be "CB1", is written over the page number and footer text.

**EXHIBIT "2"**

**Notice(s) from Governmental Authority  
that SEBASTIAN SITE is not in compliance with  
laws, ordinances, rules or regulations**

*NONE 12/20/14*



**EXHIBIT "D"**

**Declaration of Restrictive Covenants  
Respecting  
SEBASTIAN SITE**

A handwritten signature in black ink, appearing to be "JBD", is written over the page number and footer text.

**DECLARATION OF RESTRICTIVE COVENANTS  
RESPECTING THE SEBASTIAN SITE**

THIS INDENTURE is made this 20<sup>th</sup> day of December, 2016.

WHEREAS the City of Fort Lauderdale, a Florida municipal corporation ("CITY"), its successors and assigns and Barefoot Contessa, LLC, a Delaware limited liability company, its successors and assigns ("DEVELOPER") have entered a Land Swap Agreement; and

WHEREAS, as of the Effective Date of the Land Swap Agreement, CITY owns the SEBASTIAN SITE, described Exhibit "A" to this Declaration.

WHEREAS, as of the Effective Date of the Land Swap Agreement, DEVELOPER is vested with fee simple title the NATCHEZ SITE, more particularly described in the Land Swap Agreement; and

WHEREAS, the period of time between the date of the closing on the SEBASTIAN SITE and the NATCHEZ SITE through the date the DEVELOPER secures all development approvals, including building permits, for the construction of a mixed use development ("**Development Project**") on the SEBASTIAN SITE, shall be known herein as "**Phase I Declaration Period**"; and

WHEREAS, the period of time commencing with the issuance of all Certificates of Occupancy for the Development Project and continuing thereafter in perpetuity shall be known herein as "**Phase II Declaration Period**"; and

WHEREAS, pursuant to the terms of the Land Swap Agreement, CITY is to convey title to the SEBASTIAN SITE to DEVELOPER and DEVELOPER is to convey title to the NATCHEZ SITE to CITY, subject to the terms and conditions of the Land Swap Agreement, Contract for Purchase and Sale, Addenda thereto and certain terms and conditions set forth in this Declaration of Restrictive Covenants Respecting the Sebastian Site relative to CITY retaining certain easement rights in the SEBASTIAN SITE as to the CITY'S post-closing operation of parking facilities on the SEBASTIAN SITE during Phase I Declaration Period; and

WHEREAS, pursuant to the terms and conditions of this Declaration of Restrictive Covenants Respecting the SEBASTIAN SITE, CITY will retain certain easement rights during Phase II Declaration Period relative to the CITY'S post-closing operations of public parking facilities within the Development Project after DEVELOPER secures a Certificate of Occupancy for the Development Project; and

WHEREAS, in order to effectuate the terms of the Land Swap Agreement during Phases I and II Development Periods relative of the operation, maintenance of parking facilities on the SEBASTIAN SITE it is necessary and proper to create a Declaration of Restrictive Covenants to run with the SEBASTIAN SITE and be binding upon the DEVELOPER and its successors and assigns as to the SEBASTIAN SITE; and



WHEREAS, prior to CITY conveyancing and transferring title to DEVELOPER to the SEBASTIAN SITE, the CITY operated, maintained and retained all operating revenues generated by the seventy-seven (77) public parking spaces, together with three (3) handicap spaces on the SEBASTIAN SITE ("**77 Public Parking Spaces**"); and

WHEREAS, prior CITY conveying and transferring title to DEVELOPER to the SEBASTIAN SITE, the CITY also operated, maintained and retained all operating revenues generated from the forty-three (43) semi-public parking spaces, plus two (2) handicap spaces on the SEBASTIAN SITE intended to be made available to the Casa Blanca restaurant ("**43 Semi-Public Casa Blanca Parking Spaces**"); and

NOW, THEREFORE, CITY hereby declares that the SEBASTIAN SITE be conveyed, held and shall be held, conveyed encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, conditions and covenants, all of which shall run with the land and are declared and agreed to be in furtherance of the Land Swap Agreement and to serve a proper municipal purpose, and, in accordance therewith, CITY does hereby create and establish the following Declaration of Restrictive Covenants:

#### **PHASE I DECLARATION PERIOD**

1. The **Phase I Declaration Period** shall be the period commencing with the conveyance and transfer of title to the SEBASTIAN SITE from CITY to DEVELOPER and concluding with the issuance of all development permits and building permit necessary for the construction of a mixed use development project on the SEBASTIAN SITE ("**Development Project**").

2. In the conveyance and transfer of title from CITY to DEVELOPER as to the SEBASTIAN SITE, except as otherwise set forth herein, CITY retains exclusive easement rights to the operation, maintenance and generation and retention of operating revenues, including ticket and enforcement revenues, from the 77 Public Parking Spaces and 43 Semi-Public Casa Blanca Parking Spaces located on the SEBASTIAN SITE during Phase I Declaration Period.

3. As to the 43 Semi-Public Casa Blanca Parking Spaces, CITY shall reserve such spaces primarily for the staff and patrons of the Casa Blanca restaurant or such other restaurant located at 3049 Alhambra Street, Fort Lauderdale, FL. However, during any period the Casa Blanca has no need for such spaces for its staff or patrons or both, and then CITY reserves the right to utilize the 43 Semi-Public Casa Blanca Parking spaces for public parking purposes at the rate herein defined, as distinguished from the municipal rate.

4. Operation and maintenance of the parking facilities on the SEBASTIAN SITE during the Phase I Declaration Period shall be the exclusive domain of the CITY and DEVELOPER shall have no power or authority with respect to such operations and maintenance.

5. During the Phase I Declaration Period, subject to the conditions and limitations set forth in Florida Statute § 768.28, CITY agrees to indemnify DEVELOPER from claims for personal injuries or property damages proximately caused by the tortious acts or omissions of the CITY'S employees and officers in the operation and maintenance of the parking facilities on the SEBASTIAN SITE.

6. Conveyance and transfer of title to the SEBASTIAN SITE shall not include a transfer of ownership of the mechanical parking meter pay stations situated on the SEBASTIAN SITE prior to the closing. At the conclusion of the Phase I Declaration Period CITY shall remove the mechanical parking meter pay stations situated on the SEBASTIAN SITE and CITY shall retain possession and ownership thereof.

7. CITY's exclusive easement rights to the operation, maintenance and generation and retention of operating revenues, shall not extend:

7.1 to portions of the SEBASTIAN SITE that are not, as of the Effective Date of the Land Swap Agreement, being used by the CITY either for the 77 Public Parking Spaces or the 43 Semi-Public Casa Blanca Parking Spaces, except that CITY may continue to use a portion of the SEBASTIAN SITE for beach recreational vendor storage under the auspices of the CITY' Parks & Recreation Department, and

7.2 to that triangular portion of the SEBASTIAN SITE bounded on the East by State Road A-1-A and on the West by Seabreeze Boulevard, having a Broward County Property Appraisers Property ID # 5042 12 10 0440 which shall remain an open space landscaped pedestrian area ("Open Space Landscaped Pedestrian Area") with DEVELOPER having full operational and maintenance responsibility relative the Open Space Landscaped Pedestrian Area.

