

RESOLUTION NO. 18-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING AND RATIFYING THE TRANSFER OF CITY OWNED PROPERTY LOCATED AT 1801 SW 1ST AVENUE, FORT LAUDERDALE, FLORIDA, TO THE HOUSING AUTHORITY OF THE CITY OF FORT LAUDERDALE; APPROVING THE AGREEMENT FOR SALE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 25, 2018, pursuant to Resolution No. 18-194, the City Commission of the City of Fort Lauderdale declared its intent to convey property owned by the City to the Housing Authority of the City of Fort Lauderdale, a Florida governmental entity created under Chapter 421, Part I of the Florida Statutes; and

WHEREAS, Section 8.02 of the City Charter requires a public hearing on the terms of the proposed transfer and the proposed use; and

WHEREAS, the public hearing to receive comments from the public is set for Tuesday, November 6, 2018;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That the Recitals set forth above are true and correct and incorporated herein by this reference.

SECTION 2. That the City Commission of the City of Fort Lauderdale hereby ratifies and confirms Resolution No. 18-194, as modified herein and authorizes, empowers and directs the proper City Officials to execute and deliver a Quit Claim Deed in favor of the Housing Authority of the City of Fort Lauderdale under the terms and conditions set forth in Resolution No. 18-194, as modified herein.

SECTION 3. That the City Commission hereby approves the Agreement for Sale attached to this Resolution.

SECTION 4. In addition to the consideration set forth in Resolution No. 18-194, any bonds or other obligations encumbering the Property shall be paid and discharged by the Housing Authority of the City of Fort Lauderdale.

SECTION 5. That the effective date of this Resolution is the date of adoption.

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ADOPTED this the ____ day of _____, 2018.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
JEFFREY A. MODARELLI

AGREEMENT OF SALE

THIS AGREEMENT OF SALE is made this ____ day of November _____, 2018 (the "**Effective Date**"), by and between the HOUSING AUTHORITY OF THE CITY OF FORT LAUDERDALE, (the "**Buyer**"), and CITY OF FORT LAUDERDALE, a Florida municipal corporation having its principal office at 100 N. Andrews Ave., Fort Lauderdale, FL 33301 (the "**Seller**").

In consideration of the mutual covenants and agreements contained herein, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Property. Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, subject to the terms and conditions of this Agreement, the parcel of land comprising approximately 2.268 acres located at 1801 SW 1st Avenue, in the City of Fort Lauderdale, Broward County, Florida, as further shown on Exhibit "A", attached hereto and made a part hereof (the "**Property**").

2. Purchase Price. The purchase price ("**Purchase Price**") for the Property shall be One and 00/100 Dollars (\$1.00).

3. Title. Buyer shall accept title to the Property subject to all title defects and other adverse matters and conditions affecting the Property and shall bear all costs and expenses relating to any condition of title to the Property.

4. Real Estate Taxes. Current real estate taxes and installments of assessments, if any, shall be computed and prorated between Seller and Buyer as of the Closing Date in accordance with local custom. Buyer shall be responsible for all taxes and installments of assessments, both general and specific, due and payable after the Closing Date.

5. Inspections and Indemnification. Buyer is purchasing the Property in an "AS IS" condition. Buyer acknowledges that neither Seller nor any agent of Seller has provided any 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 the Property and:

(a) The nature, quality or condition of the Property, including, without limitation, the water, soil and geology;

(b) The income to be derived from the Property;

(c) The suitability of the Property for any and all activities and uses which Buyer may conduct thereon;

(d) The compliance of or by the Property 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 Property; or

- (f) Any other matter with respect to the Property.

Without limiting the foregoing, Seller does not and has not made and specifically disclaims any representation or warranty regarding the presence or absence of any hazardous substances, as hereinafter defined, at, on, under or about the Property or the compliance or non-compliance of the Property with any laws, rules, regulations or orders regarding Hazardous Substances (collectively the "**Hazardous Substance Laws**"). Seller has made the disclosures set described below regarding the environmental condition of the Property. 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. Buyer further acknowledges that neither Seller nor any agent of Seller has provided any representation or warranty with respect to the existence of asbestos or other Hazardous Substances on the Property other than as may be specifically set forth in this Contract.

Buyer acknowledges that it is responsible for its own market due diligence of the Property and making its own informed judgment as to the matters set forth herein.

Seller has provided copies of correspondence dated January 24, 2017 from Broward County, Florida regarding Broward County's requirement regarding conditions and requirements for remediation of the Property along with a copy of the Seller's environmental report dated August 28, 2014.

Buyer releases the Seller from any and all direct liability to Buyer regarding any contamination or remediation of the Property required by law and assumes absolute responsibility for any and all costs, expenses, fines, penalties, fees of remediation and clearing the Property. This release does not include any claims for contribution or indemnity when liability is sought against Buyer by any third party.

