

AGREEMENT OF PURCHASE AND SALE

BY AND BETWEEN

**KATHLEEN BUCKLEY RICE, STEPHEN C. BUCKLEY, MAUREEN BUCKLEY,
JOHN K. BUCKLEY, PAUL C. BUCKLEY, ALL IN THEIR INDIVIDUAL CAPACITY
AND STEPHEN C. BUCKLEY, JOHN K. BUCKLEY AND PAUL C. BUCKLEY, AS
THE SUCCESSOR CO-TRUSTEES OF THE FRANCIS K. BUCKLEY LIVING TRUST
OF MAY 11, 1987, AND ATOMIC POWER, INC. , A FLORIDA CORPORATION
(COLLECTIVELY, THE "SELLER")**

AND

**THE CITY OF FORT LAUDERDALE, A MUNICIPAL CORPORATION OF THE
STATE OF FLORIDA ("Purchaser" or "City")**

Dated: December 11, 2019

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AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE ("Agreement") is made and entered into this 11 day of December, 2019 by and between KATHLEEN BUCKLEY RICE, STEPHEN C. BUCKLEY, MAUREEN BUCKLEY, JOHN K. BUCKLEY, PAUL C. BUCKLEY, ALL IN THEIR INDIVIDUAL CAPACITY AND STEPHEN C. BUCKLEY, JOHN K. BUCKLEY AND PAUL C. BUCKLEY, AS THE SUCCESSOR CO-TRUSTEES OF THE FRANCIS K. BUCKLEY LIVING TRUST OF MAY 11, 1987, AND ATOMIC POWER, INC., A FLORIDA CORPORATION (COLLECTIVELY, THE "SELLER") and THE CITY OF FORT LAUDERDALE, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA ("Purchaser" or "City").

WITNESSETH:

WHEREAS, Seller is the fee simple owner of the Realty (hereinafter defined); and

WHEREAS, Seller desires to sell the Property (hereinafter defined) to Purchaser, and Purchaser desires to purchase the Property from Seller, in accordance with and subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein, and the sum of **Two Million Six Hundred Fifty-Two Thousand and NO/100 Dollars (\$2,652,000.00)**, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, do hereby agree as follows:

1. **Purchase and Sale; Realty.** Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, all those certain parcels of commercial real property, commonly referred to as : Folios: 504210560010 / 504210560170 / 504210560160 ; commonly known as 601 S Federal Hwy, Fort Lauderdale, FL 33301 consisting of approximately 18,045 square feet parcel, situate, lying and being in the County of Broward ("County"), State of Florida, and of which the legal description is set forth in Exhibit "A" attached hereto and made a part hereof ("Realty") in its "AS IS"/ WHERE IS" condition, fee simple, together with the following property and rights (the Realty and such property and rights are referred to herein collectively as, the "Property");

1.1 All surveys, plans, plats, soil tests, engineering studies, environmental studies and all other documents, studies, title policies, licenses, permits, authorizations, approvals, soil and ground water reports and asbestos material surveys, and any other intangible rights pertaining to the ownership and/or operation of the Realty, if any (collectively, the "Documents");

1.2 All strips and gores of land lying adjacent to the Realty, together with all easements, privileges, riparian and other water rights, lands underlying any adjacent streets or roads, improvements located on the Realty and appurtenances pertaining to or accruing to the benefit of the Realty; and

1.3 All improvements thereon excluding all personal property, murals, art and paintings located at, on, upon, under or associated with the Realty, if any.

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2. **Purchase Price; Manner of Payment.** The Purchase Price (\$2,652,000.00) to be paid by Purchaser to Seller for the Property shall be the sum of **Two Million Six Hundred Fifty-Two Thousand and No/100 Dollars (\$2,652,000.00)**, subject to credits, prorations and adjustments as provided in this Agreement. The Purchase Price shall be payable by Purchaser to Seller at the Closing (as hereinafter defined) by City of Fort Lauderdale wire.

2.1 Purchaser shall wire a fully refundable Escrow Deposit in the amount of ten percent (10%) of the Purchase Price on the Effective Date. The Escrow Deposit shall be held by the Purchaser's Finance Department.

3. **Title and Survey.** Within fifteen (15) days after the Effective Date of this Agreement, the Seller shall obtain and deliver to the City an owner's title insurance commitment, together with legible copies of all exceptions to coverage reflected therein, issued by a title insurance company acceptable to City, agreeing to issue to the City upon the recording of the Warranty or Trustee's Deed to the Real Property, an owner's title insurance policy in the amount of the Purchase Price, insuring the marketability of the fee title of the City to the Real Property, subject only to the those exceptions to the title of the Property together with any other title matters that may be accepted in writing by the City ("Permitted Exceptions"). The cost of said title insurance commitment and title insurance policy and any premium therefor shall be borne by Purchaser.

