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Return to:
City Clerk
City of Palm Coast
160 Lake Avenue
Palm Coast, FL 32164

CONTRACT FOR PURCHASE AND SALE

THIS **CONTRACT FOR PURCHASE AND SALE** ("**Contract**") is made by and between **CITY OF PALM COAST**, a Florida municipal corporation, (hereinafter referred to as "City"), with a principal address of 160 Lake Avenue, Palm Coast, FL 32164, and **PALM TOWN CENTER, LLC**, a Florida limited liability company ("Developer"), with a principal address of 7940 Via Dellagio Way, Suite 200, Orlando, FL 32819. For and in consideration of a valuable sum in dollars, the premises and the mutual covenants and obligations created hereby, as well as other good and valuable considerations, Developer agrees to buy and City agrees to sell the following described real property subject to and upon the terms and conditions set forth below. The effective date of this Contract (the "**Effective Date**") shall be the date upon which the last of City and Developer shall have signed this Contract.

WHEREAS, the City owns the property generally located at the intersection of S.R. 100 and Bulldog Drive, containing approximately 7.75 acres and described in **Exhibit A** (the "Property"); and

WHEREAS, for purpose of this Contract, a portion of the Property located along S.R. 100 is described as the "Phase I Property", described and depicted in **Exhibit B**, and the balance of the Property is described as the "Phase II Property" described in **Exhibit C**; and

WHEREAS, through RFP CM-16-01, incorporated herein, the City issued a notice requesting proposals for the sale of the Property to a financially qualified developer for the development and construction of a downtown mixed used project ("Project") on the Property, consistent with the State Road 100 Community Redevelopment Agency Plan and the character of the Town Center Development of Regional Impact, to provide a mixture of uses; including, but not limited to, placemaking public space, commercial and office uses, and quality architectural form. After reviewing the proposals, the City selected the Developer as the preferred candidate to enter into further negotiations in order to create a mutually agreeable development agreement. The Developer's Response to the RFP is incorporated into this Contract; and

WHEREAS, as a part of the Project, the Developer has agreed to use best efforts to assemble numerous adjacent parcels, and to purchase the McGann Property, described in **Exhibit D**, simultaneous with the Phase I closing; and

WHEREAS, the City has provided to the Developer various information regarding the Property, including surveys, a Transaction Screen Process Update, and additional environmental studies and other technical reports; and

WHEREAS, the City and the Developer desire to enter into this Contract to establish the terms and conditions under which the Parties will engage in the feasibility analysis, master planning, due diligence, rezoning, the permitting and approval process, establishment of development and design guidelines and standards, and proceed with the acquisition, development and construction of the Property by the Developer, all as more particularly set forth below; and

WHEREAS, the City Council deems the sale and development of the Property to be a proper public purpose, and that said sale and development will achieve important City objectives, such as stimulating economic development in the City, increasing property values and ad valorem taxes, and creating jobs, and that the Property is surplus real property; and

WHEREAS, the City Council is authorized to enter into this Contract pursuant to its home rule authority; and

WHEREAS, the City Council hereby finds that this Contract is consistent with its Comprehensive Plan, and is in the best interests of the citizens; and

WHEREAS, the Developer and the City are in voluntary agreement with the conditions, terms and restrictions hereinafter recited, and have agreed voluntarily to their imposition as an incident to the development of the Property; and

WHEREAS, the City is providing certain economic incentives in furtherance of the municipal purpose of securing the Project within the City and expanding economic activity within the City, under Section 166.012(19), Florida Statutes, through a public private partnership to allow for public parking and recreation; and

WHEREAS, as an economic incentive for the Developer, the City has agreed to the price for the Phase I Property, and without this incentive, the Project could not be built; and

WHEREAS, the City Council deems the development of the Project to be a proper public purpose, and that said development will achieve important City objectives, such as stimulating economic development in the City and increasing property values; and

WHEREAS, the presence of the Project within the City is projected to bring a significant number of persons to the downtown, who will generate expenditures and who will utilize surrounding businesses, and is projected to provide economic benefits to the City; and

WHEREAS, the City has determined that the development of the Project will advance a paramount public purpose by promoting downtown redevelopment, economic development, job growth, the future expansion of the City's tax base, and the diversification of the City's tax base; and

WHEREAS, this Contract and future agreements will include all the terms necessary to ensure that the economic incentives provided by the City to the Developer ultimately serve their intended municipal purpose of enhancing the prospects for local economic development; and

WHEREAS, the parties agree that the economic incentives are for the benefit of the public health, safety, welfare and convenience of the citizens of the City of Palm Coast, Florida; and

WHEREAS, the City is authorized by its home rule power to enter into this Contract; and

WHEREAS, the Developer and the City recognize and agree that this Contract does not represent the City's approval of nor express the City's intent to approve the Developer's final plans for the Project in any particular way or manner except in accordance with controlling development orders and the Unified Land Development Code of the City, nor does it bind the City in any way regarding the City's potential approval of the Project; and

WHEREAS, the City has determined that the terms and conditions of this Contract are in the best interests of the public health, safety and welfare of the City and provide for a public benefit.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties agree as follows:

ARTICLE I - PROPERTY

The real property (the "**Property**") which is the subject matter of this Contract consists of Phase I Property and Phase II Property, and is generally depicted in **Exhibit A** attached hereto and made a part hereof. Phase I is described in **Exhibit B**, and Phase II Property is described in **Exhibit C**.

ARTICLE II - PURCHASE PRICE

Purchase Price and Deposit.

(A) The purchase price (the "**Purchase Price**") for the Phase I Property shall be Eight hundred thousand dollars (\$800,000). The purchase price for the Phase II Property shall be based on an appraisal to be obtained by the City. If the Developer disagrees with the City appraisal, the Developer may obtain an appraisal within 30 days. After that, if the parties are unable to agree on the appraised value, the parties shall select a third party appraiser within 15 days to arrive at a purchase price.

(B) Within three (3) business days from the Effective Date, Developer shall deposit with the City the sum of \$5,000 for Phase I, and \$3,000 for Phase II, which shall apply to the respective Purchase Prices at closing. If Developer fails to close one or both Phases, and has no legal basis to justify such failure, then City shall retain the deposits as liquidated damages.

ARTICLE III - CLOSING AND CLOSING DATE

The transactions contemplated by this Contract shall be closed (the "**Closing**"), the Purchase Price applied to closing costs and the deed, and the exclusive possession of the Property, free of all occupants, shall be delivered to Developer at Closing.

(A) The closing date for Phase I Property shall be on or before 180 days following the Effective Date, or the date the building permit is issued for the Phase I Property, whichever comes first. If the zoning is denied, then, at Developer's election, this Contract shall terminate, and the Deposit shall be refunded to Developer, unless Developer waives such zoning requirements in writing. Developer will close on the McGann Property ~~on or~~ before the ~~date of~~ closing on the Phase I Property.

(B) The closing date for Phase II Property will be 210 days from the closing date on the Phase I Property.

ARTICLE IV - TERMS AND CONDITIONS

The additional terms and conditions of this Contract are as follows:

4.1 **Binding Effect.** This Contract and the rights, restrictions, duties, covenants, conditions and obligations created hereby shall create mutual benefits, obligations and servitudes that (i) remain in full force and effect for the term of this Contract, (ii) run with the title to the Property and any portion thereof during the term of this Contract, and (iii) are and shall be binding upon and inure to the benefit of each Party, together with all tenants, mortgagees, customers and invitees of such Party, and their respective successors and assigns. This Contract shall be recorded in the Flagler County Public Records no later than fourteen (14) days after full execution. Recording costs shall be paid by Developer. This Contract is not intended to, nor will it, prevent or impede the City from exercising its legislative authority as the same may affect the Property.

4.2 **Third Party Beneficiaries.** The provisions of this Contract are for the exclusive benefit of the Parties and not for the benefit of any third person, nor shall this Contract be deemed to have conferred any rights, express or implied, upon any third person unless otherwise expressly provided for herein.

4.3 **Required Approvals and Vision for Project.**

(A) Master Planned Development. The Developer intends to request a Master Planned Development (MPD) zoning on the Property. The Property will be generally developed in accordance with the Conceptual Rendering Package attached as **Exhibit E**, subject to compliance with all necessary land use approvals and public hearings.

(B) Initial Approvals. The Parties acknowledge that Developer will immediately apply for the MPD zoning classification, and as a part of that zoning, the Parties will proceed as quickly as possible to negotiate an MPD Agreement. The Developer will also immediately seek to obtain all approvals required from the Community Redevelopment Agency for the development, construction and use of the Project. The City will process the Initial Approvals diligently. The Developer recognizes that the Project zoning and the CRA approvals will

proceed as required by Code and State law, and the City will provide all required public participation. Nothing herein constitutes a land use approval of any kind.

(C) Vision. The City's vision for the Project is one where high quality pedestrian oriented uses integrate with surrounding development. The Developer recognizes that the Project will be designed and intended to attract quality national, regional and local retailers, restaurants and businesses. To give substance to this vision, the "Conceptual Rendering Package" is attached as **Exhibit E**, which includes images of buildings which illustrate examples of the intended Project. Specific development standards will be established by the parties in the MPD Agreement.

(D) Description of City Permits Needed. The following City development permits, approvals and agreements are required for completion of development, and Developer agrees to file complete applications as rapidly as possible:

- i. The Initial Approvals;
- ii. Final subdivision/engineering plans;
- iii. Final Plats;
- iv. A site plan for each proposed building site;
- v. Building permits for each proposed building site;
- vi. Site construction permits.

4.4 **Evidence of Title.** City, at City's expense and within thirty (30) days from the Effective Date for Phase I, and within 210 days of the Effective Date for Phase II, shall obtain title insurance commitments (the "**Title Commitment**") to issue ALTA Owner's Title Insurance Policies from Old Republic National Title Insurance Company or Chicago Title Insurance Company (the "**Title Insurance Company**") in the amount equal to the appraisal of the Phase I or Phase II Property, naming Developer as the proposed insured. The Title Commitment shall show good, marketable and insurable fee simple title to the Property to be vested in Developer, liens, encumbrances, exceptions and qualifications which will not interfere with or impair the Property's use; exceptions permitted by the provisions of this Contract; and those exceptions which are capable of and are actually to be discharged by City at or before Closing (all other exceptions to title being deemed title defects for purposes of this contract). Legible and complete copies of all instruments listed as exceptions to title (commonly identified as Schedule B-II exceptions in the Title Commitment) shall be delivered with the Title Commitment. If title is found to be defective, Developer shall, within ten (10) days from the date it receives the Title Commitment, notify City in writing to that effect specifying the defects. City shall have twenty (20) days from the receipt of Developer's notice specifying the title defects to cure the defects and, if after said period City shall not have cured the defects, or if City shall not have progressed to a point where the defects are certain to be remedied prior to Closing, or where the removal of such defects is not otherwise assured to Developer's satisfaction, Developer shall have the option of (i) accepting the title "as is" or (ii) terminating the Contract after which Developer and City shall each be released from all further obligations to each other respecting matters arising from this Contract.