8. The balance of the SEBASTIAN SITE may be used by DEVELOPER during Phase I Declaration Period in any manner that does not conflict with CITY's reserved exclusive easement rights.

9. DEVELOPER shall have full operational and maintenance responsibility relative to the Open Space Landscaped Area during the Phase I Declaration Period.

## **PHASE II DECLARATION PERIOD**

10. During the Phase II Declaration Period, CITY shall retain exclusive easement rights within the Development Project relative to the 77 Public Parking Spaces.

11, the parking rates for the use of the 77 Pubic Parking Spaces during the Phase II Declaration shall be determined and approved by the CITY in accordance with the parking rates customarily charged by the CITY for public parking spaces in the beach area.

12. The location of the 77 Pubic Parking Spaces shall be located in the lowest levels of the parking facilities within the Development Project during the Phase II Declaration Period.



13. During the Phase II Declaration Period, CITY shall be responsible for supplying a parking meter system for the 77 Public Parking Spaces within the Development Project and shall assume all responsibility for the operation and maintenance of such parking meter system and 77 Public Parking Spaces.

13.1 In conjunction with the operation of the parking meter system for the 77 Public Parking Spaces, CITY shall retain all operating revenues, subject to the following:

13.2 DEVELOPER shall be responsible for maintenance of that portion of the garage set aside for the 77 Public Parking Spaces. DEVELOPER shall also be responsible for electric and other utilities and other operational features for that portion of the garage set aside for the 77 Public Parking Spaces, but CITY will be responsible for the cost and expense of operating and maintaining the parking meter system for the 77 Public Parking Spaces.

13.3 DEVELOPER shall periodically invoice CITY for DEVELOPER's portion of operation and maintenance expenses for the garage at a rate of \$75.00 per space for utilities, including electricity, and \$25.00 per space for maintenance, such costs to be adjusted periodically by mutual agreement of the parties based on the CITY's costs of operation for other CITY parking facilities.

14. During the Phase II Declaration Period, the rights to the use of the 43 Semi-Public Casa Blanca Parking Spaces within the Development Project shall be owned and controlled by the DEVELOPER, subject to the following:

14.1 DEVELOPER shall grant unto Casa Blanca or CITY the right to lease the 43 Semi-Public Casa Blanca Parking Spaces at the rate established by the CITY for monthly parking permits as a result of the CITY's periodic review of parking rate charged by private entities for parking spaces in the beach area, which rate is distinguishable from the municipal rate.

14.1.1 The 43 Semi-Public Casa Blanca Parking Spaces shall be operated as valet-only or attendant parking spaces.

14.1.2 In the event Casa Blanca elects not to lease all or any portion of the 43 Semi-Public Casa Blanca Public Parking Spaces, those spaces shall be made available by DEVELOPER for use by the CITY at market rate on a first refusal basis.

14.1.3 In the event DEVELOPER offers to lease to CITY the spaces not utilized by Casa Blanca, CITY shall have thirty (30) days from the date of written notice by DEVELOPER as to the availability of such spaces within which to elect to lease such spaces from Developer.

15. To the extent that all or any portion of the 43 Semi-Public Casa Blanca Parking Spaces are not leased by Casa Blanca or CITY, DEVELOPER shall have the right to assign or lease such spaces to other merchants or to utilize such spaces for DEVELOPER's own use.

16. During Phase II Declaration Period, The triangular portion of the SEBASTIAN SITE that is bounded on the East by State Road A-1-A and bounded on the West by Sea breeze Boulevard having a Broward County Property Appraisers Property ID # 5042 12 10 0440 shall remain an open space landscaped pedestrian area ("Open Space Landscaped Pedestrian Area") with DEVELOPER having full operational and maintenance responsibility relative the Open Space Landscaped Pedestrian Area. DEVELOPER shall have full operational and maintenance responsibility relative to the Open Space Landscaped Area during the Phase II Declaration Period

### **BOTH PHASE I AND PHASE II DECLARATION PERIODS**

17. **Compliance with Laws and Regulations.** DEVELOPEER shall comply with all applicable statutes, laws, ordinances, rules, regulations and lawful orders of the United States of America, State of Florida, City of Fort Lauderdale, and of any other public authority that may be applicable to this Declaration of Restrictive Covenants and the possession, use, occupancy and maintenance of the easement rights granted CITY hereunder and the obligations of DEVELOPER as set forth herein.

18. **Amendment, modification, revision or discharge.** This Declaration of Restrictive Covenants may be amended, supplemented, modified, revised or discharged only upon an amendment in writing executed by all of the parties hereto. This Declaration of Restrictive Covenants shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns, subject, however, to the limitations contained herein

19. **Non-Discrimination.** Neither DEVELOPER nor CITY shall discriminate against any Person In the performance of duties, responsibilities and obligations under this Declaration of Restrictive Covenants because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

20. **Records.** Each party shall maintain its own respective records and documents associated with this Declaration of Restrictive Covenants in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees of non-compliance with that law.

21. **Preparation of Declaration of Restrictive Covenants.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Declaration of Restrictive Covenants has been their joint effort.

22. **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Declaration of Restrictive Covenants and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Declaration shall not be deemed a waiver of such provision or modification of this Declaration. A waiver of any breach of a provision of this Declaration shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Declaration

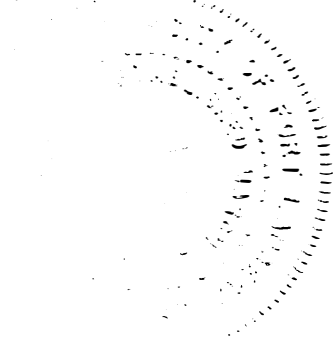
23. **Governing Law; Venue; Waiver of Jury Trial.** This Declaration of Restrictive Covenants shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Declaration and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the Federal District Courts for the Southern District of Florida or the County and Circuit Courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. **WITHOUT LIMITING THE FOREGOING, TO THE EXTENT PERMITTED BY LAW, CITY AND DEVELOPER HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY.**

WITNESSES:

Jeannette A. Johnson  
Jeannette A. Johnson  
[Witness type or print name]

Carla Foster  
Carla Foster  
[Witness type or print name]

(CORPORATE SEAL)



CITY OF FORT LAUDERDALE

By [Signature]  
John P. "Jack" Seiler, Mayor

By [Signature]  
Lee R. Feldman, City Manager

FOR  
ATTEST:

[Signature]  
Jeffrey A. Modarelli, City Clerk

APPROVED AS TO FORM:  
Cynthia A. Everett, City Attorney

By [Signature]  
Robert B. Dunckel, Asst. City Attorney

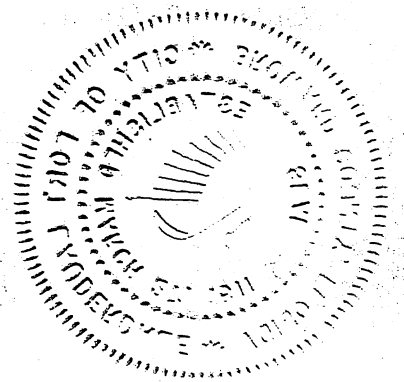
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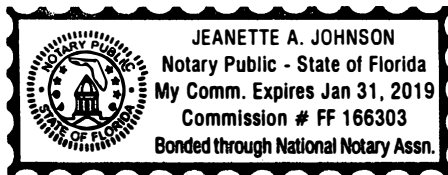


STATE OF FLORIDA:  
COUNTY OF BROWARD:

*JAT*

The foregoing instrument was acknowledged before me this 9th day of February, 2016, by **JOHN P. "JACK" SEILER**, Mayor of the CITY OF FORT LAUDERDALE, and a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)



*Jeanette A. Johnson*  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment

*Jeanette A - Johnson*  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires: 1/31/19

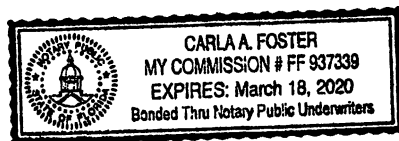
Commission Number FF166303

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me <sup>2nd</sup> this February, 2016, 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.