3.1 The City shall have until thirty (30) days after receipt from the Seller of the title insurance commitment in which to review same. In the event the title insurance commitment shall show as an exception any matter other than the Permitted Exceptions, City shall notify Seller of City's objection thereto, and Seller shall act with reasonable effort, which shall not include bringing suit, to remove such exception(s), which exceptions shall be deemed to constitute title defects. The Seller shall be entitled to thirty (30) days from the date of notification by City (with adjournment of the Closing Date, if necessary) within which to cure such defects or to make arrangements with the title insurer for deletion of any such title defects from the title insurance commitment without the inclusion of any additional exceptions to coverage. Notwithstanding the foregoing, Seller shall have the option of discharging any such matters at closing with the closing proceeds. If the defect(s) shall not have been so cured or removed from the title insurance commitment by endorsement thereto at the termination of the said thirty (30) day period, City shall have the option of: (a) accepting title to the Property as it then exists; or (b) terminating this Agreement, by giving written notice thereof to Seller.

3.2 City may request, prior to the Closing, an endorsement of the title insurance commitment making it effective to within fifteen (15) days of the Closing Date. At Closing, Seller shall cause the title insurance commitment to be endorsed to remove, without the inclusion of any additional exceptions to coverage, any and all requirements or preconditions to the issuance of an owner's title insurance policy, and to delete any exceptions for: (a) any rights or claims of parties in possession not shown by the public records; (b) encroachments, overlaps, boundary line disputes and any other matters which would be disclosed by an accurate survey and inspection of the Property (provided City obtains a survey in accordance with Section 4 hereof); (c) easements or claims of easement not shown by the public records (provided City obtains a survey as provided herein); (d) any lien, or right to a lien, for services, labor or material heretofore or hereinafter furnished, imposed by law and not shown by the public records; (e) taxes for the year of Closing and all prior years, and taxes or special assessments which are not shown as existing liens by the public records; (f) matters arising or attaching subsequent to the effective date of the title insurance commitment but before the acquisition of record of title to the Property by the City; and

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(g) any general or specific title exceptions other than the Permitted Exceptions.

3.3 From and after the Effective Date of this Agreement, Seller shall take no action which would impair or otherwise affect title to any portion of the Property, and shall record no documents in the Public Records which would affect title to the Real Property, without the prior written consent of the City.

4. **Survey.** City shall have the right, within the time period provided in Section 3 for delivery and examination of title, to obtain a current survey of the Real Property and all improvements thereon. Said survey shall be prepared in accordance with the minimum technical standards for surveys within the State of Florida. If the survey reveals any encroachments, overlaps, boundary disputes, or other defects, or any matters other than the Permitted Exceptions, the same shall be treated as title defects as described in Section 3 of this Agreement, and City shall have the same rights and remedies as set forth therein.

5. **Inspections.** Seller and Purchaser hereby acknowledge that as of the date of the execution of this Agreement, Purchaser has not yet had an opportunity to complete its required due diligence and to fully review and evaluate this transaction. If on or before 5:00 p.m. on a date which is ninety (90) days from the Effective Date hereof ("Inspection Completion Date"), Purchaser determines, in its sole and absolute discretion, that Purchaser does not desire to purchase the Property, then Purchaser shall have the right to give written notice to Seller electing to terminate this Agreement, provided such notice is delivered to Seller prior to 5:00 p.m. on the Inspection Completion Date ("Notice of Termination"). In the event such Notice of Termination is delivered on or before 5:00 p.m. on the Inspection Completion Date, the parties shall be released from all further obligations each to the other under this Agreement, except those obligations which are specifically stated herein to survive the termination hereof. In the event Purchaser is unable to complete its required due diligence within ninety (90) days, Purchaser may elect by giving written notice to Seller before the 90 day inspection period expires, to extend the Inspection Completion Date for a reasonable period of time designated by Purchaser, not to exceed thirty (30) days.

Purchaser, its agents, employees and representatives shall have, after reasonable advance notice to Seller, access to the Property at all times subsequent to the Effective Date and prior to the Inspection Completion Date or earlier termination of this Agreement, with full right to: (a) inspect the Property, and (b) to conduct any and all inspections, investigations and tests thereon, including, but not limited to, soil borings and hazardous waste studies, and to make such other examinations with respect thereto as Purchaser, its counsel, licensed engineers, surveyors, appraisers, or other representative may deem reasonably necessary ("Due Diligence Investigations"). Any Due Diligence Investigations of the Property by Purchaser and all costs and expenses in connection with Purchaser's Due Diligence Investigations of the Property shall be at the sole cost of Purchaser and shall be performed in a manner not to unreasonably interfere with Seller's ownership of the Property. Purchaser shall remove or bond any lien of any type which attaches to the Property by virtue of any of Purchaser's Due Diligence Investigations. Upon completion of any such Due Diligence Investigations, Purchaser shall restore any damage to the Property caused by Purchaser's Due Diligence Investigations. Purchaser hereby indemnifies and holds Seller harmless, subject to the limitations set forth under Section 768.28 Florida Statutes, from all loss, cost or expense, resulting from Purchaser's Due Diligence Investigations in connection with the Property. Notwithstanding anything contained herein to the contrary, Purchaser shall not indemnify or hold Seller harmless with respect to any "Hazardous Substance" (as hereinafter defined), which it finds in connection with its Due Diligence Investigations of the