4.5. **Survey.** Developer may, at Developer's expense, obtain surveys of the Property (the "**Survey**") prepared by a licensed Florida land surveyor within the last thirty (30) days before each

closing, or in the alternative, an update of an earlier survey re-dated to a point in time within the last thirty (30) days. If the Survey shows any encroachments onto the Property and/or improvements located outside its boundaries or encroachments by improvements principally located on the Property over required setback lines or over onto the property of others or onto any public right-of-way adjacent to the Property, or if it is apparent that the Property violates existing title covenants and/or applicable zoning laws or ordinances, Developer shall notify City in writing to that effect specifying the defects. City shall have until thirty (30) days from receipt of Developer's notice specifying the Survey defects for either the Phase I or Phase II Property in which to cure such defects. If after said period City shall not have cured the defects, or if City shall not have progressed to a point where the defects are certain to be remedied at or prior to Closing, Developer shall have the option of (i) accepting the condition of the Property as disclosed in the Survey in an "as is" condition, or (ii) terminating the Contract, thereupon Developer and City shall each be released from all further liabilities and obligations to each other with respect to all matters arising from this Contract.

4.6. **Conveyance.** City shall convey title to the Property to Developer by Special Warranty Deeds (the "**Deed**"), subject only to: (i) taxes for the year of Closing; and (ii) matters disclosed in the title evidence provided to and accepted or deemed accepted by Developer.

4.7. **Closing Affidavit.** At each Closing, City shall furnish Developer with an affidavit (i) testifying to the absence of any claims, encumbrances, taxes, assessments, liens or potential lienors known to City not disclosed in the Title Commitment and Deed, (ii) further attesting that there have been no improvements to the Property by or through City for the ninety (90) day period immediately preceding the date of Closing, the cost of which remains unpaid, (iii) agreeing to take no action prior to recording the Deed which would adversely affect the title to the Property, (iv) testifying that possession of the Property is subject only to those matters accepted by Developer pursuant to the terms hereof, if any, and that City is otherwise in exclusive, peaceable and undisputed possession of the Property, and (v) testifying that there are no actions or proceedings now pending in any state or federal court to which City is a party including, but not limited to, proceedings in bankruptcy, receivership or insolvency, which would affect the Property, the title to the Property or City's ability to close on the sale of the Property to Developer except as disclosed in the Title Commitment. City shall also furnish such other evidence, affidavits or information required by the Title Insurance Company so that the Title Insurance Company will be able to eliminate all standard exceptions from the Title Commitment at Closing, except for taxes for the year of Closing which are not yet due or payable.

4.8. **Place of Closing.** Closing shall be held by express courier or at the offices of the title agent or at Garganese, Weiss & D'Agresta, P.A. or such other location as is mutually agreed upon by parties.

4.9. **Documents for Closing.** City's attorney or title agent shall prepare the Deeds, Seller's affidavits, closing statements, and any corrective instruments that may be required in connection with perfecting title.

4.10. **Expenses.** State documentary tax for the Deeds and the cost of recording all corrective documents needed to complete the transactions shall be borne by City. City shall also pay for the title insurance premium. Developer shall pay for recording the Deed and all fees and expenses arising

from or associated with the simultaneous issuance of a lender's title insurance commitment and policy, if any, and any and all endorsements to such policy required by its lender.

4.11. **Prorations and Escrow Balance.** Taxes and other expenses and all revenue of the Property shall be prorated as of the date of each Closing.

4.12. **Proration of Taxes; Real and Personal.** City shall be responsible for real estate and personal property taxes owing for tax years prior to Closing if any, and for the portion of the current calendar year during which City owned the Property (*i.e.*, City shall be responsible for real estate and personal property taxes owing for the period beginning on January 1, and ending (but not including) on the Closing date, if any). Developer shall be responsible for real estate and personal property taxes owing for the period commencing on the Closing date and ending on December 31. Developer shall pay any real and personal property taxes billed with respect to the Property after Closing. Developer shall be solely responsible for and hold City harmless from any so-called “rollback” or similar taxes or assessments owing on the Property resulting from the sale thereof to Developer or any change in the improvements or the use of the Property by Developer following Closing. Any tax proration based on an estimate may, at the request of either party, be subsequently readjusted upon receipt of the actual tax bill. This provision for re-proration shall survive the Closing.

4.13. **Special Assessment Liens.** Special assessment liens which are certified, confirmed and ratified as of the date of Closings are to be paid by City. Special assessment liens which are certified, confirmed and ratified but payable in installments post Closing shall be paid in full by City at the Closings. Special assessment liens pending as of the date of Closing shall be assumed by Developer; provided, however, that if the improvements which form the basis for such special assessment are substantially completed as of the date of Closing they shall be deemed to have been certified, confirmed or ratified and Developer shall, at Closing, be credited with an amount equal to the last estimate of the assessment for the improvement made by the appropriate public body.

4.14. **Default.** If Developer fails to perform any of Developer's covenants set forth in this Contract, the Deposit shall be paid to and retained by and for the account of City as agreed upon liquidated damages and in full settlement of any claims whatsoever. If City fails to perform any of City's covenants set forth in this Contract or fails to convey the Phase I or Phase II Property when City is obligated to do so in accordance with the terms hereof, Developer shall have, as its sole and exclusive remedy, the right to demand and receive a refund of the Deposit, immediately.

4.15. **Severability.** If any one or more of the provisions of this Contract is held invalid, illegal or unenforceable, the remaining provisions of this Contract shall be unimpaired, and the remaining provisions of this Contract shall be construed to best carry out the original intent of the parties hereto.

4.16 **Notices.** Notices to City and Developer shall be deemed delivered (i) when hand delivered, or (ii) one (1) business day following delivery to an express delivery courier, such as Federal Express, or (iii) three (3) days following deposit in U.S. mail, certified, return receipt requested. Notice shall be given to the following addresses:

To Developer: Palm Town Center, LLC
Attention: Charles Whittall
7940 Via Dellagio Way, Suite 200
Orlando, FL 32819

Copy to: Palm Town Center, LLC
Attention: Amy Barnard, Legal Dept.
7940 Via Dellagio Way, Suite 200
Orlando, FL 32819

Copy to: Akerman LLP
Attention: Robert M. Poppell, Esq.
420 South Orange Avenue, Suite 1200
Orlando, FL 32801

To City: City of Palm Coast
Attention: City Manager
160 Lake Avenue
Palm Coast, FL 32164

Copy to: Catherine D. Reischmann, Esq.
Garganese, Weiss & D'Agresta, P.A.
111 N. Orange Avenue, Suite 2000
Orlando, FL 32801

4.17. **FIRPTA - Right to Withhold.** If CitySeller is a “foreign person” as defined by FIRPTA, Section 1445 of the Internal Revenue Code, DeveloperBuyer is required to withhold up to 15% of the amount realized by the CitySeller on the transfer and remit the withheld amount to the Internal Revenue Service (IRS) unless an exemption to the required withholding applies or the CitySeller has obtained a Withholding Certificate from the IRS authorizing a reduced amount of withholding. Due to the complexity and potential risks of FIRPTA, DeveloperBuyer and CitySeller should seek legal and tax advice regarding compliance, particularly if an “exemption” is claimed on the sale of residential property for \$300,000 or less. CitySeller agrees that DeveloperBuyer may deduct and withhold from the Purchase Price provided in Article II hereof, a tax in the amount of up to fifteen percent (15%) of the amount realized (as that term is used in Section 1445(a) of the Internal Revenue Code) by CitySeller pursuant to this Contract, except upon the occurrence of either (A) or (B) below:

(A) At or prior to Closing, City provides to Developer a Certificate of Non-Foreign Status or a Non-USRPHC Statement described in and complying with Section 1445(b)(2) or (3) of the Internal Revenue Code of 1986, as amended (the "**Code**") (all references to Section or the Code include any successor provisions thereto and any Treasury Regulations promulgated in connection thereto) and Developer has no knowledge or notice that such Certificate or Statement is false; or

(B) At or prior to Closing, Developer received a withholding certificate described

in Temp. Treas. Reg. Section 1.1445-3T or Rev. Proc. 85-41.

Developer agrees that any amount deducted and withheld pursuant to this Section shall be remitted to the Internal Revenue Service in accordance with Section 1445 of the Code and the Regulations thereunder.

4.18. **Environmental Status.** City has no notice or knowledge of the on-site existence of any “Endangered and Threatened Species,” flora and fauna as identified by the U.S. Fish and Wildlife Service's "List of Endangered and Threatened Wildlife and Plants" as may be amended from time to time. City further warrants no knowledge of the on-site existence of any upland conservation areas which are preserved, or may be preserved, for the purposes of providing of wildlife habitat.

The provisions of this Section 4.18 shall survive the Closing or earlier termination of this Contract.

4.19. **Right of Inspection.** Developer, its agents, employees and representatives, may have access to the Property and the records of the Property (including those on file with any governmental agency) at all reasonable times subsequent to the Effective Date of this Contract with the right, at Developer's expense, to inspect the Property and to conduct all tests and borings thereon as Developer, its licensed engineers, surveyors and the like shall deem reasonably necessary or desirable to fulfill the tests and investigations contemplated by the Contract. Any entry on or to the Property by Developer or its authorized representatives pursuant to the provisions hereof shall be at the risk of Developer. Developer hereby indemnifies, protects, and holds City harmless and agrees to defend City from and against any and all claims, demands, losses, damages, and liabilities (including but not limited to personal injury and property damage claims and mechanics' or other liens), together with related costs and expenses, including reasonable attorney fees and litigation costs, caused by Developer or Developers' agents on or to the Property. In addition, Developer shall keep the Property free from any liens which could arise as a result of the exercise by Developer of any of its rights hereunder. The provisions of this Section 4.19 shall survive the Closing or earlier termination of this Contract.

4.20. **WAIVER OF TRIAL BY JURY.** CITY AND DEVELOPER HEREBY MUTUALLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY REGARDING ANY LITIGATION BASED OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS CONTRACT OR ANY AGREEMENT CONTEMPLATED TO BE DELIVERED IN CONJUNCTION THEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR EACH OF CITY AND DEVELOPER ENTERING INTO THIS CONTRACT.