*CHRISTOPHER J. LAGERBLOOM*  
*Acting City Manager*

(SEAL)



*Carla Foster*  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment

*Carla Foster*  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

Commission Number

*ABD*

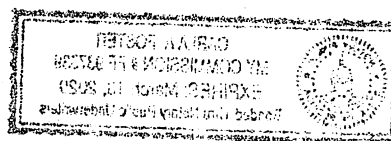
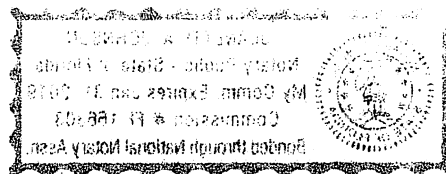


EXHIBIT "A"  
TO  
DECLARATION OF RESTRICTIVE COVENANTS  
  
SKETCH & DESCRIPTION  
FOR  
SEBASTIAN SITE



# SKETCH AND DESCRIPTION

THIS IS NOT A SURVEY

## DESCRIPTION

ALL OF LOTS 1, 2, 3, 4, 5, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19 AND 20, BLOCK 5, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 7, PAGE 30, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

LESS AND EXCEPT RIGHT OF WAY FOR SEABREEZE BOULEVARD (R/W MAP BOOK 12, PG 9; ORB 17969, PG. 32) AND SR A-1-A (FLORIDA DEPARTMENT OF TRANSPORTATION SECTION MAP 86050-2112).

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF SAID LOT 8; THENCE S 01°02'50" E ALONG THE EAST LINE, A DISTANCE OF 125.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 14; THENCE N 88°57'10" E ALONG THE NORTH LINE OF SAID LOT 14, A DISTANCE OF 50.00 FEET TO A POINT ON THE WEST LINE OF LOT 6; THENCE S 01°02'50" E ALONG THE EAST LINE OF SAID LOT 14, A DISTANCE OF 25.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 4; THENCE N 88°57'10" E ALONG THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 13.98 FEET TO AN INTERSECTION WITH A CURVE CONCAVE TO THE NORTHWEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 800.00 FEET, A CENTRAL ANGLE OF 03° 34' 09" AND AN ARC DISTANCE OF 49.89 FEET TO A POINT OF TANGENCY; THENCE S 44°33'59" W, A DISTANCE OF 81.31 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE NORTHWEST; THENCE SOUTHWESTERLY AND WESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 44° 23' 11" AND AN ARC DISTANCE OF 19.37 FEET TO A POINT OF TANGENCY; THENCE S 88° 57'10" W, A DISTANCE OF 239.98 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE NORTHEAST; THENCE WESTERLY AND NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 85° 18' 33" AND AN ARC DISTANCE OF 37.23 FEET TO A POINT OF TANGENCY; THENCE N 05° 42'46" W, A DISTANCE OF 200.68 FEET; TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE SOUTHEAST; THENCE NORTHEASTERLY AND EASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 94° 39' 56" AND AN ARC DISTANCE OF 41.31 FEET TO A POINT OF TANGENCY; THENCE N 88° 57'10" E, A DISTANCE OF 152.47 FEET TO THE NORTHEAST CORNER OF SAID LOT 11; THENCE S 01° 02' 50" E, A DISTANCE OF 125.00 FEET; THENCE N 88° 57'10" E, A DISTANCE OF 50.00 FEET; THENCE N 01° 02' 50" W, A DISTANCE OF 125.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 9; THENCE N 88° 57'10" E, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

BEGIN AT P.O.B. (2) BEING THE NORTHWEST CORNER OF LOT 1; THENCE N 88°57'10" E ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 27.05 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE SOUTHWEST, THENCE SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 122° 00' 11" AND AN ARC DISTANCE OF 53.23 FEET TO AN INTERSECTION WITH A CURVE CONCAVE TO THE NORTHWEST, ALSO BEING A POINT ON THE WEST RIGHT OF WAY LINE OF SEABREEZE BOULEVARD; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 800.00 FEET, A CENTRAL ANGLE OF 06° 01' 31" AND AN ARC DISTANCE OF 84.13 FEET TO A POINT ON THE WEST LINE OF SAID LOT 3; THENCE N 01° 02'50" W, A DISTANCE OF 107.12 FEET TO POINT OF BEGINNING.

ALSO TOGETHER WITH:

COMMENCE AT THE SOUTHEAST CORNER OF LOT 5, BLOCK 5, THENCE N 07°40' 49" E ALONG THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 5, A DISTANCE OF 21.46 FEET TO THE POINT OF BEGINNING (3); THENCE CONTINUE N 07° 40' 49" E ALONG THE WEST RIGHT OF WAY OF SR A-1-A, A DISTANCE OF 95.69 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 5694.65 FEET, A CENTRAL ANGLE OF 01° 08' 54" AND AN ARC DISTANCE OF 114.14 FEET TO AN INTERSECTION WITH A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST, A RADIAL AT SAID INTERSECTION BEARING S 80° 16' 53" W, THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 07° 49' 10" AND AN ARC DISTANCE OF 3.41 FEET TO AN INTERSECTION WITH A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST, A RADIAL AT SAID INTERSECTION BEARING N 62° 41' 50" W, THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, ALSO BEING A POINT THE EAST RIGHT OF WAY OF SEABREEZE BOULEVARD, HAVING A RADIUS OF 850.00 FEET, A CENTRAL ANGLE OF 15° 54' 52" AND AN ARC DISTANCE OF 236.09 FEET TO A CURVE CONCAVE TO THE NORTHEAST; THENCE SOUTHWESTERLY AND SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 134° 15' 51" AND AN ARC DISTANCE OF 58.58 FEET TO A POINT OF TANGENCY; THENCE N 88° 57' 10" E, A DISTANCE OF 66.77 FEET TO A CURVE CONCAVE TO THE NORTHWEST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 81° 16' 22" AND AN ARC DISTANCE OF 35.46 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA. CONTAINING 93863 SQUARE FEET OR 2.1548 ACRES MORE OR LESS.