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Property. Purchaser shall not be required to remove, remediate, dispose or otherwise deal with any samplings derived from the Property which it finds in connection with its Due Diligence Investigations of the Property.

Within five (5) days of the Effective Date, Seller shall deliver to Purchaser hard-copies of all Documents, if any, which Seller or its agents have in their possession for Purchaser's review. Additionally, Seller shall provide Purchaser such other documentation as Purchaser may reasonably request with respect to the Property.

To the extent permitted by applicable law, if this sale does not close, Purchaser shall deliver to Seller, at Seller's request, copies of all reports, surveys, documents, and results obtained from the Due Diligence Investigations. The provisions of this Paragraph 5 shall survive any termination of this Agreement.

6. **Seller's Representations.** As a material inducement to Purchaser entering into this Agreement, Seller warrants and represents to and covenants with Purchaser that the following matters are true as of the Effective Date and that they will also be true as of Closing Date. Notwithstanding anything to the contrary herein, the effect of the representations and warranties made in this Agreement shall not be diminished or deemed to be waived by any inspections, tests or investigations made by Purchaser or its agents. Seller agrees to indemnify and hold harmless Purchaser from any and all claims, costs, judgments, damages, repairs, or expenses incurred as a result of any breach of any warranty and representation.

Seller represents warrants and covenants unto Purchaser and agrees with Purchaser as follows:

6.1 The Property is not now, nor will it be at Closing, subject to any leases, tenancies, or other occupancy rights, recorded or unrecorded, written or oral.

6.2 Seller has no notice or knowledge of any pending lawsuits, any pending condemnation or eminent domain proceedings with respect to the Property.

6.3 The execution, delivery and performance of this Agreement by Seller has been duly authorized and no consent of any other person or entity to such execution, delivery and performance is required to render this document a valid and binding instrument enforceable in accordance with its terms.

6.4 Seller is not a "foreign person" within the meaning of the United States tax laws, to which reference is made in Internal Revenue Code Section 1445(b)(2). At Closing, Seller shall deliver to Purchaser an affidavit to such effect, which shall also state Seller's social security number and the state within the United States under which Seller then exists. Seller acknowledges and agrees that Purchaser shall be entitled to fully comply with Internal Revenue Code Section 1445 and all related sections and regulations, as same may be modified and amended from time to time, and Seller shall act in accordance with all reasonable requirements of Purchaser to effect such full compliance by Purchaser.

6.5 Neither Seller nor any of its individuals have generated, recycled, reused, sold, stored, handled, transported or disposed of any Hazardous Substance on the Property during any period of time Seller has had an interest in the Property. To the best of Seller's knowledge,

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the Property complies with all applicable local, state, federal environmental laws, regulations, ordinances or administrative or judicial orders relating to the generation, recycling, reuse, sale, storage, handling, transport and/or disposal of any Hazardous Substance. As used herein, the term "Hazardous Substance" means any substance or material defined or designated as a hazardous or toxic waste material or substance or other similar term by any federal, state environmental statute, regulation or ordinance presently in effect, as such statute, regulation or ordinance may be amended from time to time or any petroleum or petroleum derivative products. Without limiting the foregoing Seller further covenants and warrants unto Purchaser that during the period in which Seller has had an interest in the Property: (a) no asbestos or similar materials now or at any time in the past have been located upon the Property; (b) no petroleum, or any petroleum derivative products have ever been stored or disposed on the Property. Notwithstanding any of the above representations, upon information and belief, Seller represents to Purchaser that a predecessor title holder of the subject Property was a petroleum company. Seller hereby discloses to Purchaser that 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 have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit. To the best of Seller's knowledge, no radon contamination exists or has existed on the Property.

6.6 Seller will execute such affidavits and undertakings reasonably required by the Title Company to issue the Title Policy at Closing to Purchaser in the amount of the Purchase Price, subject only to the Acceptable Exceptions.

6.7 Seller shall not at any time while this Agreement is in effect, make or permit any contract or agreement or impose or allow to impose any new lien, encumbrance or other matter affecting title to the Property or grant or allow to be granted any right in or on or to the Property without the prior written consent of Purchaser, which consent may be withheld by Purchaser in its sole discretion.