ARTICLE V - SPECIAL CONDITIONS

5.1. **Condition Precedent.** City's obligation to close under this Contract shall be subject to the satisfaction of the following conditions precedent enumerated below. In the event any one of these conditions is not satisfied for any reason whatsoever, then this Contract shall terminate, and

Developer and City shall be fully relieved from all further rights and responsibilities under this Contract.

(A) The complete execution of this Contract by City and Developer and the approval of this Contract by the City of Palm Coast City Council at a public meeting.

(B) Developer or Affiliate closing on McGann Property described in Exhibit D.

~~(C)~~ No action, suit, proceeding, or official investigation shall have been threatened, announced, or commenced by any person or federal, state or local government authority or agency that seeks to enjoin, assess civil or criminal penalties against, or obtain any judgment, order, or consent decree, with respect to either party hereto, in connection with their respective representations and obligations under this Contract.

5.2. **Purchase “As Is”; City Representations.**

(A) Developer acknowledges that it has had, or shall have prior to settlement, ample opportunity to investigate all aspects of the Property. Developer acknowledges and agrees that the Property shall be conveyed to Developer on an “as is, where is” basis and except as otherwise expressly set forth in this Contract (including mandatory cure items and voluntary cure items as may be undertaken by City pursuant to paragraph 4.4 above), without any representations or warranties of any kind, express or implied, oral or written, made by City or any employee, officer, director, agent or representative of City concerning (a) the value, nature, quality or condition of the Property, including, without limitation, the water, structural integrity, 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 Developer may wish to conduct thereon; (d) the compliance of or by the Property with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (e) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property; (f) the presence or absence of any hazardous or toxic materials or substances at, under or adjacent to the Property or any other environmental matter or condition of the Property; or (g) any other matter with respect to the Property. Developer acknowledges and agrees that any information provided by or on behalf of City with respect to the Property was obtained from a variety of sources and that City has not made any independent investigation or verification of such information and makes no representations or warranties as to the accuracy or completeness of such information. City shall not be liable or bound in any manner by any oral or written statements, representations or information pertaining to the Property, or the operation thereof, furnished by any person. City has made no agreement to alter, repair or improve the assets or the Property.

(B) Without limiting the provisions of paragraph 5.2(a) above but subject to the exclusions set forth below, Developer, for itself and its successors and assigns (and all parties claiming by or through Developer) hereby releases, acquits and forever discharges City and its officers, and agents from any and all rights, claims, demands, causes of actions, losses, damages, liabilities, costs and expenses (including attorneys’ fees and disbursements whether the suit is instituted or not) whether known or unknown, liquidated or contingent (hereinafter collectively called the “*claims*”), which Developer has or may have in the future, arising from or relating to any conditions, including, without limitation, environmental and other physical conditions, affecting the Property whether the same are a

result of negligence or otherwise, whether arising based on events that occurred before, during, or after City's period of ownership of the Property and whether based on theories of indemnification, contribution or otherwise. the release set forth herein does not apply to (1) any claims arising from City's fraud or (2) any covenant, indemnity or warranty expressly made by City in any document delivered by City to Developer at settlement.

(C) Developer represents and warrants to City that (a) Developer is not in a significantly disparate bargaining position; (b) Developer is represented by legal counsel in connection with the sale contemplated by this agreement; (c) Developer is sophisticated, knowledgeable and experienced in the purchase, ownership and sale of commercial real estate and is fully able to evaluate the merits and risks of this transaction; and (d) Developer has conducted (or will hereafter conduct) or will have had the opportunity to conduct prior to settlement its own inspection and investigation of the Property. City has made no agreement to alter, repair or improve the Property.

5.3. **Inspection Period.** For Phase I, Developer shall have 90 days from the Effective Date within which to have such inspections of the Phase I Property performed as Developer shall desire during the Inspection Period. For Phase II, Developer will have 240 days from the Effective Date within which to conduct inspections of the Phase II Property (hereinafter collectively referred to as "Inspection Period"). By way of illustration and not in limitation and subject to Section 4.19: inspections as to the physical condition of the Property; investigate the availability of utilities; status of zoning or ability to rezone, zoning codes, building codes; physical condition and any other condition or characteristic of the Property which Developer may deem necessary or relevant to Developer in purchasing the Property. Should Developer for any reason become dissatisfied or concerned with the result of any such investigation, search, inquiry or report as contemplated hereby, then Developer may, prior to the expiration of the Inspection Period, terminate this Contract by written notice thereof to City. Notwithstanding anything to the contrary contained herein, if Developer has not terminated this Contract by written notice delivered to City prior to the end of the Inspection Period, then the Deposit (if any) shall be applicable to the Purchase Price but non-refundable, other than pursuant to Section 5.1 hereof, except in the event of a default by City hereunder.

5.4. **Delivery of Materials.** Within five (5) days after the Effective Date of this Contract, City shall deliver to Developer copies of all existing studies, tests, environmental audits, soil borings results, surveys, site plans, reports, plans, permits, petitions, warranties, applications, certificates, reservations, agreements, development orders, approvals, maps, aerials and related materials in its possession relating to the Property.

5.5. **Brokerage.** Developer and City represent to each other that neither party has dealt with or engaged a broker with respect to the transaction contemplated herein. Each party hereby agrees to indemnify the other from and against any claim for brokerage commission or finder's fee asserted by any other person, firm or corporation claiming by, through or under said party.

5.6. **City Warranties.** Developer acknowledges that, except as expressly stated above, City has made no representations or warranties, written or oral, express or implied, with respect to the Property. During the period that this Contract is in effect, City shall maintain the Property in its

current condition, reasonable wear and tear excepted. Except as may be set forth in the representations and warranties contained herein, the City makes no representation or warranty as to the condition of the Property, or any systems or components thereof, said Property to be acquired in its "AS IS" and "WHERE IS".

5.7. **Assignment.** Developer shall have the right to assign its rights and privileges under this Contract to any entity which controls, is controlled by or under common control with Developer (an "Affiliate"); provided, however, that such assignment shall not relieve Developer of any obligations hereunder. Developer may not assign its rights or obligations to acquire the Property without the prior written consent of the City, which consent can be withheld in City's sole discretion. The Developer shall notify the City of any such assignment within ten (10) days after the date thereof. If Developer assigns its right to acquire the Property to an Affiliate, as part of such assignment the Developer will deliver to the City reasonable evidence of equity and financing commitments for such Affiliate's acquisition and development of the Property (provided that such evidence may be redacted and edited to remove proprietary terms and information). Upon any such assignment, the assignor Developer shall remain obligated and liable for its obligations under this Contract applicable to such assignee and/or Property until all certificates of occupancy for the development on the Property are issued.

5.8. **City Not to Convey.** City shall not convey any interest in the Property after the signing of this Contract without the prior joinder and written consent of the Developer.

5.9. **Extensions of Closing Date.** The Parties shall each be entitled to one 30 day extension of both closings. Any other extensions shall be by mutual agreement of the parties. The City Manager is delegated the authority to sign one month extensions of this Contract without approval by City Council at a public meeting.

5.10. **Waiver/Time.** The waiver of any breach of any provision hereunder by Developer or City shall not be deemed to be a waiver of any preceding or subsequent breach hereunder. No failure to delay of any party in the exercise of any right given hereunder shall constitute a waiver thereof nor shall any partial exercise of any right preclude further exercise thereof. Time is of the essence in this Contract as to all dates and time periods set forth herein. To the extent that the last day of any time period stipulated in this Contract falls on a Saturday, Sunday or legal holiday (State or Federal), the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. Any time period of ten (10) days or less specified herein shall not include Saturdays, Sundays or legal holidays. Where used herein, the term "business days" shall be those days other than Saturdays, Sundays or legal holidays.

5.11 **Amendment; Waiver.** No alteration, amendment or modification hereof shall be valid unless executed by an instrument in writing by the Parties hereto with the same formality as this Contract. The failure of any Party to insist in any one or more instances upon the strict performance of any of the covenants, agreements, terms, provisions or conditions of this Contract or to exercise any election herein contained shall not be construed as a waiver or relinquishment for the future of such covenant, agreement, term, provision, condition, election or option, but the same shall continue and remain in full force and effect. No waiver by any Party of any covenant, agreement, term, provision or condition of this Contract shall be deemed to have been made unless expressed in writing and signed by an appropriate official on behalf of either the applicable Party.

5.12. **Relationship of Parties.** The relationship of the Parties under this Contract is that of independent parties, each acting in its own best interests. Notwithstanding anything in this Contract to the contrary, no partnership, joint venture relationship of principal and agent is established or intended hereby between or among the Parties.

5.13. **Further Assurances.** The Parties shall execute, acknowledge and deliver, after the date hereof, without additional consideration, such further assurances, instruments and documents, and shall take such further actions, as a Party shall reasonably request of the other in order to fulfill the intent of this Contract and the transactions contemplated thereby.

5.14. **Attorneys' Fees.** In the event of any controversy, claim or dispute between the Parties arising from or relating to this Contract (including the enforcement of any indemnity provisions), the prevailing party shall be entitled to recover reasonable costs, expenses and attorneys' fees. For all purposes of this Contract and any other documents relating to this Contract, the terms "attorneys' fees" or "counsel fees" shall be deemed to include paralegals, and wherever provision is made herein for the payment of attorneys' or counsel fees or expenses, such provision shall include such fees and expenses (and any applicable sales taxes thereon) incurred in any and all judicial, bankruptcy, reorganization, administrative or other proceedings, including appellate proceedings, whether such fees or expenses arise before proceedings are commenced or after entry of a final judgment.

5.15. **Good Faith.** In exercising their rights and fulfilling obligations under this Contract, each Party acknowledges that the other Party has acted to date in good faith and each Party agrees to continue to act in good faith. Each Party acknowledges that in each instance under this Contract where a Party is obligated to exercise good faith or to use good faith, diligent or other similar efforts, such Party shall not be required to expend any funds, or grant any other consideration of any kind, in the performance of such undertaking, and each Party further acknowledges that the obligation of any Party to act in good faith, or undertake good faith, diligent or other similar efforts does not constitute a warranty, representation or other guaranty that the result that the Parties are attempting to achieve shall be successfully achieved and no Party shall be liable for any failure to achieve the result or results intended so long as the Party has complied with its obligation to act in good faith.

5.16. **Time is of the Essence.** Time is hereby declared of the essence as to the lawful performance of all duties and obligations set forth in this Contract.

5.17. **Public Records.** If and to the extent the obligations of Developer under this Contract are subject to Florida public records laws, Developer shall comply with such public record laws with respect to the maintenance of and access to such records. This paragraph will survive termination of this Contract. To the extent required by Applicable Laws, Developer shall comply with public records laws to:

- i. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the services described in this Contract;

ii. Provide the public with access to such public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Laws;

iii. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Laws; and

iv. Meet all requirements for retaining public records and transfer to the City, at no cost, all public records in possession of Developer upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the agency.