## NOTES:

- 1) BEARINGS ARE BASED UPON A GRID BEARING OF N 88°57'10" E, ALONG THE NORTH LINE OF BLOCK 5.
- 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 RESRTICTIONS OF RECORD, IF ANY
- 4) THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CERTIFIED TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DATED: DECEMBER 12, 2016

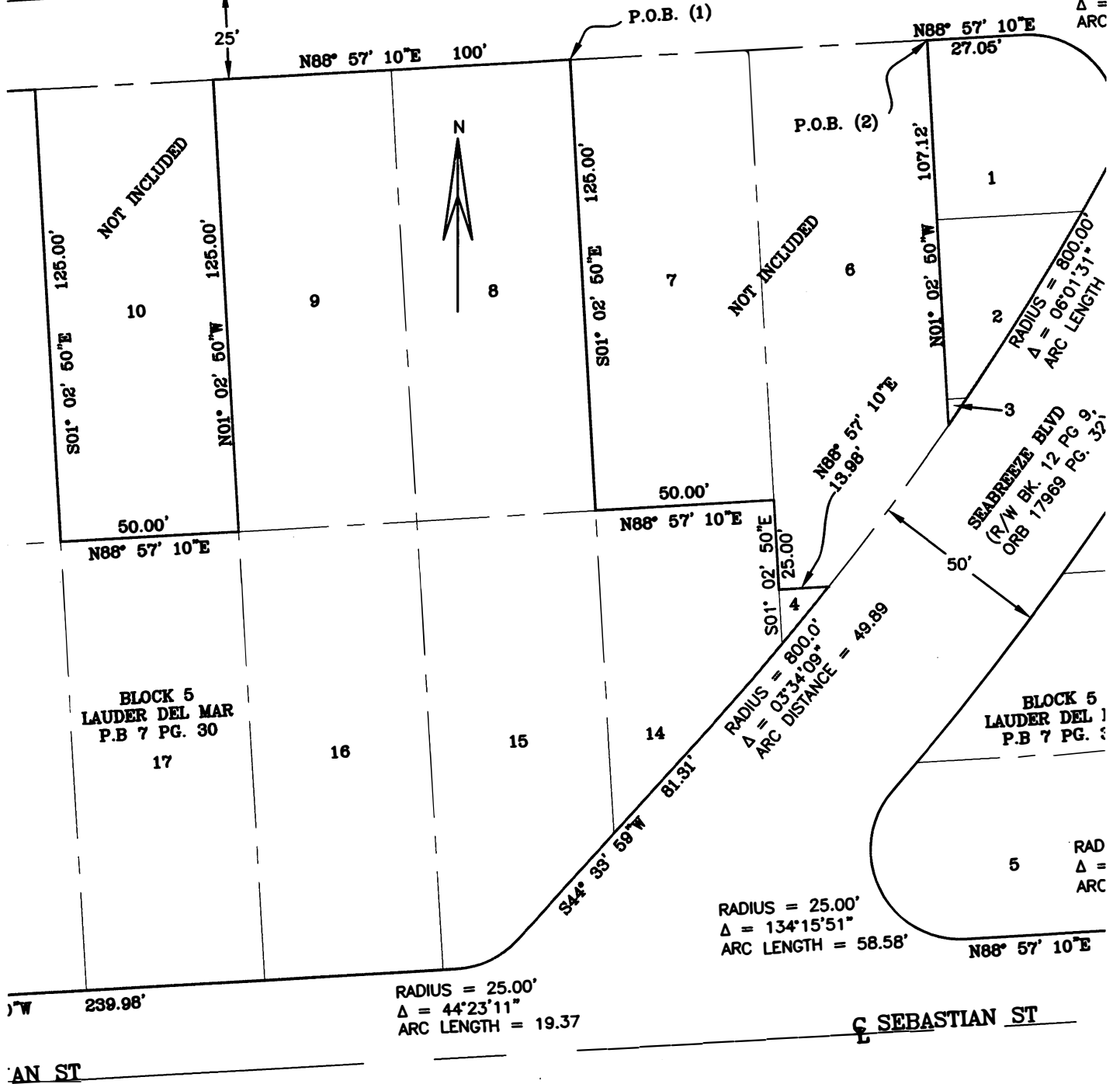
MICHAEL W. DONALDSON  
PROFESSIONAL SURVEYOR AND MAPPER NO. 6490  
STATE OF FLORIDA

SHEET 1 OF 4

CITY OF FORT LAUDERDALE	
BLOCK 5, LAUDER DEL MAR	
PLAT BOOK 7, PAGE 30	
EXHIBIT 1	
BY: M.D.	ENGINEERING DATE: 12/12/16
CHK'D M.D.	DIVISION SCALE



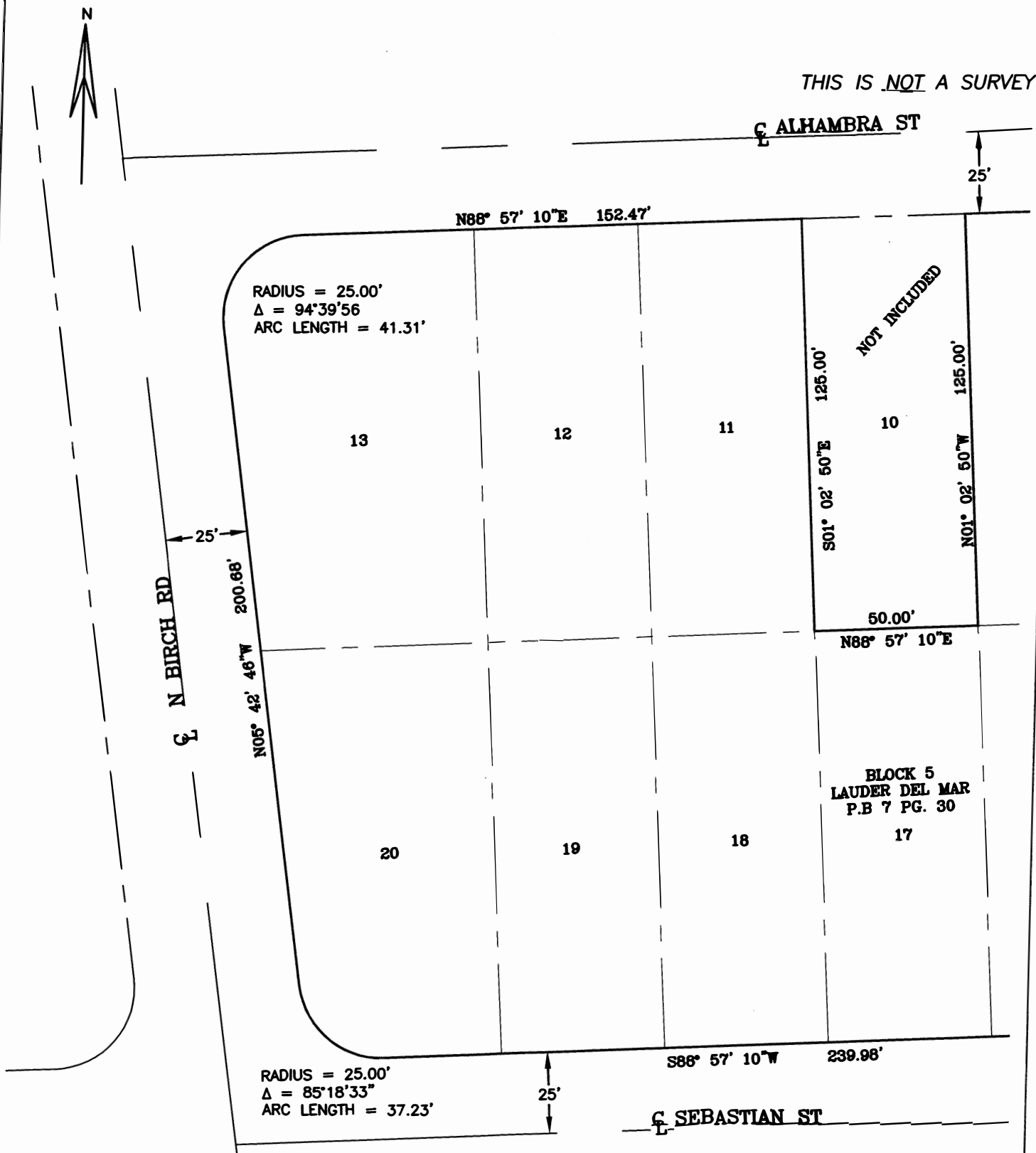
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CITY OF FORT LAUDERDALE	
BLOCK 5, LAUDER DEL MAR	
PLAT BOOK 7, PAGE 30	
EXHIBIT 1	
BY: M.D.	ENGINEERING DIVISION
CHK'D M.D.	DATE 12/12/16 SCALE: 1"=40'