6.8 The entering into this Agreement (and the sale of the Property to Purchaser) (a) shall not constitute a violation or breach by Seller of: (i) any contract, agreement, understanding or instrument to which it is a party or by which Seller or the Property is subject or bound; or (ii) any judgment, order, writ, injunction or decree issued against or imposed upon them; and (iii) will not result in the violation of any applicable law, order, rule or regulation of any governmental or quasi-governmental authority.

6.9 The Seller warrants and represents that there are no facts known to Seller materially affecting the value of the Property which are not readily observable by Purchaser or which have not been disclosed to the Purchaser.

6.10 Seller represents that simultaneously with Seller's execution of this Agreement, Seller has executed and delivered to City, the Seller's Disclosure of Beneficial Interests attached hereto as Exhibit "B" (the "Disclosure") disclosing the name and address of every person or entity having a 5% or greater beneficial interest in the ownership of the Property as required by Section 286.23 of the Florida Statutes. Seller warrants that in the event there are any changes prior to Closing to the names and addresses of the persons or entities having a 5% or greater beneficial interest in the ownership of the Property after the date of execution of the Disclosure, Seller shall immediately, and in every instance, provide written notification of such change to the City in the manner required by Section 14 of this Agreement. Seller warrants that at

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Closing, Seller shall provide City with a Disclosure that accurately discloses the beneficial interests in the ownership of the Property at the time of Closing regardless of whether or not the information contained therein has changed from the date of execution of the original Disclosure.

The provisions of this Paragraph 6 shall survive the Closing or the earlier termination of this Agreement.

7. **Governmental Approvals.** It shall be a condition to Purchaser's obligations under this Agreement ("Governmental Approval Condition") that on or before the ninetieth (90th) day following the Effective Date ("Governmental Approval Date") that Purchaser shall have received all governmental and quasi-governmental approvals from all applicable city, county and other organization, agency or body necessary for the construction and development of the Proposed Improvements (including any associated off-site improvements which may be required) on the Property, which governmental approvals shall include, without limitation, variance, special use exception, road and easement vacations, site plan approval, road concurrency approval, fill permits, wetland mitigation permits and approvals, acquisition and/or transfer of density rights, plat approval, plat recordation, plat amendments, land use amendments, rezoning, building permits and other approvals required to construct proposed improvements on terms which are acceptable to Purchaser (the approvals, permits and other consents referred to in this paragraph and the expiration of all appeal periods with respect thereto shall be referred to as the ("Governmental Approvals")).

In the event that the Governmental Approval Condition has not been satisfied on or before the Governmental Approval Date, Purchaser shall have the right to terminate this Agreement by written notice to Seller prior to the Government Approval Date, whereupon this Agreement shall terminate and the parties shall be released of all further obligations each to the other hereunder except those matters specifically provided herein to survive the termination.

Notwithstanding anything to the contrary provided in this Agreement, in the event Purchaser has not received all of the Governmental Approvals on or before the Governmental Approval Date, then, and in that event, Purchaser shall have the right to elect, in writing ("Extension Notice") to extend the Governmental Approval Date for an additional thirty (30) days ("Extended Governmental Approval Date"). The Extension Notice shall be delivered not less than three (3) days prior to the applicable Governmental Approval Date.

Seller agrees to cooperate with Purchaser in Purchaser's efforts to obtain the Governmental Approvals desired by Purchaser and to execute and deliver to Purchaser such documents (together with obtaining the joinder of any mortgagees having a lien on the Property) to such applications and documents as are reasonably required in connection with obtaining the Governmental Approvals including but not limited to the submission of the Property to a site plan which will be prepared by Purchaser, at no cost to Seller, with regard to its proposed improvements and the execution of consents to applications in connection with zoning, land use, platting and other Governmental Approvals.

8. **Default.** In the event Purchaser fails or refuses to perform any term, covenant, or condition of this Agreement for which a specific remedy is not set forth in this Agreement, Seller shall have the right to (1) terminate this Agreement at any time prior to Closing by written notice to Purchaser, in which event the parties shall be released from all obligations hereunder other than those which specifically survive termination of this Agreement; (2) grant Purchaser a reasonable

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period of time within which to cure such default during which time Purchaser shall utilize Purchaser's best efforts, including bringing suit, to remedy such default; or (3) seek specific performance of the terms hereof. In the event Seller elects option number two (2) set forth hereinabove and Purchaser fails or is unable to cure such default within the applicable time period, Seller shall have the rights identified in option numbers one (1) and three (3) set forth hereinabove. In the event Seller elects option number three (3) and Seller is unable to obtain specific performance of this Agreement for any reason, Seller shall have the right to terminate this Agreement and pursue damages.