5.18. **Headings; Entire Agreement; Governing Law.** The headings contained in this Contract are for reference purposes only and shall not affect in any way the meaning or interpretation of this Contract. This Contract constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof, and this Contract may be executed in separate counterparts, each of which shall be deemed an original, and all which shall constitute one and the same instrument. This Contract shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of Florida.

5.19. **Credit Contingency.** The City will give ~~Developer~~Buyer a credit of \$100,425.00 at Closing if:

- i. ~~Developer or Affiliate~~Buyer closes on an adjacent parcel that Developer's Affiliate, Unicorp National Developments, Inc., Buyer has under contract described in the contract attached as **Exhibit F**; and
- ii. Simultaneously with the Phase I Closing, ~~Developer or Affiliate~~Buyer donates the adjacent parcel to City by Special Warranty Deed, with closing costs paid as provided in this Contract, except that City will purchase title insurance on the adjacent parcel.

IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year indicated below.

[signatures to follow]

WITNESSES:

PALM TOWN CENTER LLC, a Florida limited liability company

(print)

By: CW FAMILY LLLP, a Florida limited partnership, its Manager

(print)

By: CW FAMILY, LLC, a Florida limited liability company, its General Partner

(print)

By: _____
Charles Whittall, Manager

(print)

By: _____
Ronna M. Whittall, Manager

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by Charles Whittall, Manager of CW FAMILY LLC, a Florida limited liability company (check one) who is personally known to me or who produced _____ as identification.

Notary Public – State of Florida
Print Name: _____
My Commission expires:

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by Ronna M. Whittall, Manager of CW FAMILY LLC, a Florida limited liability company (check one) who is personally known to me or who produced _____ as identification.

Notary Public – State of Florida
Print Name: _____
My Commission expires:

WITNESSES:

CITY OF PALM COAST, FLORIDA

(print)

By: _____
Jim Landon, City Manager

(print)

ATTEST:

By: _____
Virginia A. Smith, City Clerk

Date: _____

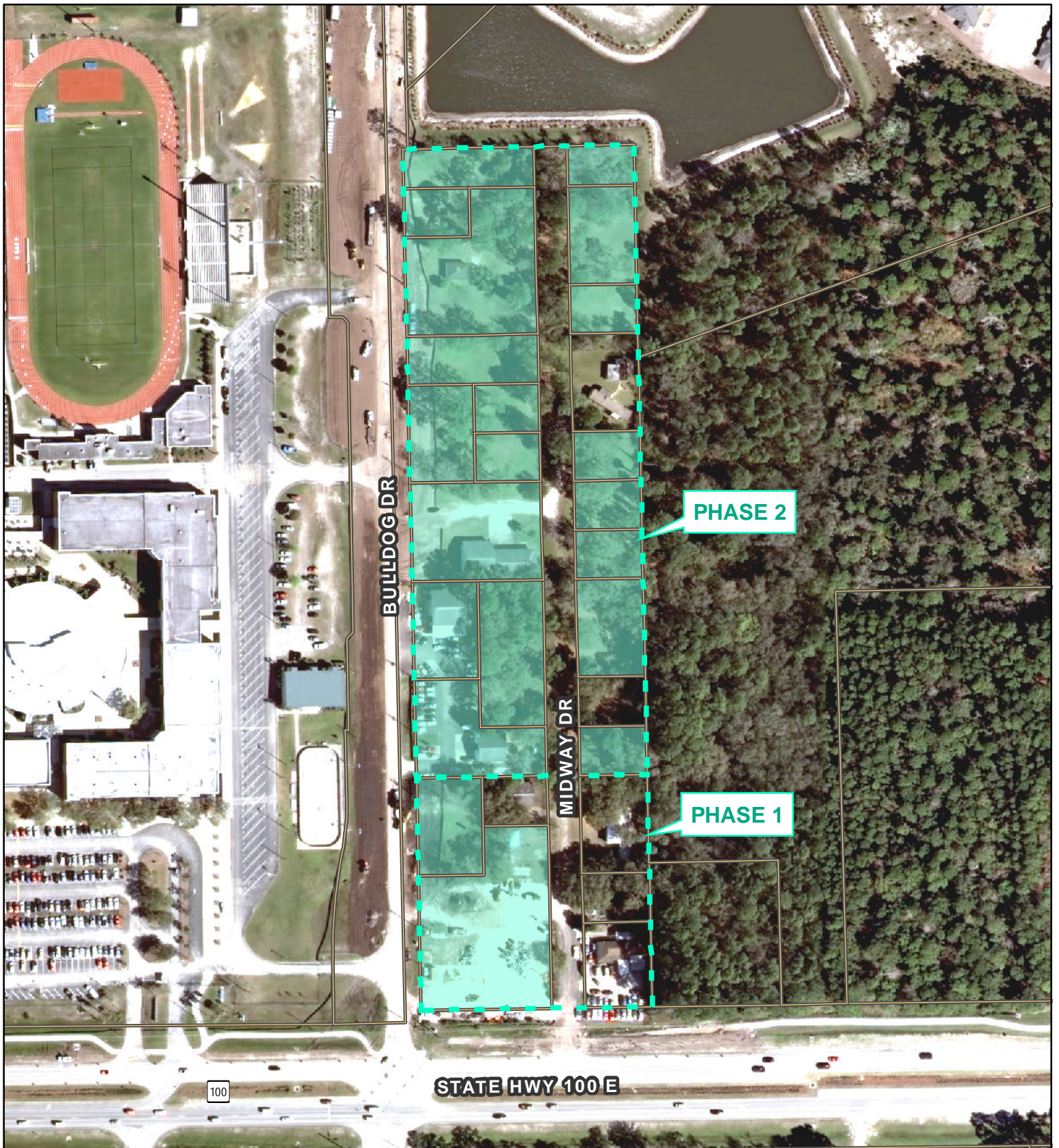
STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by Jim Landon, City Manager of the City of Palm Coast, Florida, who is personally known to me.




Notary Public – State of Florida
Print Name: _____
My Commission expires:

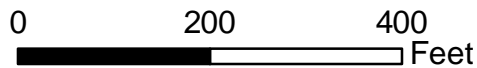
EXHIBIT A

["PROPERTY"]



CRA Redevelopment Exhibit

-  Subject Areas
-  Flagler County Parcels
-  City Owned Parcels



1 inch = 200 feet



Map Provided by the GIS Division

Date: 11/22/2016

2014 FDOT Imagery




The City of Palm Coast prepares and uses this map/map data for its own purposes. This map/map data displays general boundaries and may not be appropriate for site specific uses. The City uses data believed to be accurate; however, a degree of error is inherent in all maps. This map/map data is distributed AS-IS without warranties of any kind, either expressed or implied including, but not limited to, warranties of suitability to a particular purpose or use. This map/map data is intended for use only at the published scale. Detailed on-the-ground surveys and historical analyses of sites may differ substantially from this map/map data.

EXHIBIT B

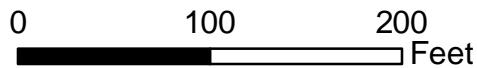
["PHASE I PROPERTY"]



CRA Redevelopment Exhibit

-  Subject Areas
-  Flagler County Parcels
-  City Owned Parcels

2014 FDOT Imagery



1 inch = 100 feet



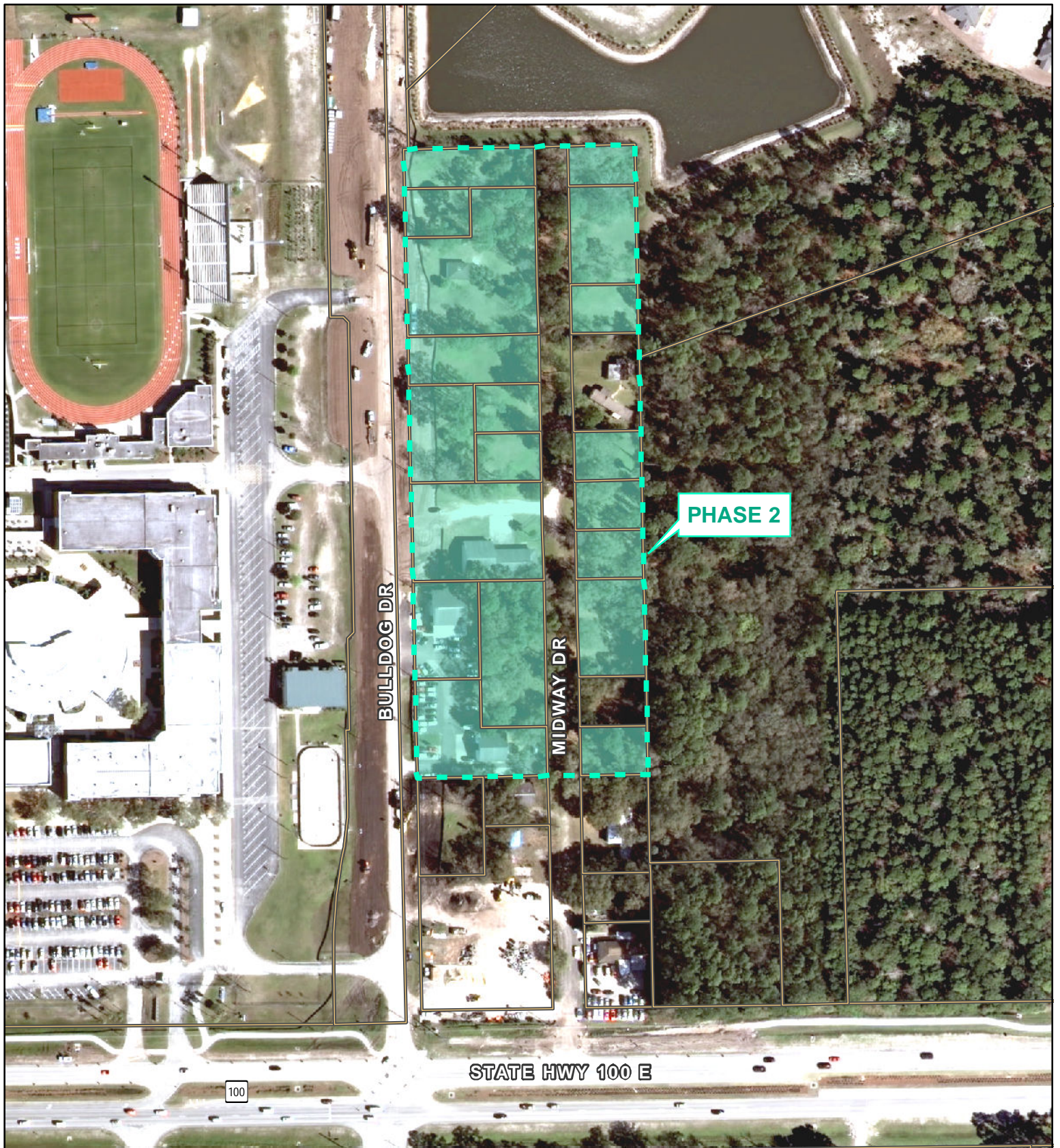
Map Provided by the GIS Division

Date: 11/22/2016




The City of Palm Coast prepares and uses this map/map data for its own purposes. This map/map data displays general boundaries and may not be appropriate for site specific uses. The City uses data believed to be accurate; however, a degree of error is inherent in all maps. This map/map data is distributed AS-IS without warranties of any kind, either expressed or implied including, but not limited to, warranties of suitability to a particular purpose or use. This map/map data is intended for use only at the published scale. Detailed on-the-ground surveys and historical analyses of sites may differ substantially from this map/map data.