# SKETCH AND DESCRIPTION

THIS IS NOT A SURVEY



## LEGEND:

COR. = CORNER  
 Δ = DELTA ANGLE  
 P.B. = PLAT BOOK  
 PG. = PAGE  
 P.O.B. - POINT OF BEGINNING  
 P.O.C. - POINT OF COMMENCEMENT

R/W = RIGHT OF WAY  
 C = CENTERLINE  
 ORB = OFFICIAL RECORDS BOOK

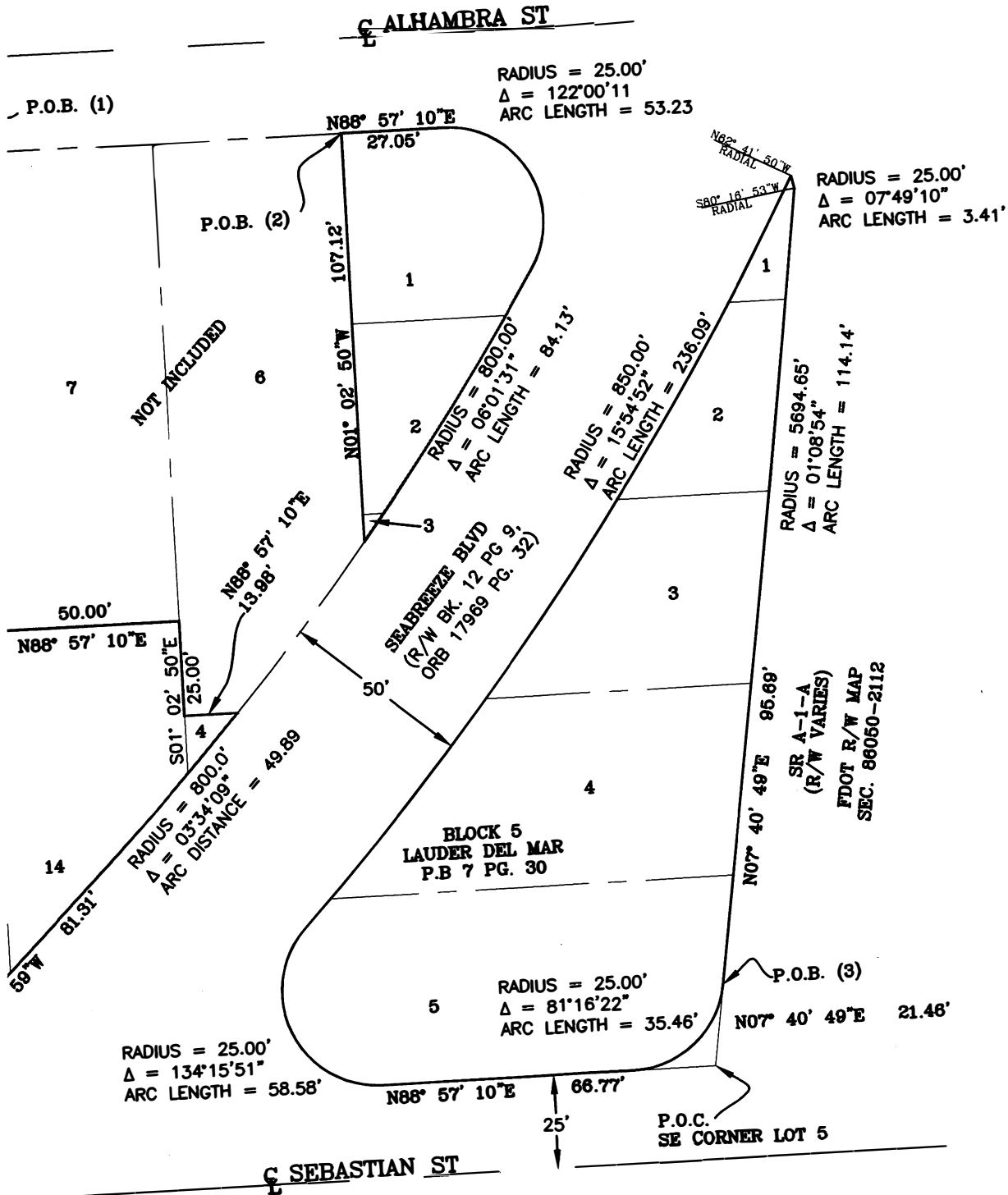
SHEET 3 OF 4

CITY OF FORT LAUDERDALE		
BLOCK 5, LAUDER DEL MAR		
PLAT BOOK 7, PAGE 30		
EXHIBIT 1		
BY: M.D.	ENGINEERING	DATE: 12/12/16
CHK'D M.D.	DIVISION	SCALE: 1"=40'

Page 82 of 82

*[Signature]*

# SKETCH AND DESCRIPTION



THIS IS NOT A SURVEY

CITY OF FORT LAUDERDALE			
BLOCK 5, LAUDER DEL MAR			
PLAT BOOK 7, PAGE 30			
EXHIBIT 1			
BY: M.D.	ENGINEERING	DATE: 12/12/16	SCALE: 1"=40'
CHK'D M.D.	DIVISION	DATE: 12/12/16	

*Handwritten signature/initials.*

**EXHIBIT "E"**

**Deposit Receipt Contract for Purchase and Sale  
Of  
NATCHEZ SITE**



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

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

3 BUYER CITY OF FORT LAUDERDALE, a Florida municipal corporation4 SELLER BAREFOOT CONTESSA, LLC, a Delaware limited liability company5 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 LAND SWAP AGREEMENT9 TAX FOLIO #: SEE LAND SWAP AGREEMENT10 1.1 PROPERTY ADDRESS: N/A