6. Closing and Possession.

(a) The closing ("**Closing**") shall occur as soon as possible after the satisfaction of all conditions described herein, but in no event later than November 9, 2018. The date on which the Closing occurs shall be referred to as the "**Closing Date**". At Closing: (a) Seller shall convey to Buyer title to the Property by a transferable and recordable quitclaim deed in the form attached hereto as Exhibit "B" and made a part hereof (the "**Deed**"); (b) Seller shall execute and deliver such standard closing affidavits as may be required by Buyer's title insurer, if any; and (c) Buyer shall deliver to Seller the Purchase Price. Subject to the standard exceptions stated herein and the special exceptions on the Buyer's title commitment, possession of the Property shall be given to Buyer at Closing.

(b) The Deed shall include a covenant that Buyer shall provide affordable housing on the Property within five (5) years of the Closing Date and, if Buyer shall fail to provide such affordable housing, that title to the Property shall, automatically and without further action by either party, revert to Seller.

(c) Buyer shall be responsible for all fees, costs, and expenses, including documentary stamps taxes, premiums for an Buyer's or lender's title policy, and title search fees, associated with the sale of the Property at Closing, including retirement of all outstanding bonds, if any.

7. Risk of Loss/Casualty.

(a) All risk of loss, destruction or damage to the Property prior to, but not including, the Closing Date shall remain with and be assumed by Seller.

(b) Seller shall maintain its current casualty insurance, if any, with respect to the Property until the Closing Date. Seller shall retain all insurance proceeds paid as a result of a casualty to the Property prior to Closing.

8. Default by Buyer; Remedies of Seller. In the event Buyer fails to comply with any or all of the obligations or agreements to be performed, honored or observed by Buyer under and pursuant to the terms and provisions of this Agreement and such default is not cured within thirty (30) days after written notice to Buyer, then Seller may terminate this Agreement. Seller shall be entitled to recover from Buyer its out-of-pocket costs and expenses, including reasonable attorneys' fees and costs, in the event Seller prevails in any proceeding arising from a default by Buyer hereunder. Seller's rights and remedies provided in this Paragraph 8 shall survive the termination of this Agreement. Upon Seller's termination of this Agreement, this Agreement shall be null and void and of no further force or effect and the parties shall have no further rights, liabilities or obligations hereunder, except for those rights, liabilities or obligations that survive the expiration or sooner termination of this Agreement.

9. Default by Seller; Remedies of Buyer. In the event Seller fails to comply with any or all of the obligations or agreements to be performed, honored or observed by Seller under and pursuant to the terms and provisions of this Agreement, and such default is not cured within thirty (30) days after written notice to Seller, then Buyer may (a) terminate this Agreement; or (b) seek specific performance and the transfer of the Property. Buyer shall also be entitled to recover from Seller its out-of-pocket costs and expenses, including reasonable attorneys' fees and costs, in the event Buyer prevails in any proceeding arising from a default by Seller hereunder. Buyer's rights and remedies provided in this Paragraph 9 shall survive the termination of this Agreement. Upon Buyer's termination of this Agreement, this Agreement shall terminate and be null and void and of no further force or effect and the parties shall have no further rights, liabilities or obligations hereunder, except for those rights, liabilities or obligations that survive the expiration or sooner termination of this Agreement.

10. Notices. Any notice, demand, approval or other communication ("**Notices**") hereunder shall be in writing and shall be deemed to have been given or delivered: (a) upon receipt, when delivered personally; or (b) two days after deposit in the United States mail, postage prepaid; (c) one day after deposit with a nationally recognized overnight courier, return receipt requested and delivery charges prepaid; or (d) by facsimile provided that sender of such communication shall orally confirm receipt thereof by the appropriate parties and mail a copy of such communication to the appropriate parties within one day of such facsimile. All Notices

shall be addressed to the parties at their addresses first set forth above, or to such other address as either party may specify by notice to the other party.

11. Real Estate Broker. The parties agree that no real estate broker, finder or other third party is entitled to any brokerage fee or commission in connection with this transaction. Should any claim be made for a fee or commission by any broker, finder or third party on account of the acts of either Seller or Buyer or their representatives, Seller or Buyer, as the case may be, will defend, indemnify and hold harmless the other party from and against any and all losses, liabilities, costs, demands and/or expenses in connection therewith.

12. Assignment. Buyer shall not assign this Agreement without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned, or delayed, provided however that Buyer shall be permitted to assign this Agreement without Seller's consent to an entity organized to develop the Property if Buyer or an affiliate thereof has an ownership interest in such entity.

13. Eminent Domain. If the Property or any part thereof is taken by eminent domain or condemnation proceedings prior to the Closing Date, Buyer shall have the option to: (a) terminate this Agreement by written notice to Seller, if such exercise of eminent domain or condemnation will have a material adverse effect on Buyer's ability to use the Property for its intended use, whereupon each party shall be fully discharged and released from all further liability hereunder; or (b) elect to proceed with this Agreement and pay the full Purchase Price, in which case Seller shall assign to Buyer its right to any condemnation proceeds for the Property payable with respect to such taking.

14. Entire Agreement. This Agreement represents the entire and sole agreement between the parties with respect to the purchase and sale of the Property, and the parties hereby mutually withdraw, cancel, waive, terminate, and exclude any and all oral or written representations, discussions, or agreements made prior to or contemporaneously with the execution of this Agreement.

15. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

16. Applicable Law. This Agreement shall be constructed in accordance with, and its performance shall be governed by, applicable laws in effect in the State of Florida, without regard to its rules regarding conflicts of laws. Any cause of action arising hereunder shall be brought in an appropriate forum within the State of Florida and the parties submit and consent to the jurisdiction thereof for that purpose.

17. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

18. Paragraph Headings. All paragraph headings and captions herein are for convenience of reference only, do not form a substantive part of this Agreement and shall not restrict or enlarge any substantive provisions hereof.

19. Miscellaneous. No representations, warranties or promises have been made by Buyer or Seller with respect to this Agreement or the Property, except as expressly stated herein. The terms of this Agreement shall not be waived, amended or modified except in a writing signed by both parties hereto. Time is of the essence with regard to the performance of any of the rights or obligations contained in this Agreement.

20. Sovereign Immunity. Nothing herein shall be construed or deemed a waiver of sovereign immunity in favor Seller pursuant to F.S. Section 768.28 (2018).

21. Rights Reservation. Pursuant to F.S. 270.11 (2018), the Seller reserves all right, title or interest in phosphate, minerals, metals or petroleum, in, on or under the Property in the event the same is mined or developed. However, the Seller releases its rights of entry and shall not disturb any use of the Property by Buyer.

22. Disclosures.

(a) Special Assessment Liens Imposed by Public Body. The Property may be subject to unpaid special assessment lien(s) imposed by a public body. (A public body includes a Community Development District). Such liens, if any, shall be paid as set forth in Paragraph 6(c).

(b) Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida.

[Signatures on Next Page]

IN WITNESS WHEREOF, intending to be legally bound hereby, the parties hereto have executed this Agreement as of the date first above written.

WITNESSES:

[Witness type or print name]

[Witness type or print name]

(CORPORATE SEAL)

ATTEST:

Jeffrey R. Modarelli, City Clerk

SELLER:

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

By:_____
Dean J. Trantalis, Mayor

By:_____
Lee R. Feldman, City Manager

APPROVED AS TO FORM:

Alain E. Boileau, City Attorney

By:_____
Lynn Solomon, Assistant City Attorney

BUYER:

**HOUSING AUTHORITY OF THE CITY OF
FORT LAUDERDALE**

By:_____
Tam English, Executive Director

Exhibit "A"

Legal Description

[attached]

Exhibit "B"

The Deed

[attached]

Prepared By/

**Return To: Donald P. Dufresne, Esquire
c/o Fox Rothschild LLP
Phillips Point
777 South Flagler Drive
Suite 1700 West Tower
West Palm Beach, FL 33401
(561) 804-4425**

Parcel ID:

QUITCLAIM DEED

THIS QUITCLAIM DEED is made as of the ____ day of November, 2018, between CITY OF FORT LAUDERDALE, a Florida municipal corporation, with its principal place of business at 100 N Andrews Ave, Fort Lauderdale, FL 33301 (the "**GRANTOR**"),

AND

THE HOUSING AUTHORITY OF THE CITY OF FORT LAUDERDALE, a Florida governmental entity, with its principal place of business at 437 SW 4th Avenue, Fort Lauderdale, Florida 33315 (the "**GRANTEE**").

WITNESSETH THAT, the Grantor, in consideration of One and 00/100 Dollars (\$1.00), paid to the Grantor by the Grantee, receipt of which is hereby acknowledged, does remise, release and quitclaim unto said Grantee, its successors and assigns forever, with the appurtenances:

ALL THAT CERTAIN tract of land situate in the City of Fort Lauderdale, Broward County, Florida, as more particularly described in the legal description attached hereto as Exhibit "A".

CONTAINING 2.268 acres, more or less.

SUBJECT TO the condition that Grantee shall use the above described tract of land to develop and provide affordable housing to low and moderate income families and individuals within five (5) years of the date hereof and, if Grantee shall fail to provide such affordable housing, all right, title and interest herein conveyed shall automatically revert to the Grantor absolutely.

SUBJECT TO restrictions, conditions, encumbrances and easements of record and zoning ordinances.

TO HAVE AND TO HOLD all the estate, right, title, interest property, claim, and demand whatsoever of the said Grantor to and for the use of the said Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, The said Grantor has executed this quitclaim deed by its duly authorized officer as of the day and year first above written.

WITNESSES:

[Witness type or print name]

[Witness type or print name]

(CORPORATE SEAL)

SELLER:

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

By: _____
Dean J. Trantalis, Mayor

By: _____
Lee R. Feldman, City Manager

APPROVED AS TO FORM:

Alain E. Boileau, City Attorney

By: _____
Lynn Solomon, Assistant City Attorney

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by DEAN J. TRANTALIS, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida.

(SEAL)

Signature: Notary Public, State of Florida

☒ Personally Known

Name of Notary Typed, Printed or Stamped

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by LEE R. FELDMAN, City Manager of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida.

(SEAL)

Signature: Notary Public, State of Florida

☒ Personally Known

Name of Notary Typed, Printed or Stamped