EXHIBIT C

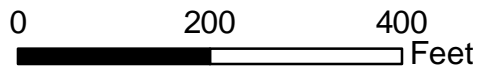
["PHASE II PROPERTY"]



CRA Redevelopment Exhibit

-  Subject Areas
-  Flagler County Parcels
-  City Owned Parcels

2014 FDOT Imagery



1 inch = 200 feet



Map Provided by the GIS Division

Date: 11/22/2016

The City of Palm Coast prepares and uses this map/map data for its own purposes. This map/map data displays general boundaries and may not be appropriate for site specific uses. The City uses data believed to be accurate; however, a degree of error is inherent in all maps. This map/map data is distributed AS-IS without warranties of any kind, either expressed or implied including, but not limited to, warranties of suitability to a particular purpose or use. This map/map data is intended for use only at the published scale. Detailed on-the-ground surveys and historical analyses of sites may differ substantially from this map/map data.

EXHIBIT D

["McGANN PROPERTY"]



Flagler County Property Appraiser			
Parcel: 08-12-31-4300-00000-0010 Acres: 0.355			
Name:	MCGANN KATHLEEN P &	Land Value	42,067
Site:	2 MIDWAY DR	Building Value	16,920
Sale:	42,800 on 06-2000 Reason=U Qual=N	Misc Value	4,702
Mail:	PASQUALE G DEVITO JTWROS 21 CRESCENT COURT SOUTH PALM COAST, FL 32137	Just Value	63,689
		Assessed Value	63,689
		Exempt Value	0
		Taxable Value	63,689



The Flagler County Property Appraiser's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER FLAGLER COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS ---THIS IS NOT A SURVEY---

Date printed: 11/22/16 : 15:58:03



Flagler County Property Appraiser			
Parcel: 08-12-31-4300-00000-0030 Acres: 0.177			
Name:	MCGANN KATHLEEN P	Land Value	3,500
Site:	3 MIDWAY DR.	Building Value	5,972
Sale:	0 on 01-2002 Reason=U Qual=N	Misc Value	0
Mail:	21 CRESCENT COURT SOUTH PALM COAST, FL 32137	Just Value	9,472
		Assessed Value	9,472
		Exempt Value	0
		Taxable Value	9,472



The Flagler County Property Appraiser's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER FLAGLER COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS ---THIS IS NOT A SURVEY---

Date printed: 11/22/16 : 15:58:46

EXHIBIT E

["CONCEPTUAL RENDERING PACKAGE"]

EXHIBIT F

[CONTRACT ON ADJACENT PARCEL]

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

THIS AGREEMENT FOR PURCHASE AND SALE of REAL PROPERTY ("Agreement") is made as of the "Effective Date" (as defined in Section 16.17) ("Effective Date") by and between **JOHN R. SHUMATE AND PEGGY W. SHUMATE**, a married couple ("Seller") and **UNICORP NATIONAL DEVELOPMENTS, INC.**, a Florida corporation and/or its assigns ("Buyer").

1. Recitals.

1.1 Seller is the owner of that certain real property ("Land") located in Flagler County, Florida, consisting of approximately 0.20 ± acres and more particularly described on Exhibit "A" attached hereto. The Land and all appurtenant rights related to the Land and owned by Seller are herein collectively referred to as the "Property."

1.2 Seller desires to sell the Property to Buyer and Buyer desires to purchase the Property from Seller, upon and subject to the terms and conditions set forth below.

1.3 Accordingly, Seller and Buyer hereby agree as follows.

2. Agreement to Purchase and Sell Property. Seller hereby agrees to sell the Property to Buyer, and Buyer hereby agrees to purchase the Property from Seller, on the terms and conditions of this Agreement.

3. Purchase Price and Terms.

3.1 Amount and Payment of Purchase Price. The purchase price for the Property (the "Purchase Price") shall be One Hundred Thousand Four Hundred Twenty-Five and No/100 Dollars (\$100,425.00), payable as follows:

a. Within three (3) business days after the Effective Date, Buyer shall deposit with First American Title Insurance Company ("Escrow Agent") Ten Thousand and No/100 Dollars (\$10,000.00) (together with all interest which accrues thereon, the "Deposit").

b. In conjunction with Closing (as defined in Section 4.1 below), Buyer shall deposit with Escrow Agent immediately available funds in an amount equal to the Purchase Price, less an amount equal to the amount of the Deposit, adjusted for credits and prorations as specifically set forth in this Agreement ("Cash Balance").

3.2 Interest on Deposit; Application at Closing. Upon Escrow Agent's receipt of the Deposit, Escrow Agent shall deposit the Funds in an interest bearing account. Interest earned on the funds deposited shall accrue to the benefit of Buyer, whose tax identification number is: 59-3494092, who also hereby certifies that it is not subject to backup withholding due to Notified Payee Underreporting as defined in Section 3406 (c), Internal Revenue Code. Accrued interest shall accumulate and constitute a part of the escrow. Escrow Agent shall not be responsible for (a) any fluctuation in the rate on interest accruing on deposited funds; (b) any failure on the part of the Bank; (c) the unavailability of FDIC insurance on all or any portion of the deposited funds or (d) any other matters beyond the direct and exclusive control of Escrow Agent.

4. **Closing; Closing Date.**

4.1 **Closing.** The closing (the "**Closing**") shall be held not later than sixty (60) days after the Due Diligence Contingency Date (the "**Closing Date**"). Closing shall occur by mail and wire transfer of funds.

5. **Contingencies.** Buyer's obligation to purchase the Property is subject to the satisfaction of each of the following conditions (collectively, "**Contingencies**"). All of the Contingencies are for the benefit of Buyer, and any or all of them may be waived by Buyer in its sole discretion.

5.1 **Due Diligence Investigations.**

5.1.1 On or before the third (3rd) business day following the Effective Date, Seller shall deliver to Buyer true, correct and complete copies of all of the documents and items described in **Exhibit "C"** attached hereto in Seller's possession or control, if any ("**Due Diligence Items**"), all of which Due Diligence Items will be, to Seller's actual knowledge, true, correct and complete copies. Buyer's sole remedy for Seller's failure to deliver such documents shall be to terminate this Agreement prior to the Due Diligence Contingency Date.

5.1.2 Buyer shall have sixty (60) days from receipt of the Due Diligence Items ("**Due Diligence Contingency Date**") to do the following; provided, however, that the Due Diligence Contingency Date may be extended as specifically set forth in Section 5.2. below: (i) undertake and complete any and all investigations, tests and studies which Buyer may elect to make or obtain ("**Inspections**") including, but not limited to:

(a) Subject to the limitations in Section 5.1.3, conduct such tests, studies, inspections and other examinations (collectively, "**Examinations**") as it may elect in its sole judgment, to determine the suitability of the Property for Buyer's purposes, including, but not limited to, surveys, soils tests, borings, percolation tests, compaction tests, environmental tests and tests to obtain any other information relating to the surface, subsurface and topographic conditions of the Property including, but not limited to, the presence of Hazardous Materials (as defined in Section 7.1 below) in, on, under or about the Property;

(b) Determine, in its sole discretion, that there are no federal, state or local laws, ordinances, rules, regulations, codes, zoning codes, building ordinances or orders and no covenants or restrictions affecting or running with the Property which would, in Buyer's sole judgment, prohibit, prevent, delay, interfere with or impair the feasibility of Buyer's use, development or improvement of the Property for Buyer's use;

(c) Determine, in its sole discretion, that all permits, consents, approvals and other items required or desired by Buyer to be obtained from all federal, state and local governmental, municipal, public and other authorities, bodies and agencies to permit Buyer to use the Premises for Buyer's use shall have been obtained, or shall be obtainable, including but not limited to, all building, site signage and state department of transportation approval for ingress and egress to the Property;

(d) Determine that adequate ingress and egress is available from, to and between the Property and a dedicated public road at locations and on terms and conditions acceptable to Buyer in Buyer's sole discretion;

and (ii) to review and approve the Inspections in Buyer's sole discretion. If Buyer determines in Buyer's sole discretion to proceed with the purchase of the Property, then Buyer shall on or before the Due Diligence Contingency Date, so notify Seller in writing ("**Approval Notice**"), in which case Buyer shall be deemed to have approved all of the matters described in this Section 5.1.2. If Buyer fails to timely deliver the Approval Notice, then Buyer shall be deemed to have elected to terminate this Agreement, this Agreement shall terminate, the Deposit shall be returned to Buyer, and neither party shall have any further rights or obligations hereunder except as otherwise provided in this Agreement. Buyer agrees that within five (5) business days of such termination it will return all Due Diligence materials to Seller, and provide Seller copies of all third party reports obtained by Buyer with evidence of payment of such reports.

5.1.3 Buyer and its representatives shall have the right, during normal business hours and upon reasonable notice and, if requested by Seller, in the company of a representative of Seller, to enter onto the Property for the purpose of conducting the Inspections. Buyer shall not perform or have performed any invasive testing (including, without limitation, drilling or boring) without obtaining Seller's prior written consent (which consent shall not be unreasonably withheld or delayed. Buyer shall indemnify, defend, protect and hold harmless Seller and the Property from and against any and all loss, cost, damage, liability and expense (including, without limitation, reasonable attorneys' fees and costs) arising out of the inspections by Buyer or its representatives and such duty, indemnity, defense and hold harmless shall survive the termination of this Agreement. The foregoing indemnity and defense obligations do not apply to (i) any diminution in value in the Property arising from or relating to matters discovered by Buyer during its investigation of the Property, (ii) any latent defects in the Property discovered by Buyer or (iii) the release or spread of any "Hazardous Materials" (defined below) which are discovered (but not deposited or released to Buyer) on or under the Property by Buyer.