11 (Address) (City) (Zip)

12 1.2 Seller represents the Property can be used for the following purposes: N/A

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

14 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 &amp; Terms; OR ( ) Interest Rate \_\_\_\_\_ % &amp; 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: \_\_\_\_\_

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: \_\_\_\_\_

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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145 Property Address: \_\_\_\_\_  
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 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.~~



200 Property Address: \_\_\_\_\_

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

260

254 Property Address: \_\_\_\_\_

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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310 Property Address: \_\_\_\_\_

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 postjudgement 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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362 Property Address: \_\_\_\_\_

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: \_\_\_\_\_

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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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         | ( ) Other: _____                                    |

JB

Property Address: \_\_\_\_\_

472 BUYER \_\_\_\_\_ Date \_\_\_\_\_ BUYER \_\_\_\_\_ Date \_\_\_\_\_

473 Printed Name \_\_\_\_\_ Printed Name \_\_\_\_\_

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

475 Address \_\_\_\_\_

476 Tele. #: \_\_\_\_\_ Fax #: \_\_\_\_\_ Tele. #: \_\_\_\_\_ Fax #: \_\_\_\_\_

477 E-Mail: \_\_\_\_\_ E-Mail: \_\_\_\_\_

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

479 Deposit received by (print name): \_\_\_\_\_ (signature): \_\_\_\_\_

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

481 ACCEPTANCE OF CONTRACT AND PROFESSIONAL SERVICE FEE: Seller hereby accepts this offer and  
482 recognizes \_\_\_\_\_ as Listing Broker. Broker MLS ID # \_\_\_\_\_

483 Address: \_\_\_\_\_

484 Tele. # \_\_\_\_\_ Fax #: \_\_\_\_\_ Sales Associate \_\_\_\_\_

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

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

487 Address: \_\_\_\_\_

488 Tele. # \_\_\_\_\_ Fax #: \_\_\_\_\_ Sales Associate \_\_\_\_\_

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

490 (CHECK and COMPLETE THE ONE APPLICABLE)

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

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

500

501 SELLER \_\_\_\_\_ Date \_\_\_\_\_ SELLER \_\_\_\_\_ Date \_\_\_\_\_

502 Printed Name \_\_\_\_\_ Printed Name \_\_\_\_\_

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

504 Address \_\_\_\_\_

505 Tele. #: \_\_\_\_\_ Fax #: \_\_\_\_\_ Tele. #: \_\_\_\_\_ Fax #: \_\_\_\_\_

506 E-Mail: \_\_\_\_\_ E-Mail: \_\_\_\_\_

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

250

**EXHIBIT "F"**

**Addendum to Exhibit "E"**



**ADDENDUM TO  
DEPOSIT RECEIPT CONTRACT FOR PURCHASE AND SALE  
OF  
NATCHEZ SITE DEVELOPER TO CITY**

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

-and-

**BAREFOOT CONTESSA, LLC**, a Delaware limited liability company, whose principal address is 1600 South Ocean Boulevard, #2001, Pompano Beach, FL 33062 its successors or assigns (hereinafter, "Developer")

**PROPERTY:**

**NATCHEZ SITE**

**DESCRIPTION**

All of Block 10, BIRCH OCEAN FRONT SUBDIVISION NO. 2, according to the Plat thereof, as recorded in Plat Book 21, Page 22 of the Public Records of Broward County, Florida; together with the East Half (E ½) of that portion of vacated Breakers Avenue lying adjacent to Block 10, BIRCH OCEAN FRONT SUBDIVISION NO. 2, as was vacated per Official Records Book 16039, Page 239 of the Public Records of Broward County, Florida; said lands lying, situate and being in the City of Fort Lauderdale, Broward County, Florida

BCPA Property ID #s    5042 01 06 0100;  
                                 5042 01 06 0110;  
                                 5042 01 06 0120;  
                                 5042 01 06 0130;  
                                 5042 01 06 0140





**SEBASTIAN SITE**  
**SKETCH & DESCRIPTION**  
**SEE EXHIBIT "A"**  
**TO**  
**LAND SWAP AGREEMENT**

BCPA Property ID #

5042 12 10 0460  
5042 12 10 0470  
5042 12 10 0490  
5042 12 10 0510  
5042 12 10 0520  
5042 12 10 0550  
5042 12 10 0560  
5042 12 10 0440

The following Addendum is to the Deposit Receipt and Contract for Sale and Purchase of the NATCHEZ SITE (hereinafter, "Contract – NATCHEZ ") attached to the Land Swap Agreement as **Exhibit "E"** and is hereby incorporated into that Land Swap Agreement and Contract – NATCHEZ between the parties and the parties do hereby agree as follows:

**1. Purchase and Sale.** Subject to the terms and conditions of the Contract - NATCHEZ, as amended by this Addendum, DEVELOPER shall sell to CITY, and CITY shall purchase from DEVELOPER, all of DEVELOPER'S right, title and interest in and to the NATCHEZ SITE, including all improvements thereon.

**1.1. Effective Date.** The Effective Date of this Contract - NATCHEZ shall be the first day of the month next succeeding that date (i) upon which the CITY'S City Commission authorizes execution of this Contract, and (ii) the Contract is executed by both CITY and DEVELOPER. CITY shall not authorize execution of the Contract until (i) there has been an appropriation of funds for this Land Swap Agreement, (ii) DEVELOPER has authorized execution of the Contract and (iii) has executed the Contract.

**2. Closing Date.** This Contract - NATCHEZ shall be closed and the deed and possession of the NATCHEZ SITE delivered no later than twenty (20) days after the close of the Investigation Period, unless extended by other provisions of this Contract or separate agreement. Authority is hereby delegated to the City Manager to execute any agreements or amendment respecting extension or acceleration of the Closing Date.

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



**2.2 CITY'S closing agent shall prepare the closing statement**

**3. Evidence of title.** Evidence of title for the NATCHEZ SITE shall be delivered to CITY within **ten (10) days** after the Effective Date of this Contract. CITY 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 ("Release of Reservations"), and 10.3 ("Title Defects") of the Contract.

**3.1 Conveyance.** DEVELOPER's conveyance of title to the NATCHEZ SITE shall be by Statutory Warranty Deed, shall be subject to public utility easements of record.

**3.2 Proration of taxes.** In the event title to NATCHEZ SITE is acquired by CITY between January 1 and November 1 of any year for use as municipal parking facilities, DEVELOPER shall, pursuant to Florida Statutes § 195.295 (2016), as same may be amended from time to time, 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 on the current assessment and millage rates on the NATCHEZ SITE. According to Florida Statutes § 196.295 (2016), as same may be amended from time to time, 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 (2016), as same may be amended from time to time, DEVELOPER shall pay all such taxes due.

**3.3 Owner's Title Insurance.** The expense of the Owner's Title Insurance Policy for the CITY shall be paid by the CITY.

**4. Survey.** If the survey shows encroachment(s) on the NATCHEZ SITE" or that improvements located on the NATCHEZ SITE encroach on setback lines, 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 10 ("Evidence of Title"), 10.2 ("Reservations"), and 10.3 ("Title Defects") of the Contract.