In the event Seller fails, neglects or refuses to perform any term, covenant, or condition of this Agreement for which a specific remedy is not set forth in this Agreement, City shall have the right to (1) terminate this Agreement by written notice to Seller, in which event the parties shall be released from all obligations hereunder other than those which specifically survive termination of this Agreement; (2) grant Seller a reasonable period of time within which to cure such default during which time Seller shall utilize Seller's best efforts, which shall not include bringing suit, to remedy such default; or (3) seek specific performance of the terms of this Agreement. In the event City elects option number two (2) set forth hereinabove and Seller fails or is unable to cure such default within the applicable time period, City shall have the rights identified in option numbers one (1) and three (3) set forth hereinabove. In the event City elects option number three (3) and City is unable to obtain specific performance of this Agreement for any reason, City shall have the right to terminate this Agreement.

9. **Prorations.** On or before the Closing Date, Seller shall establish an escrow fund with the Broward County Tax Collector pursuant to Florida Statutes Section 196.295, and shall pay into said escrow Seller's prorata portion of ad valorem and non-ad valorem real property taxes and assessments for the year of Closing and any prior years as determined by the Tax Collector. Seller's prorata share of all taxes and assessments shall include the day of Closing. This fund shall be used to pay any ad-valorem taxes due, and the remainder of taxes which would otherwise had been due for that current year shall stand cancelled.

The provisions of this Paragraph 9 shall survive Closing.

10. **Closing Costs.** The parties shall bear the following costs:

10.1 Purchaser shall be responsible for (a) the recording cost of the Deed, (b) the cost of the Survey (if obtained by Purchaser), (c) the cost of the Commitment and the premium for the Title Policy obtained by Purchaser (except that Seller shall reimburse Purchaser at Closing for the cost of the title search fee for the issuance of the Commitment, up to a maximum of FIVE HUNDRED DOLLARS (\$500.00), and (d) the cost of its Due Diligence Investigations.

10.2 Seller shall be responsible for payment of (a) documentary stamps taxes, surtaxes or other transfer charges in connection with the recordation of the Deed, (b) costs of curing any Title Defects and the recording costs in connection with any curative instruments relating to same, and (c) the Commission (hereinafter defined).

10.3 Each party shall be responsible for payment of its own legal fees.

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11. **Closing.** It is mutually understood that the execution of this Purchase Agreement by Purchaser constitutes conditional acceptance and is subject to final acceptance and approval by the City Commission of the City of Fort Lauderdale ("City Commission") pursuant to the necessary vote at a duly called City Commission meeting. In the event the Purchaser fails to obtain City Commission approval within 120 days of the Effective Date, then Seller may elect to terminate Agreement. A Closing on this Agreement shall not be transacted prior to final City Commission acceptance. Notice of final City Commission acceptance shall be provided to Seller after the City Commission meeting at which this matter is presented for approval. The Closing shall, at the option of Purchaser, be held at the office of the City of Fort Lauderdale City Attorney, located at 100 North Andrews Avenue, Fort Lauderdale, FL 33301, accomplished by "mail away" closing or such other location as may be mutually agreed to by the parties, on a date ("Closing Date") which is the earlier to occur of: (a) such date as Purchaser may designate on ten (10) days written notice to Seller; or (b) thirty (30) days after the Governmental Approval Date including, but not limited to, all necessary approvals by the City Commission of the City of Fort Lauderdale (or Extended Governmental Approval Date, if applicable). At Closing, the following shall occur:

11.1 Seller shall execute and deliver to Purchaser the following documents with respect to the Property:

- (i) A statutory warranty and Trustee deed, as appropriate, ("Deed") subject only to the Acceptable Exceptions;
- (ii) A customary construction lien affidavit;
- (iii) An affidavit of exclusive possession of the Property being conveyed;
- (iv) A non-foreign affidavit in a form reasonably acceptable to Purchaser;
- (v) Appropriate assignments or bills of sale transferring to Purchaser all personal property or property rights (including, but not limited to, the Documents) contemplated by this Agreement or reasonably requested by Purchaser in forms reasonably acceptable to Purchaser, free and clear of all liens, claims or encumbrances;
- (vi) If applicable, appropriate evidence of Seller's formation, existence and authority to sell and convey the Property; and
- (vii) Such other documents that the Purchaser and Title Company may reasonably require in connection with the issuance of the Title Policy to Purchaser and the delivery of good and marketable title to the Property from Seller to Purchaser as provided in this Agreement, including, but not limited to, an appropriate "gap" affidavit in order to delete the "gap" exception and such affidavits required for deletion of the matters of survey, unrecorded easements, parties in possession and construction lien exceptions otherwise appearing on the Title Policy.

(viii) Seller's Disclosure of Beneficial Interests. A Seller's Disclosure of Beneficial Interests as required by Section 286.23, Florida Statutes, which accurately discloses the name and address of any person or entity having a 5% or greater beneficial interest in the ownership of the Property as of the date of Closing. The foregoing shall be in addition to any Disclosure or notice of change thereto previously provided to City, and in the same form as previously provided to City.