5.2 Title and Survey. Buyer shall cause Akerman LLP, as agent for First American Title Insurance Company ("**Title Company**"), to deliver to Buyer a title commitment ("**Commitment**") for the Property along with copies of all documents referenced therein. Buyer shall proceed in good faith and with commercially reasonable diligence to obtain, as soon as reasonably practicable after the Effective Date and before the Due Diligence Contingency Date, a survey or update to any existing survey of the Property ("**Survey**"), and deliver a copy of same to Seller. The Survey shall be certified to Buyer, Seller and the Title Company. Buyer shall treat the Commitment and Survey as Due Diligence Items and review same prior to the Due Diligence Contingency Date. In the event that Buyer proceeds under this Agreement beyond the Due Diligence Contingency Date, Buyer shall be deemed to have elected to take title to the Property subject to all matters depicted in the Commitment and Survey, or such matters that would have been depicted in the Commitment and Survey had Buyer obtained same effective as of the Due Diligence Contingency Date ("**Permitted Exceptions**"). Notwithstanding anything to the contrary herein, Seller shall cause to be removed, on or prior to the Closing, all of the following to the extent they are the result of the actions of Seller or its agents: mechanics' or materialmen liens, delinquent real property taxes, deeds of trust and other encumbrances or other exception to title representing a security interest relating to an obligation to pay money if by Seller (none of which shall constitute Permitted Exceptions), and, if prior to the Closing, there are any such liens, real property taxes, encumbrances, Seller shall deposit with Escrow Agent sufficient monies (or authorize Escrow Agent to use all or any portion of the Purchase Price), acceptable to and reasonably required by Escrow Agent to ensure the obtaining and recording of

such satisfactions and the issuance of the Title Policy, free of any such liens, real property taxes, encumbrances.

Notwithstanding anything in the foregoing provisions of this Agreement to the contrary, in the event that Buyer has not obtained the Survey by the last day of the Due Diligence Contingency Date as established pursuant to Section 5.1.2. of this Agreement, and Buyer delivers the Approval Notice and is otherwise not in default under any of its obligations under this Agreement, then (i) the Due Diligence Contingency Date shall automatically, with no further action of the parties, extend until 5:00 p.m. on the fifth (5th) business day following the date on which Buyer obtains the Survey, for the sole purpose of allowing Buyer to obtain and review the Survey, and, if Buyer cannot obtain the Survey or determines in its sole discretion that matters depicted in the Survey are unacceptable, Buyer shall have the right to terminate the Agreement by delivering written notice to Seller prior to 5:00 p.m. on the extended Due Diligence Contingency Date, failing which Buyer shall be deemed to have elected to continue under this Agreement, and (ii) the Closing Date shall be extended by an additional day for each day that the Due Diligence Contingency Date is extended. If Buyer timely delivers notice of termination pursuant to this paragraph, this Agreement shall terminate, the Deposit shall be returned to Buyer, and neither party shall have any further rights or obligations hereunder except as otherwise provided in this Agreement. Buyer agrees that within five (5) business days of such termination it will return all Due Diligence materials to Seller, and provide Seller copies of all third party reports obtained by Buyer with evidence of payment of such reports.

6. **Representations and Warranties of Buyer.** Buyer hereby represents, warrants and covenants the following to Seller for the purpose of inducing Seller to enter into this Agreement and to consummate the transactions contemplated hereby, all of which shall be true in all material respects as of the date hereof and as of the Closing Date and shall survive the Closing and conveyance of title to the Property hereunder for a period of six (6) months.

6.1 **Authority.** Buyer has the power, right and authority to enter into this Agreement and the instruments and documents required hereby, and to consummate the transaction contemplated hereby. The individual executing this Agreement and the instruments referenced herein on behalf of Buyer has the power, right and authority to bind Buyer.

6.2 **Consents.** All requisite action has been taken by Buyer and all requisite consents have been obtained in connection with Buyer's execution, delivery and performance of this Agreement and the instruments and documents referenced herein, and the consummation of the transaction contemplated hereby, and no consent of any other party is required.

6.3 **Binding Obligations.** This Agreement is, and all agreements, instruments and documents to be executed by Buyer pursuant to this Agreement shall be duly executed by Buyer and are, or shall be, valid and legally binding upon Buyer and enforceable in accordance with their respective terms subject to the effect of applicable bankruptcy, insolvency, reorganization or other similar laws affecting the rights of creditors generally.

6.4 **No Conflicts.** Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby shall result in a breach of or constitute a default under any agreement, document, instrument or any other obligation to which Buyer is a party or to which Buyer may be bound or affected, or under any law, statute, ordinance, rule, governmental

regulation or any writ, injunction, order or decree of any court or governmental body, applicable to Buyer.

7. Representations, Warranties and Covenants of Seller; As-Is Purchase.

7.1 Seller's Representations and Warranties. Seller hereby represents, warrants and covenants the following to Buyer for the purpose of inducing Buyer to enter into this Agreement and to consummate the transactions contemplated hereby, all of which shall be true in all material respects as of the date hereof and as of the Closing Date and shall survive the closing and conveyance of title to the Property for six (6) months.

7.1.1 Seller has the power, right and authority to enter into this Agreement and the instruments and documents referenced herein, and to consummate the transaction contemplated hereby. The individuals executing this Agreement and the instruments referenced herein on behalf of Seller have the power, right and authority to bind Seller. Seller shall deliver to Title Company any documents reasonably requested by Title Company evidencing that Seller has the power and authority to enter into this Agreement and to consummate the transactions hereunder.

7.1.2 All requisite action has been taken by Seller and, all requisite consents have been obtained in connection with the execution, delivery and performance of this Agreement and the instruments and documents referenced herein, and the consummation of the transaction contemplated hereby, and no consent of any other party is required.

7.1.3 This Agreement is, and all agreements, instruments and documents to be executed by Seller pursuant to this Agreement shall be, duly executed by Seller and are, or shall be, valid and legally binding upon Seller and enforceable in accordance with their respective terms subject to the effect of applicable bankruptcy, insolvency, reorganization or other similar laws affecting the rights of creditors generally.

7.1.4 To Seller's actual knowledge, neither the execution of this Agreement nor the consummation of the transactions contemplated hereby shall result in a breach of or constitute a default under any agreement, document, instrument, or other obligation, to which Seller is a party or by which Seller may be bound, or under any law, statute, ordinance, rule, governmental regulation or any writ, injunction, order or decree of any court or governmental body, applicable to Seller or to the Property.

7.1.5 Seller has not received any written notice from any governmental authority that the Property does not comply with any applicable law, ordinance, regulation or governmental order, or that any investigation has been commenced respecting any possible failure to comply with any applicable law, ordinance, regulation or governmental order.

7.1.6 There is no claim, action, litigation, arbitration or other proceeding pending against Seller which relates to the Property or the transactions contemplated hereby and, to the actual knowledge of Seller, there is currently no governmental investigation, threatened litigation or arbitration proceedings to which Seller is, or would be, a party which relates or would relate to the Property. If Seller receives written notice of any such claim, litigation, proceeding or investigation prior to the Closing, Seller shall promptly notify Buyer of the same in writing.

7.1.7 To Seller's actual knowledge: (i) there are no Hazardous Materials in, on, under or about the Property in violation of applicable laws, ordinances or regulations; (ii) the Property is not in violation of any federal, state or local law, ordinance or regulation relating to Hazardous Materials, industrial hygiene or environmental conditions, whether in connection with construction activities or otherwise; (iii) neither Seller nor any other party has used, generated, manufactured, stored or disposed of in, on, under, or about the Property, or transported to or from the Property, any Hazardous Materials in violation of applicable laws; (iv) there are and have been no governmental or regulatory actions or third party claims instituted or threatened relating to any Hazardous Materials in, on, under or about the Property; and (v) there are no underground storage tanks located in, on, under or about the Property. As used in this Agreement, "**Hazardous Materials**" means any flammable explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances and other related materials including, without limitation, any substances defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials" or "toxic substances" under any applicable federal, state or local laws, ordinances or regulations.

7.1.8 The Land shall be free and clear of all tenancies and rights of occupancy. Seller has not entered into any course of conduct or agreement that would permit, any person or entity to occupy or use any portion of the Property or otherwise affect the Property or any part thereof.

7.1.9 Intentionally deleted.

7.1.10 For the purposes of this Agreement, Seller's actual knowledge is limited to the actual knowledge of the individual executing this Agreement and any partners of Seller involved in operations of Seller pertaining to the ownership of the Property. Buyer acknowledges Seller is remote to the Property and the knowledge of Seller does not include the knowledge of local service providers or contractors.

7.2 Buyer's Options. Upon Buyer's receipt of notification or discovery of any fact that would cause any of the representations or warranties contained herein to be untrue in any material respect, Buyer shall promptly notify Seller. If Seller is unable or unwilling to cause such representation or warranty to be made true by Closing, Buyer may, at Buyer's option, within five (5) days of notice from Seller of its inability or unwillingness to cure either: (a) waive the breach that would be caused by the breach of such representation or warranty and proceed to the Closing without any adjustment to the Purchase Price; or (b) terminate this Agreement, in which case the Deposit shall be returned to Buyer.

7.3 Insurance. Until the Closing, Seller shall keep the Property insured in the same manner as is now in place. Seller shall not make any material alterations to any portion of the Property without Buyer's prior written consent, which may be granted or withheld in Buyer's reasonable discretion. If Buyer does not respond with particularity within five (5) days regarding a request it shall be deemed approved.

7.4 Additional Covenants. From and after the expiration of the Due Diligence Period and until the Closing, Seller shall not, without the prior written consent of Buyer, enter into any agreement with respect to the Property or any portion thereof which would become the obligation of Buyer after the Closing. Buyer's consent may only be granted or withheld by

Buyer in its reasonable discretion. If Buyer does not respond with particularity within five (5) days regarding a request it shall be deemed approved

8. **Representations and Warranties of Seller and Buyer Regarding Brokers.** Each party represents and warrants that it has not employed any other brokers or finders in connection with the transaction contemplated hereby. Each party shall indemnify, defend, protect and hold harmless the other party from and against any and all obligations or liabilities to pay any real estate broker's commission, finder's fee, or other compensation to any person or entity arising from or in connection with this Agreement which results from any act or agreement of such party.