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

(a) CITY shall be provided a period ("Investigation Period") for investigation, testing and examination of the NATCHEZ SITE as set forth herein. The "Investigation Period" under this Contract - NATCHEZ shall be a period starting with the Effective Date of the Contract – NATCHEZ and ending **one hundred eighty days** thereafter. During the Investigation Period, CITY shall have the absolute right, through its agents, servants, employees and contractors, to enter upon the NATCHEZ SITE for the purpose of investigation, discovery, inspection and testing of the NATCHEZ SITE, 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 and sale of the Real Property including inspection as provided in ¶15

("Inspections, Repair and Maintenance") of the Contract -NATCHEZ. DEVELOPER agrees to cooperate, at no expense to DEVELOPER, in regard to CITY's efforts to obtain all relevant information respecting the investigation, discovery and testing, providing to CITY within **ten (10) days** of the Effective Date hereof copies of DEVELOPER's Books and Records respecting any previous environmental assessments of the real property in question, including those Books and Records in the possession of DEVELOPER 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 the NATCHEZ SITE unless CITY has received DEVELOPER's prior written approval of such tests. All such entries shall be at the risk of CITY; DEVELOPER 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 the NATCHEZ SITE caused by CITY, its agents and contractors under this Paragraph. Upon completion of CITY's investigations and tests, the NATCHEZ SITE will be restored to the same condition as it existed before CITY's entry upon the NATCHEZ SITE. 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.

(c) In the event that CITY is satisfied with the results of the Inspections prior to the expiration of the Inspection Period and CITY is not opposed to waiving its Right of Cancellation under ¶7 hereof, CITY shall provide CITY with written notice that it is satisfied with the Inspections and waives any further Right of Cancellation, thereby allowing the parties to accelerate the date of the Closing, subject to the DEVELOPER providing CITY with reciprocal written notice as to satisfaction of Inspections and waiver of Right of Cancellation as to the purchase and sale of the NATCHEZ SITE.

**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 DEVELOPER 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. Any such extension of time for Closing shall also include an extension of time for Closing on the SEBASTIAN SITE, as it is contemplated by the parties that there will be a simultaneous Closing on or under the Land Swap Agreement

**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 DEVELOPER 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 upon the discovery of any condition determined to be unacceptable to CITY in its sole discretion.

**8. Leases.** Conveyance of title to the NATCHEZ SITE shall be free of any leasehold interests or claims by persons in possession of the NATCHEZ SITE.

**9. Possession and Occupancy.** As to the NATCHEZ SITE, possession and occupancy shall pass to CITY at closing.

**10. Personal Property.** DEVELOPER represents and acknowledges that there is no personal property located on the NATCHEZ SITE that is a part of the sale of the NATCHEZ SITE. All of DEVELOPER'S personal property shall be removed from the NATCHEZ SITE by the DEVELOPER prior to Closing.

**11. Maintenance of NATCHEZ SITE pending Closing.** Commencing with the Effective Date hereof and continuing through the date of the Closing, DEVELOPER shall maintain the NATCHEZ SITE in code compliant manner with regard to the landscaping and maintain the SITE free from trash, rubbish, debris and graffiti. DEVELOPER shall secure the SITE by erecting and maintaining fencing encompassing the SITE in such a manner as to prevent trespassers and squatters from gaining access to the SITE.

**12. Service Contracts.** DEVELOPER represents and acknowledges that there are no Service Contracts concerning the NATCHEZ SITE and DEVELOPER will not enter into any service contracts concerning the NATCHEZ SITE after the Closing which would bind CITY or the NATCHEZ SITE.

**13. Destruction or Condemnation of the NATCHEZ SITE.**

(a) In the event that all or any portion of the NATCHEZ SITE is damaged or destroyed by any casualty or by a taking or condemnation under the provisions of eminent domain law after the Effective Date but prior to the Closing, DEVELOPER shall give CITY prompt written notice of same ("Condemnation/Casualty Notice").

(b) Within **fifteen (15) days** after receipt of the Condemnation/Casualty Notice, CITY shall have the option of terminating this Land Swap Agreement, Contract – NATCHEZ and Addendum by delivery of written notice to DEVELOPER (i) taking PARCEL "B" in "AS IS" condition, together with insurance proceeds, if any, or (ii) terminating this Land Swap Agreement, Contract and Addendum by delivery of written notice to DEVELOPER. 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.

(c) In the event CITY elects under subsection (b)(i) above to take PARCEL "B" in "AS IS" condition, then DEVELOPER shall, upon Closing, assign to CITY all claims of DEVELOPER under or pursuant to any casualty insurance coverage, or under any provisions of eminent domain law, as applicable, and all proceeds from any such casualty insurance or condemnation awards received by DEVELOPER on account of any such casualty or condemnation, as the case may be (to the extent the same have not been applied by DEVELOPER prior to the Closing Date to repair the resulting damage), and there shall be no reduction in Purchase Price (except that in connection with a casualty covered by insurance, CITY shall be credited with the lesser of the remaining cost to repair the damage or destruction caused by such casualty or the amount of the deductible under DEVELOPER's insurance policy

[except to the extent such deductible was expended by DEVELOPER to repair the resulting damage].

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

(a) Authority. DEVELOPER 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 DEVELOPER enforceable against DEVELOPER 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 DEVELOPER. 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"**, DEVELOPER has received no written notice of any pending or threatened action, litigation, condemnation or other proceeding against the NATCHEZ SITE or against DEVELOPER with respect to the NATCHEZ SITE or against DEVELOPER nor is DEVELOPER aware of any such pending or anticipated action or litigation regarding DEVELOPER or the NATCHEZ SITE. Exhibit "1" shall be completed by DEVELOPER and attached to this Addendum no later than fifteen (15) days after the Effective Date of the Land Swap Agreement.

(e) Compliance. Except as may be set forth in **Exhibit "2"**, DEVELOPER has received no written notice from any governmental authority having jurisdiction over the NATCHEZ SITE to the effect that the NATCHEZ SITE is not in compliance with applicable laws, ordinances, rules or regulations. Exhibit "2" shall be completed by DEVELOPER and attached to this Addendum no later than fifteen (15) days after the Effective Date of the Land Swap Agreement.