11.2 Purchaser shall wire to Seller the Purchase Price (subject to credits, prorations and adjustments) to Camp & Camp, P.A., or as otherwise directed in writing by Seller.

11.3 Seller and Purchaser shall each execute counterpart closing statements in a customary form together with such other documents as are reasonably necessary to consummate the Closing.

11.4 Both parties shall pay their respective costs by cash, wire transfer, attorney trust account check or by cashier's check drawn on a bank reasonably acceptable to the City Attorney and Seller.

12. Brokers. Seller represents and warrants to Purchaser that it has not dealt with any broker, salesman, agent, or finder in connection with this transaction other than: Colliers International South Florida, LLC (\$102,000.00 commission) and Berger Commercial Realty ("*Brokers*") and agrees to indemnify, defend, save, and hold City harmless from the claims and demands of any other real estate broker, salesman, agent or finder claiming to have dealt with Seller. *[Seller shall provide City with a completed Broker's Release, (labeled as Exhibit "C" hereto), fully executed by Brokers, at Closing. Seller agrees to indemnify, defend, save, and hold City harmless from the claims and demands of Brokers.]* All indemnities provided for in this Section shall include, without limitation, the payment of all costs, expenses, and attorney's fees incurred or expended in defense of such claims or demands. The terms of this Section shall survive the closing or termination of this Agreement.

The provisions of this Paragraph 12 shall survive the Closing and any cancellation or earlier termination of this Agreement.

13. Assignability. Neither Purchaser nor Seller may assign this Agreement or any interest herein without the prior written consent of the other party, which may be granted or withheld at such other party's sole and absolute discretion. Any attempted assignment, mortgage, pledge, encumbrance or subletting without such consent shall be null and void, without legal effect and shall constitute a breach of this Agreement. This provision shall be construed to include a prohibition against any assignment, by operation of law, legal process, receivership, bankruptcy, or otherwise, whether voluntary or involuntary.

14. Notices. Any notices required or permitted to be given under this Agreement shall be in writing and shall be deemed given if delivered by hand, sent by recognized overnight courier (such as Federal Express), transmitted via email or facsimile transmission or mailed by certified or registered mail, return receipt requested, in a postage pre-paid envelope, and addressed as follows:

If to Seller at: **ATOMIC POWER INC, FRANCIS K BUCKLEY TRUST, AND ALL SELLERS, INDIVIDUALLY**
c/o Stephen Buckley
126 NE 17th Ave
Ft Lauderdale, FL 33301
(954) 309-3816 Phone
twinbucks@gmail.com Email

with a copy to: Camp & Camp P. A.
Attention: James D. Camp III
111 S.E. 12 Street
Fort Lauderdale, Florida 33316
954-524-8111 Phone
954-524-2661 Fax
Jdcamp3@campandcamplaw.com

If to Purchaser: The City of Fort Lauderdale, City Manager's Office
100 North Andrews Avenue
Fort Lauderdale, Fl., 33301
(954) 828-5271 Phone
(954) 828-5599 Fax
email: CLagerbloom@FortLauderdale.gov

with a copy to: The City of Fort Lauderdale, City Attorney's Office
Attn: James Brako, Assistant City Attorney
100 North Andrews Avenue
Fort Lauderdale, Fl., 33301
(954) 828-5598 Phone
(954) 828-5917 Fax
email: Jbrako@fortlauderdale.gov

Notices personally delivered or sent by overnight courier shall be deemed given on the date of receipt, notices sent via email or facsimile transmission shall be deemed given upon transmission and notices sent via certified mail in accordance with the foregoing shall be deemed given two (2) days following the date upon which they are deposited in the U.S. Mail.

15. **Risk of Loss.** If, prior to Closing, the Property or any material portion thereof is destroyed or damaged, or taken by eminent domain, Seller shall promptly notify Purchaser, and Purchaser shall have the option of either: (a) canceling this Agreement by delivery of written notice to Seller and both parties shall be relieved of all further obligations under this Agreement: or (b) Purchaser may proceed with the Closing, whereupon Purchaser shall be entitled to (and Seller shall assign to Purchaser all of Seller's interest in) all insurance and/or condemnation payments, awards and settlements applicable to the property. In the event Purchaser elects option (b) above in connection with casualty to the Property in which insurance proceeds are or will be paid and assigned to Purchaser, then Purchaser shall receive a credit against the Purchase Price for any insurance deductible that must be paid.

16. **Miscellaneous.**

16.1 This Agreement shall be construed and governed in accordance with laws of the State of Florida and in the event of any litigation hereunder, the venue for any such litigation, shall be in Broward County, Florida. All of the parties to this Agreement have participated fully in the negotiation and preparation hereof and accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto.