9. **Casualty, Condemnation or Hazardous Materials.** Seller shall promptly notify Buyer if Seller becomes aware of any casualty to the Property (including without limitation the presence of any Hazardous Materials affecting the Property other than those existing as of the Effective Date) or pending or threatened condemnation proceeding affecting the Property occurring prior to the Closing. If any casualty to the Property occurs prior to the Closing, then, at Buyer's election within five (5) business days of Buyer's receipt of written notice from Seller of said casualty, Buyer may either (i) proceed to Closing and accept a credit in the amount of any insurance proceeds received, and assignment of rights to any additional insurance proceeds, plus the amount of any deductibles less amounts paid by Seller for repair and renovation; or (ii) Buyer may elect to terminate this Agreement, in which event this Agreement shall terminate, the Deposit shall be returned to Buyer and neither party shall have any further rights or obligations hereunder, except for such rights or obligations that are specifically intended to survive termination of this Agreement. If Buyer does not deliver written notice of its election to Seller within five (5) business days of Buyer's receipt of written notice from Seller of the casualty, Buyer shall be deemed to have elected option (i). In the event of any pending or threatened condemnation proceeding or release or suspected release of Hazardous Materials affecting the Property, Buyer may elect to terminate this Agreement prior to the Closing within five (5) business days of Buyer's receipt from Seller of notice of such event, in which event this Agreement shall terminate, the Deposit shall be returned to Buyer without further instruction from Seller and neither party shall have any further rights or obligations hereunder, except for such rights or obligations that are specifically intended to survive termination of this Agreement. If any such condemnation proceeding occurs or is threatened which affects the Property, but Buyer does not timely elect to terminate this Agreement, Buyer shall proceed to Closing and be entitled to any compensation, awards or other payments or relief resulting from such condemnation proceeding, and Seller shall assign to Buyer any such compensation, awards or other payments or relief. In the event Buyer does not terminate this Agreement as provided in this Section 9, Buyer shall take title to the Property subject to the casualty, condemnation or Hazardous Materials matters that gave rise to such right of termination.

10. **Covenant to Convey; Title Insurance.**

10.1 **Conveyance.** At the Closing, Seller shall convey fee simple title to the Property to Buyer by special warranty deed subject only to the Permitted Exceptions.

10.2 **Title Insurance.** At the Closing, Buyer shall cause Escrow Agent to "mark up" the Commitment to evidence the Title Company's commitment to issue the Title Policy to Buyer. Seller shall reasonably cooperate with Title Company and Buyer in connection with the issuance of the title policy to be issued pursuant to the Title Commitment ("**Title Policy**"),

including, but not limited to, the execution of such documents as may reasonably be required by the Title Company to evidence the authority of the party executing on behalf of Seller.

11. Closing Conditions.

11.1 Buyer's Conditions. The Closing and Buyer's obligations under this Agreement are expressly subject to the timely satisfaction of the conditions set forth in this Section 11.1 on or before the Closing Date. Each condition may be waived in whole or in part by Buyer (and any waiver of one condition shall not be deemed to be a waiver of any other condition). If any of the following conditions are not fulfilled by the Closing Date, Buyer shall be entitled (at its option and in its sole and absolute discretion) to waive such condition, or notify Seller of its default and provide Seller a reasonable amount of time to cure such default in which case Closing shall occur two (2) business days after the default is cured, or terminate this Agreement, in which event the Deposit (and all interest thereon) shall be promptly returned to Buyer:

11.1.1 Seller shall not be in material default of any of its obligations under this Agreement and Seller's representations and warranties set forth in this Agreement are true and correct in all material respects.

11.2 Seller's Conditions. The Closing and Seller's obligations under this Agreement are expressly subject to the timely fulfillment of the conditions set forth in this Section 11.2 on or before the Closing Date. Each condition may be waived in whole or in part by Seller by written notice to Buyer (and any waiver of one condition shall not be deemed to be a waiver of any other condition):

11.2.1 Buyer shall not be in material default of any of its obligations under this Agreement and Buyer's representations and warranties set forth in this Agreement are true and correct in all material respects.

11.3 Escrow Instructions. A copy of this Agreement executed by the parties shall serve as the escrow instructions to Escrow Agent. By signing in the space provided below, Escrow Agent hereby accepts this Agreement and agrees to perform its obligations in accordance with this Agreement, subject to the provisions of Section 16.19 below.

12. Closing.

12.1 Seller's Deliveries. In conjunction with Closing, Seller shall deliver to Escrow Agent (except as otherwise provided below) the following documents, fully executed and acknowledged where appropriate, and such other items as follows:

12.1.1 A special warranty deed ("Deed") in substantially the form of Exhibit "B" attached hereto;

12.1.2 An original affidavit ("Section 1445 Affidavit") from Seller which satisfies the requirements of Section 1445 of the Internal Revenue Code, as amended;

12.1.3 Closing Statement; and

12.1.4 Such other instruments and documents as may be reasonably requested by Title Company or otherwise required to transfer the Property to Buyer.

12.2 Buyer's Deliveries. In conjunction with Closing, Buyer shall deliver to Escrow Agent the following:

12.2.1 Immediately available funds in the amount of the Cash Balance of the Purchase Price as adjusted (as appropriate) by the amount of the prorations and the payment of costs and expenses;

12.2.2 Closing Statement; and

12.2.3 Such other instruments and documents as may be reasonably requested by Title Company or otherwise required to transfer the Property to Buyer or relieve Seller of its obligations as contemplated hereunder.

12.3 Prorations.

12.3.1 At or prior to Closing, Seller shall pay the amount of all past due real property ad valorem taxes and general assessments applicable to the Property. All real property ad valorem taxes and general assessments applicable to the Property for the year of Closing shall be prorated as of the Closing Date between Seller and Buyer, said proration to be based upon the November payment of the most recently available tax or general assessment rate and valuation with respect to the Property.

12.3.2 The obligation to make prorations shall survive the Closing. If any errors or omissions are made regarding adjustments and prorations as aforesaid, the parties shall make the appropriate corrections promptly upon the discovery thereof. If any estimations are made at the Closing regarding adjustments or prorations, the parties shall make the appropriate corrections promptly when accurate information becomes available. Any corrected adjustment or prorations shall be paid to the party entitled thereto. Notwithstanding the foregoing, if either party fails, within one (1) year after the Closing Date, to demand that an item of income or expense be apportioned in accordance with Section 12.3.2, such party shall be deemed to have waived the right to apportion such item. The provisions of this Section 12.3 shall survive the Closing.

12.4 Closing Costs. Each party shall pay all attorneys' fees, accounting fees, and other expenses incurred by it in connection with the transactions contemplated hereby. Seller shall pay all documentary transfer taxes and recording fees for documents necessary to clear title. Buyer shall pay (i) the search or abstract fee and the premium for the Title Policy and (ii) all fees for recording of the Deed. All other closing costs shall be apportioned in the manner customary in Flagler County, Florida.

12.5 Closing. On the Closing, Escrow Agent shall do or cause to be done each of the following:

12.5.1 Duly record the Deed and arrange for recorded copies to be delivered to the parties as soon as available;

12.5.2 Deliver to Buyer one (1) fully executed original of the Section 1445 Affidavit;

12.5.3 Deliver to Seller by wire transfer immediately upon closing the Purchase Price remaining after deducting all costs and expenses to be paid by Seller pursuant to the Closing Statement; and

12.5.4 "Mark up" the Commitment so as to commit the Title Company to issue the Title Policy to Buyer.

13. **Default; Liquidated Damages.** If Buyer fails to perform in accordance with this Agreement ("Buyer's Default"), then upon written notice to Buyer and failure to cure within ten (10) days, then the Deposit shall be forfeited by Buyer as liquidated damages as Seller's sole and exclusive remedy and in lieu of any other right or remedy which may be available at law or in equity and this Agreement shall thereupon terminate. If Seller fails to perform in accordance with this Agreement, then the Earnest Money shall be refunded to Buyer. In addition, the non-prevailing Party shall pay all reasonable attorney fees and costs incurred by the prevailing Party in enforcing the terms and provisions of this Agreement, or in defending any proceeding to which Buyer or Seller is made a party as a result of any act or omission of the other Party.

14. **Notices.** Any notice, demand, document or other communication which any party is required or may desire to give, deliver or make to any other party shall be in writing, and may be personally delivered or given or made by United States registered or certified mail, return receipt requested, by overnight delivery service (e.g., Federal Express or other similar service), addressed as follows:

To Seller: John and Peggy Shumate
5505 John Anderson Highway
Flagler Beach, FL 32136
Phone: 386-439-0633
Email: jshumate5@cfl.rr.com

With a copy to:

To Buyer: Unicorp National Developments, Inc.
Attn: Legal Department
7940 Via Dellagio Way, Suite 200
Orlando, FL 32819
Phone: 407-999-9985
Email: amyb@unicorpusa.com

With a copy to: Akerman LLP
Attn: Robert M. Poppell, Esquire
420 South Orange Avenue, Suite 1200
Orlando, FL 32801
Phone: 407-419-8475
Email: robert.poppell@akerman.com

To Escrow Agent: First American Title Insurance Company
Attn: Helen N. Hardwick, Escrow Assistant
2233 Lee Road, Suite 101
Winter Park, FL 32789
Telephone No.: 407-691-5325

Any party may designate a different address for itself by notice similarly given. Any notice, demand or document so given, delivered or made by United States mail shall be deemed to have been given, delivered or made upon actual receipt, or refusal to accept delivery, of the same by the party to whom the same is to be given or delivered.

15. **Cooperation Regarding Tax Deferred Exchange.** Buyer or Seller may assign its rights under this Agreement in order to consummate a tax deferred exchange pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended, or otherwise. The other party shall cooperate in any such exchange provided that the other party's obligations under this Agreement are not increased as a result of any such cooperation. The other party is not obligated to take title to any other property, and there is no delay in the Closing as a result of such cooperation.

16. **Miscellaneous Provisions.**

16.1 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements, oral or written, express or implied, and all understandings, negotiations or discussions of the parties, whether oral or written, and there are no warranties, representations or agreements between the parties in connection with the subject matter hereof except as are set forth herein.

16.2 **Further Assurances.** Seller and Buyer agree that at any time or from time to time after the execution of this Agreement and whether before or after the closing they shall, upon request of each other, execute and deliver such further documents and do such further acts and things as such party may reasonably request in order to fully effect the purpose of this Agreement.

16.3 **Severability.** If any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remainder of such provision or any other provisions hereof.

16.4 **Waivers.** No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach. Either party may, at any time or times, at its election, waive any of the conditions to its obligations hereunder, but any such waiver shall be effective only if contained in a writing signed by such party. No waiver shall reduce the rights and remedies of such party by reason of any breach of the other party.

16.5 **Amendments.** This Agreement may not be altered, amended, changed, waived, terminated or modified in any respect or particular unless the same shall be in writing and signed by or on behalf of the party to be charged therewith.