(f) Foreign Person. DEVELOPER is not a "foreign person" within the meaning of the Internal Revenue Code, and at Closing, DEVELOPER shall deliver to CITY an affidavit to such effect. DEVELOPER 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 DEVELOPER shall act in accordance with all reasonable requirements of CITY in order to effect such full compliance by CITY

(g) At Closing, the DEVELOPER shall provide to the CITY an updated certification certifying that all the above representations and warranties of the DEVELOPER 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. Notices.** All notices, requests and consents hereunder to any party, shall be deemed to be sufficient if in writing and (i) delivered in person, (ii) delivered via facsimile or via e-mail, if a confirmatory mailing in accordance herewith is also contemporaneously made, (iii) duly sent by first class registered or certified mail, return receipt requested, and postage prepaid or (iv) duly sent by overnight delivery service, addressed to such party at the address set forth below (or at such other addresses as shall be specified by like notice):

**DEVELOPER:** BAREFOOT CONTESSA, LLC  
1699 South Ocean Boulevard, #2001  
Pompano Beach, FL 33062  
Fort Lauderdale, FL 33311  
April Moore, President

with a copy to: Stephanie J. Toothaker, Esq.  
Tripp Scott  
110 S.E. Sixth Street  
Fort Lauderdale, FL 33301-5000  
Office: (954) 765-2905  
Facsimile: (954) 761-8475  
E-mail [SToothaker@hotmail.com](mailto:SToothaker@hotmail.com)

**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  
[LFeldman@fortlauderdale.gov](mailto:LFeldman@fortlauderdale.gov)

with a copy to: Cynthia A. Everett, City Attorney  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33301



Telephone: (954) 828-5036  
FAX: (954) 828-5915  
CEverett@fortlauderdale.gov

All such notices and communications shall be deemed to have been given when transmitted in accordance herewith to the foregoing persons at the addresses set forth above; provided, however, that the time period in which a response to any such notice must be given shall commence on the date of receipt thereof; provided, further, that rejection or other refusal to accept or inability to deliver because of changed address for which no notice has been received shall also constitute receipt. The respective attorneys for CITY and DEVELOPER are authorized to send notices and demands hereunder on behalf of their respective clients.

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

**18. Brokers.** DEVELOPER and CITY warrant and represent to each other that no broker or agent has been employed with respect to the sale of the NATCHEZ SITE. Other than as represented above, neither this Contract nor any subsequent transaction between DEVELOPER and CITY involving the NATCHEZ SITE has been brought about through the efforts of any Broker. DEVELOPER 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.

**19. Proceeds of Sale.** All payments made by CITY shall be made in the form of U.S. currency, or escrow account check drawn on the account of the Title Insurance Agent or Attorney licensed to practice law in the State of Florida or wire transfer of funds or equivalent drawn on a financial institution with branches in Broward, Miami-Dade or Palm Beach County which must have at least one branch in Broward County.

**20. Disclosure of Beneficial Interest(s).** [This Paragraph intentionally deleted.]

**21. Conflict.** In the event of any conflict or ambiguity between this Addendum and the underlying Land Swap Agreement and Contract that it modifies, this Addendum shall control.

**22. Expenses of Closing.** Expenses of Closing shall be allocated in accordance with the terms of the Deposit Receipt Contract for Purchase and Sale of the NATCHEZ SITE, except that DEVELOPER shall pay CITY's attorneys' fees for services rendered in conjunction with the negotiation, draftsmanship and administration of this Land Swap Agreement, through Closing, in an amount not to exceed Five Thousand (\$5,000.00) and no/100 Dollars.

## 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 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 DEVELOPER 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, DEVELOPER 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 the NATCHEZ SITE 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 the NATCHEZ SITE 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:

Jeannette A. Johnson

Jeannette A. Johnson

[Witness type or print name]

Paul Lee

Carla Foster

[Witness type or print name]

(CORPORATE SEAL)



CITY OF FORT LAUDERDALE

By [Signature]  
John P. "Jack" Seiler, Mayor

By [Signature]  
Lee R. Feldman, City Manager

FOR

ATTEST:

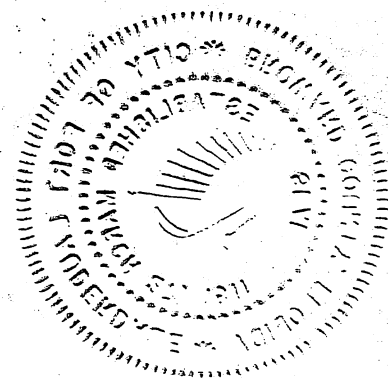
[Signature]

Jeffrey A. Modarelli, City Clerk

Approved as to form:  
Cynthia A. Everett, City Attorney

By [Signature]  
Robert B. Dunckel, Asst. City Attorney

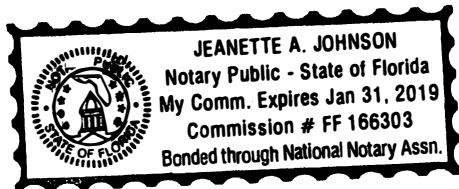
[Signature]



STATE OF FLORIDA:  
COUNTY OF BROWARD:

*JAS*  
The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of February, 2016, 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)



*Jeanette A. Johnson*  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

Jeanette A. Johnson  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires: 1/31/19

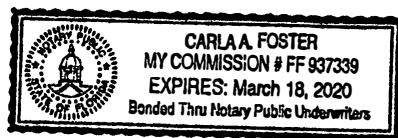
Commission Number FF166303

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of February, 2016, 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)

*Christopher J. Lagerboom*  
*Acting City Manager*



*Carla Foster*  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

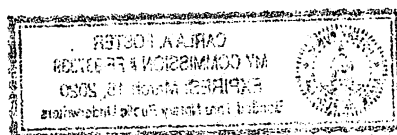
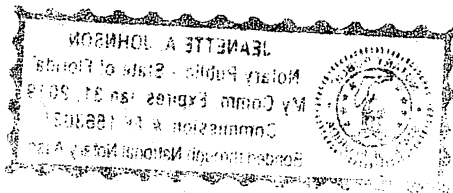
Carla Foster  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

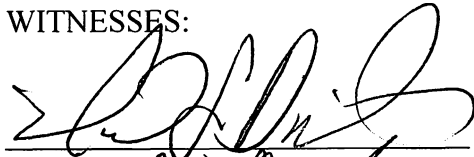
Commission Number

L:\REALPROP\Barefoot Contessa\Natchez Addendum.Docx

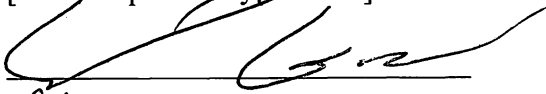
*JAS*



WITNESSES:

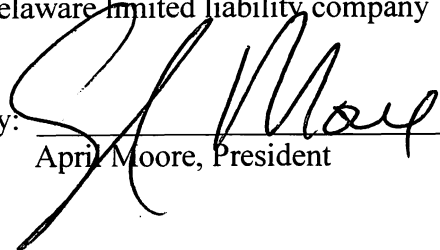


Neil D. Dint  
[Witness print or type name]



Chris Guerrero  
[Witness print or type name]

**BAREFOOT CONTESSA, LLC**, a  
Delaware limited liability company

By:   
April Moore, President

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by **April Moore, President of BAREFOOT CONTESSA, LLC**, a Delaware limited liability company. He/she is personally known to me or have produced \_\_\_\_\_ as identification and did not take an oath.

(SEAL)

*See attached*

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

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

My Commission Expires:

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



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of Los Angeles )

On 1/9/17 before me, Johanna Vargas McJee Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared April Moore  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Addendum to Deposit Receipt Contract (Notching Site)

Document Date: N/A Number of Pages: 14 pages

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- ☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- ☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

**EXHIBIT "1"**  
**PENDING LITIGATION**



**EXHIBIT "2"**

**Notice(s) from Governmental Authority  
that the NATCHEZ SITE is not in compliance with  
laws, ordinances, rules or regulations**