16.2 In the event any provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or reconstrued as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

16.3 In the event of any litigation between the parties under this Agreement, each party shall be responsible for its own attorney's fees and court costs through all trial and appellate levels. The provisions of this subparagraph shall survive the Closing and any termination or cancellation of this Agreement.

16.4 In construing this Agreement, the singular shall be deemed to include the plural, the plural shall be deemed to include the singular and the use of any gender shall include every other gender and all captions and paragraph headings shall be discarded.

16.5 All of the Exhibits to this Agreement are incorporated in and made a part of this Agreement.

16.6 This Agreement constitutes the entire agreement between the parties for the sale and purchase of the Property and supersedes any other agreement or understanding of the parties with respect to the matters herein contained. This Agreement may not be changed, altered or modified except in writing signed by the party against whom enforcement of such a change would be sought. This Agreement shall be binding upon the parties hereto and their respective successors and assigns.

16.7 The term "Effective Date" or such other similar term, shall mean the date upon which this Agreement has been fully executed by the Seller and the City Manager on behalf of Purchaser.

16.8 The parties hereby agree that time is of the essence with respect to performance of each of the parties' obligations under this Agreement. The parties agree that in the event that any date on which performance is to occur falls on a Saturday, Sunday or state or

national holiday, then the time for such performance shall be extended until the next business day thereafter occurring. Calendar days shall be used in computing all time periods herein.

16.9 This Agreement and any subsequent amendments hereto may be executed in any number of counterparts, each of which, when executed, shall be deemed to be an original, and all of which shall be deemed to be one and the same instrument. Facsimile or email transmission signatures shall be deemed original signatures.

JD

16.10 To the extent permitted by applicable law, until such time this Agreement has been fully executed by both Seller and Purchaser, Seller and Purchaser agree, that the terms set forth herein shall remain totally and completely confidential and shall not be revealed and disclosed to any person or party whatsoever, except: (a) with the consent of Purchaser and Seller; (b) as may be disclosed to Seller's and Purchaser's attorneys, accountants and other representatives that are involved in connection with the consummation of this transaction; (c) Seller's investors and/or lenders; (d) as may be required by applicable law; (e) as may be necessary in connection with assisting Purchaser in obtaining necessary governmental approvals; and (f) in connection with any litigation between the parties.

16.11 Seller and Purchaser agree that from and after the Effective Date and throughout the entire term of this Agreement, Seller may market the Property for sale and may accept backup offers/contracts for the Property subject to the priority of this Agreement. Seller and Purchaser agree that this Agreement, while in full force and effect, is first in priority and supersedes any backup offers/contract.

16.12 If, prior to the Closing, a taking by condemnation or eminent domain shall occur, Purchaser shall have the option to either close the purchase of the Property, in which event Purchaser shall be entitled to the condemnation awards, if any, or Purchaser may terminate this Contract. Such election shall be made by Purchaser's written notice to Seller within ten (10) calendar days following written notice from Seller to Purchaser informing Purchaser of the taking. If Purchaser shall elect to terminate this Contract pursuant to this paragraph, the parties shall be relieved of any obligations or liabilities hereunder and the Escrow Agent shall return the Escrow Deposit to Purchaser.

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

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first set forth above.

Signed, sealed and delivered
in the presence of:

PURCHASER:

**THE CITY OF FORT LAUDERDALE, A
MUNICIPAL CORPORATION OF THE
STATE OF FLORIDA**

By: [Signature]

(Purchaser's Signature)

Printed Name: CHRIS LOGGERSBOM

Title: CITY MANAGER

Printed Address: 100 North Andrews Avenue
Fort Lauderdale, Fl., 33301

Date: 12 11 19

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

By: [Signature]

Printed Name: James Brako

Title: Assistant City Attorney, III

Date: 12/10/19

JB

SECRET
NO. 100-100000-100000

100-100000-100000

SECRET

100-100000-100000

SELLER:

Atomic Power, Inc.

By: Stephen C. Buckley 12-4-19
Stephen C. Buckley, President Date

SELLER:

Francis K. Buckley Living Trust of May 11, 1987

Stephen C. Buckley 12-4-19
Stephen C. Buckley, Co-Trustee Date

John K. Buckley 11/19/19
John K. Buckley, Co-Trustee Date

Paul C. Buckley 11/19/19
Paul C. Buckley, Co-Trustee Date

SELLER:

Stephen C Buckley 12-4-19
Stephen C. Buckley, individually Date

SELLER:

Kathleen Buckley Rice 12-4-19
Kathleen Buckley Rice, individually Date

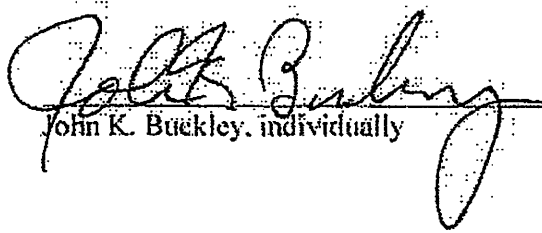
SELLER:

Maureen Buckley 12-4-19
Maureen Buckley, individually Date

SELLER:

Paul C. Buckley 11/19/19
Paul C. Buckley, Individually Date

SELLER:

 11/19/19
John K. Buckley, individually Date



COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM
Today's Date: 12/10/2019

12

DOCUMENT TITLE: AGREEMENT OF PURCHASE AND SALE - 601 S. FEDERAL HWY. - BUCKLEY AND COFL

COMM. MTG. DATE: 7/9/2019 CAM #: 19-0684 ITEM #: CR-1 CAM attached: ☒ YES ☐ NO

Routing Origin: CAO Router Name/Ext: Sonia/X. 5598 Action Summary attached: ☒ YES ☐ NO

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.

1) City Attorney's Office: Documents to be signed/routed? ☒ YES ☐ NO # of originals attached: 1

Is attached Granicus document Final? ☒ YES ☐ NO Approved as to Form: ☒ YES ☐ NO

Date to CCO: 12/10/2019

James Brako
Attorney's Name

JB
Initials

2) City Clerk's Office: # of originals: 1 Routed to: MJ Matthews/CMO/x5364 Date: 12/10/19

3) City Manager's Office: CMO LOG #: Dec. 36 Document received from: Sonia S

Assigned to: CHRIS LAGERBLOOM ☒ ROBERT HERNANDEZ ☐
CHRIS LAGERBLOOM as CRA Executive Director ☐

☐ APPROVED FOR C. LAGERBLOOM'S SIGNATURE ☐ N/A FOR C. LAGERBLOOM TO SIGN

PER ACM: R. HERNANDEZ _____ (Initial/Date)

☐ PENDING APPROVAL (See comments below)

Comments/Questions: _____

Forward _____ originals to ☐ Mayor ☐ CCO Date: _____

4) Mayor/CRA Chairman: Please sign as indicated. Forward _____ originals to CCO for attestation/City seal (as applicable) Date: _____

5) City Clerk: Forward 1 originals to CAO for FINAL APPROVAL Date: 12/11/2019

6) CAO forwards 1 originals to CCO

7) City Clerk: Scan original and forwards _____ originals to: LUSA ABITHAN X5271
Name/Dept/Ext)
CITY manager's off. EXT 5271

Attach _____ certified Reso # _____ ☐ YES ☐ NO

Original Route form to CAO/Dept.

1 copy

12/11/19 to CCO



COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM
Today's Date: 12/10/2019

12

DOCUMENT TITLE: AGREEMENT OF PURCHASE AND SALE – 601 S. FEDERAL HWY. – BUCKLEY AND COFL

COMM. MTG. DATE: 7/9/2019 CAM #: 19-0684 ITEM #: CR-1 CAM attached: ☒ YES ☐ NO

Routing Origin: CAO Router Name/Ext: Sonia/X. 5598 Action Summary attached: ☒ YES ☐ NO

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.

1) City Attorney's Office: Documents to be signed/routed? ☒ YES ☐ NO # of originals attached: 1

Is attached Granicus document Final? ☒ YES ☐ NO Approved as to Form: ☒ YES ☐ NO

Date to CCO: 12/10/2019

James Brako
Attorney's Name

JB
Initials

2) City Clerk's Office: # of originals: 1 Routed to: MJ Matthews/CMO/x5364 Date: 12/10/19

3) City Manager's Office: CMO LOG #: Dec. 36 Document received from: Sonia S

Assigned to: CHRIS LAGERBLOOM ☒ ROBERT HERNANDEZ ☐
CHRIS LAGERBLOOM as CRA Executive Director ☐

☐ APPROVED FOR C. LAGERBLOOM'S SIGNATURE ☐ N/A FOR C. LAGERBLOOM TO SIGN

PER ACM: R. HERNANDEZ (Initial/Date)

☐ PENDING APPROVAL (See comments below)

Comments/Questions: _____

Forward _____ originals to ☐ Mayor ☐ CCO Date: _____

4) Mayor/CRA Chairman: Please sign as indicated. Forward _____ originals to CCO for attestation/City seal (as applicable) Date: _____

5) City Clerk: Forward _____ originals to GAO for FINAL APPROVAL Date: _____

6) CAO forwards _____ originals to CCO

7) City Clerk: Scan original and forwards _____ originals to: Sonia Sierra ext 5598
City Clerk's Office Name/Dept/Ext)

Attach _____ certified Reso # _____ ☐ YES ☐ NO

Original Route form to CAO/Dept.

1 copy 12/11/19 to CCO