16.6 **Successors and Assigns.** No assignment of this Agreement or Buyer's rights or obligations hereunder shall be made by Buyer without first having obtained Seller's written approval of any such assignment, which approval may be granted or withheld in the sole and absolute discretion of Seller. Notwithstanding the foregoing, Buyer may assign this Agreement

to an affiliate of Buyer without the prior written consent of Seller. Notwithstanding any such assignment, Buyer shall remain obligated to perform all of the terms and conditions of this Agreement as set forth herein. For purposes hereof, "affiliate" shall mean a limited partnership, limited liability company or corporation in which Buyer or any of Buyer's principals shall have either a controlling ownership or controlling management interest with respect to such entity.

16.7 Survival. Except as specifically provided to the contrary in this Agreement, each and every agreement, obligation, warranty, representation, covenant and indemnification of Seller and Buyer contained herein shall survive for a period of one (1) year following the Closing.

16.8 Attorneys' Fees. In the event of any action or proceeding with respect to this Agreement or the transactions contemplated hereby, the prevailing party in any action or proceeding shall be entitled to recover its attorneys' fees and costs. The terms and provisions of this Section 16.8 shall survive any termination or Closing of this Agreement.

16.9 Time of the Essence. Time is of the essence of this Agreement. All time frames and deadlines under this Agreement shall be deemed to refer to, and shall be measured according to, U.S. Eastern Standard Time.

16.10 Cumulative Remedies. Except as otherwise specifically provided herein, no remedy conferred upon a party in this Agreement is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

16.11 Pronouns. Wherever appropriate in this Agreement, the singular shall be deemed to refer to the plural and the plural to the singular, and pronouns of certain genders shall be deemed to include either or both of the other genders.

16.12 Florida Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida.

16.13 Headings. All article and paragraph titles or captions are for convenience only and shall not be deemed a part of this Agreement.

16.14 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but which when taken together shall constitute one and the same instrument.

16.15 Business Days. In the event any date described in this Agreement relative to the performance of actions hereunder by Buyer, Seller or Escrow Agent falls on a Saturday, Sunday or legal holiday, such date shall be deemed postponed until the next day thereafter that is not a Saturday, Sunday or legal holiday.

16.16 Construction. The parties hereto hereby acknowledge and agree that (i) each party hereto is of equal bargaining strength, (ii) each such party has actively participated in the drafting, preparation and negotiation of this Agreement, (iii) each such party has consulted with such party's own independent counsel, and such other professional advisors as such party has deemed appropriate, relating to any and all matters contemplated under this Agreement, (iv) each such party and such party's counsel and advisors have reviewed this Agreement, (v) each such

party has agreed to enter into this Agreement following such review and the rendering of such advice, and (vi) any rule of construction to the effect that ambiguities are to be resolved against the drafting parties shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

16.17 Effective Date. The term "Effective Date", as used herein, shall mean the latter of the date on which this Agreement is executed by Seller or Buyer, as indicated by either signatures or initials, which latter date shall be the date of final execution and agreement by the parties hereto.

16.18 Intentionally deleted.

16.19 Joinder of Escrow Agent. Escrow Agent joins in the execution of this Agreement for the sole and limited purpose of agreeing to be bound by the provisions set forth in this Agreement with respect to the holding and disbursement of the Deposit. Buyer and Seller hereby authorize the disbursement and delivery of the Deposit by the Escrow Agent in accordance with the terms and provisions set forth set forth below and in this Agreement. The Escrow Agent shall not be liable, without limitation, for any loss or damage resulting from the following:

(a) The financial status or insolvency of any other party or any misrepresentation made by any other party.

(b) Any legal effect, insufficiency, or undesirability of any instruction deposited with or delivered to Escrow Agent or exchanged by the parties hereunder, whether or not Escrow Agent prepared such instrument.

(c) The default, error, action or omission of any other party to the escrow.

(d) Any loss or impairment of Escrow Funds that have been deposited in escrow while those funds are in the course of collection or while those funds are on deposit in a financial institution if such loss or impairment results from failure, insolvency or suspension of a financial institution, or any loss or impairment of funds due to a invalidity of any draft, check, document or other negotiable instrument delivered to the Escrow Agent.

(e) The expiration of any time limit or other consequence of delay, unless a properly executed settlement instruction, accepted by Escrow Agent has instructed the Escrow Agent to comply with said time limit.

(f) Escrow Agent's compliance with any legal process, subpoena, writ, order, judgment or decree of any court, whether issued with or without jurisdiction and whether or not subsequently vacated, modified, set aside or reversed.

Upon completion of the disbursement of the funds and delivery of instruments, if any, Escrow Agent shall be automatically released and discharged of its escrow obligations hereunder. These conditions of escrow shall apply to and be for the benefit of agents of the Escrow Agent employed by it for services in connection with this escrow, as well as for the benefit of Escrow Agent. In the event that litigation is initiated relating to this escrow, the parties hereto agree that Escrow Agent shall be held harmless from any attorney's fees, court costs and expenses relating to that litigation to the extent that litigation does not arise as a result of the

Escrow Agent's fault. To the extent that Escrow Agent holds Escrow Funds under the terms of this escrow, the parties hereto, other than Escrow Agent agree that the Escrow Agent may charge those funds with any such attorney's fees, court costs and expenses as they are incurred by Escrow Agent. In the event that conflicting demands are made on Escrow Agent, or Escrow Agent, in good faith, believes that any demands with regard to the Escrow Funds are in conflict or unclear or ambiguous, Escrow Agent may bring an interpleader action in an appropriate court. Such action shall not be deemed to be the "fault" of Escrow agent, and Escrow Agent may lay claim to or against the Escrow Funds for its reasonable costs and attorney's fees in connection with same, through final appellate review. To that end, the parties hereto, other than Escrow Agent agree to indemnify Escrow Agent from all such attorney's fees, court costs and expenses.

Escrow Agent is hereby authorized to hold and deliver the same or the proceeds thereof in accordance with the terms hereof. In the event of doubt as to its liabilities or duties, Agent may, in its sole discretion (i) continue to hold the proceeds until the parties mutually agree to the disbursement thereof, or until a judgment of a court of competent jurisdiction shall determine the rights of the parties thereof, or (ii) deliver the Escrow Funds and proceeds thereof to the Clerk of the Circuit Court for Flagler County, and upon notifying all parties concerned of such action, any liability on the part of the Escrow Agent shall fully terminate except to the extent of accounting for monies or documents previously delivered out of escrow. In the event of any suit wherein Escrow Agent is made a party by virtue of acting as agent, or in the event of any suit initiated by or against Agent, Escrow may interplead any money held by Agent. Escrow Agent shall be entitled to recover reasonable attorneys' fees and costs incurred in negotiation, at trial and upon appeal, said fees and costs to be charged and assessed as court costs in favor of Agent and immediately paid by the non-prevailing party. The parties agree that Escrow Agent shall not be liable to anyone for miss delivery or monies unless such miss delivery shall be due to willful breach of this Agreement or gross negligence on the part of Escrow Agent. Escrow Agent is held harmless from any and all compliance with its obligations hereunder. Escrow Agent shall not be liable for any loss resulting from any default, error, action or omission, loss or impairment of funds in the course of collection or while on deposit result from failure or suspension of the depository institution or Escrow Agent's compliance with any legal process, order or judgment of any court, whether or not subsequently vacated or modified.

16.20 Exhibits. All of the Exhibits attached to this Agreement are incorporated herein as if set forth in full.

16.21 Waiver of Jury Trial. SELLER AND BUYER HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY, UNCONDITIONALLY AND IRREVOCABLY WAIVE ANY RIGHT EACH MAY HAVE TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER ARISING IN TORT OR CONTRACT) BROUGHT BY EITHER AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR ANY OTHER DOCUMENT EXECUTED AND DELIVERED BY EITHER PARTY IN CONNECTION HEREWITH.

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[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

“SELLER”

JOHN R. SHUMATE

By: John R. Shumate

PEGGY W. SHUMATE

By: Peggy Shumate

Date Executed: Nov 10, 2016

“BUYER”

UNICORP NATIONAL DEVELOPMENTS, INC., a Florida corporation

By: [Signature]
Name: Charles Whittall
Title: President
Date Executed: November 11, 2016

ACKNOWLEDGED AND ACCEPTED THIS 11TH DAY OF NOVEMBER, 2016.

FIRST AMERICAN TITLE INSURANCE COMPANY

By: [Signature]
Name: _____
Title: _____

HELEN N. HARDWICK
ESCROW ASSISTANT
FIRST AMERICAN TITLE INSURANCE COMPANY

SCHEDULE OF EXHIBITS

Exhibit "A" Land
Exhibit "B" Special Warranty Deed
Exhibit "C" Due Diligence Items

EXHIBIT "A"
(Land)

Lot 7, Midway Park Subdivision, according to the plat thereof, recorded in
Plat Book 5, Page 25, of the Public Records of Flagler County, Florida.

EXHIBIT "B"
(Special Warranty Deed)

PREPARED BY/RETURN TO:

SPECIAL WARRANTY DEED

This Special Warranty Deed made the ____ day of _____, 2017, between **JOHN R. SHUMATE AND PEGGY W. SHUMATE**, a married couple, with a post office address of 5505 John Anderson Highway, Flagler Beach, Florida 32136, hereinafter called "Grantor," and **UNICORP NATIONAL DEVELOPMENTS, INC.**, a Florida corporation with a post office address of 7940 Via Dellagio Way, Suite 200, Orlando, FL 32819, hereinafter called "Grantee."

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties, heirs, legal representatives and assigns of individuals and the successors and assigns of corporations).

WITNESSETH:

That the Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable considerations, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, its successors and assigns, the property lying and being in Seminole County, Florida, and more particularly described as:

See **Schedule "1"** attached hereto and made a part hereof.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in any wise appertaining.

TO HAVE AND TO HOLD THE same in fee simple forever.

AND Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said land in fee simple; that Grantor has good right and lawful authority to sell and convey said land; that Grantor hereby specially warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under the Grantor but not otherwise except real estate taxes or assessments for the year 2015 and thereafter, and those matters identified in **Schedule "2"** attached hereto and incorporated herein; provided, however, that reference thereto shall not serve to reimpose same [**Schedule "2"** shall refer to those items included within the Permitted Exceptions pursuant to the Agreement].

Property Appraiser's I.D. # 08-12-31-4300-00000-0070

IN WITNESS WHEREOF, the Grantor has executed this Special Warranty Deed on the day and year first above written.

Signed, sealed and in the presence of:

JOHN R. SHUMATE

By: _____

Print Name: _____

PEGGY W. SHUMATE

By: _____

Print Name: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____.

SEAL

Notary

Personally known _____
or Produced Identification _____
Type of Identification Produced _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____.

SEAL

Notary

Personally known _____
or Produced Identification _____
Type of Identification Produced _____