

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date:	March 8, 2022	[]	Consent	[X]	Regular
		[]	Ordinance	[]	Public Hearing

Department:	Engineering & Public Works Department
Submitted By:	Engineering & Public Works Department
Submitted For:	Roadway Production Division

I. EXECUTIVE BRIEF

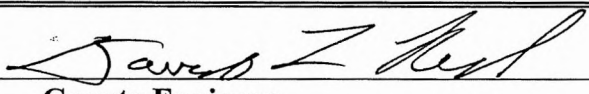
Motion and Title: Staff recommends motion to approve: a Purchase and Sale Agreement (Agreement) with the property owner to acquire a 0.20 acre parcel (Parcel) improved with a 625 square foot home located at 9363 Old Dixie Highway, Lake Park, Florida, for \$295,000.

SUMMARY: Approval of the Agreement will allow the Engineering Department to acquire a Parcel necessary for the construction of Congress Avenue Extension from north of Northlake Boulevard to Alternate A1A (SR 811), Palm Beach County (County) Project No. 2012517 (Project). The appraised value of the Parcel as of January 20, 2022 was \$275,000. The property owner had listed the Parcel for sale on the real estate market for \$334,999 in July 2021. The property owner's original counter-offer was \$309,000, excluding expert fees and costs. To avoid the additional costs normally associated with an eminent domain filing, the Engineering Department staff negotiated a purchase amount of \$295,000. The negotiated purchase amount represents approximately 7% above the appraised value, but approximately 12% below the property owner's original listing price. Pursuant to Palm Beach County Administrative Code Section 2, 305.08.1, BCC approval is required when the negotiated purchase amount exceeds \$250,000. **In accordance with Palm Beach County ordinance (2019-038), a supermajority vote (5 votes) is required by the BCC for all purchases of real property that require BCC approval.** District 1 (HJF)

Background and Policy Issues: On December 7, 2021, the Engineering Department was granted the approval to hire professionals to facilitate the property acquisitions necessary to accomplish the road improvement goals of the Five Year Road Program. Congress Avenue currently terminates north of Northlake Boulevard. This Project will construct a new 3-lane roadway from north of Northlake Boulevard to Alternate A1A (SR 811) that will include paved shoulders, sidewalks and drainage, will relieve traffic along Northlake Boulevard, and improve overall safety for motorists, bicyclists and pedestrians. The Engineering Department recommends approval of the negotiated purchase amount for the Parcel.

Attachments:

1. Location Map
2. Real Estate Market Listing
3. Purchase and Sale Agreement with Exhibits A, B and C

Recommended by:		2/12/2022
	County Engineer	Date

Approved By:		2/23/22
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2022	2023	2024	2025	2026
Capital Expenditures	<u>\$295,000</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>\$295,000</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE					
POSITIONS (Cumulative)					

Is Item Included in Current Budget? Yes X No
Does this item include the use of federal funds? Yes No X

Budget Account No:

Fund 3501 Dept 361 Unit 1369-010 Object 6120

Recommended Sources of Funds/Summary of Fiscal Impact:

Road Impact Fee Zone 1 Fund
Congress Ave/Northlake to Alt. A1A

Parcel 111 Purchase \$ 295,000.00

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

Foranica Jackson 2/18/22
Boleynshaw 2/18/22
OFMB 2/18/22

John L. Jacobson 2/22/22
Contract Dev. and Control
2-22-22 TW

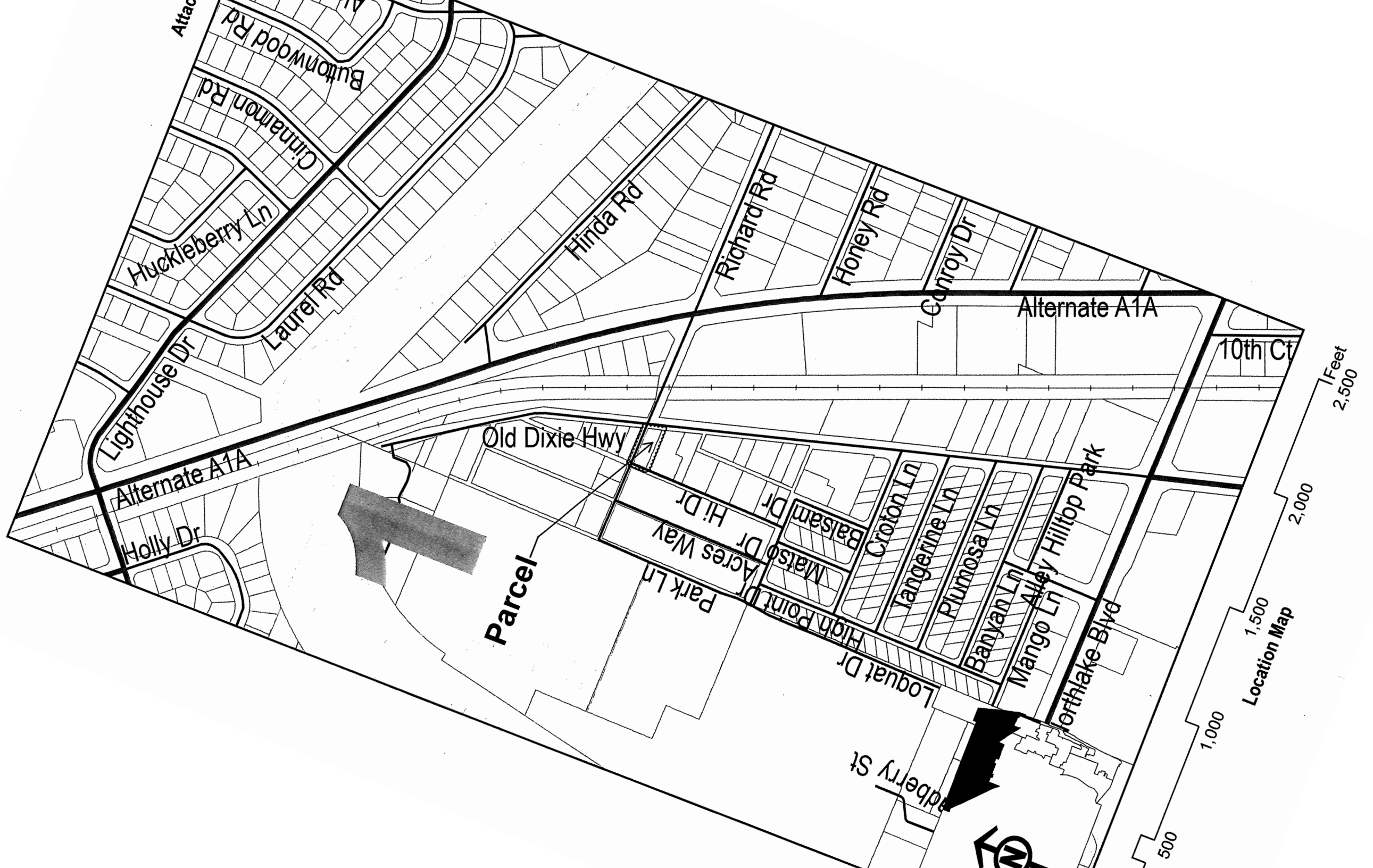
B. Approved as to Form and Legal Sufficiency:

[Signature] 2/23/22
Assistant County Attorney

C. Other Department Review:

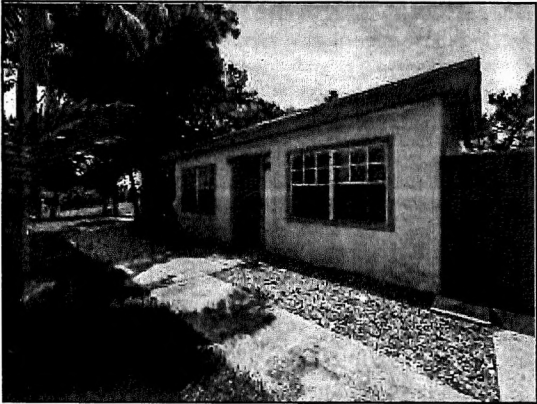
Department Director

This summary is not to be used as a basis for payment.



Residential Full Report

9363 Old Dixie Highway, Lake Park, FL 33403



MLS#: RX-10729744

Orig LP: \$334,999

Area: 5250

Legal Desc: PROSPERITY FARMS LT 1 BLK C

Subdivision: PROSPERITY FARMS CO LANDS WEST TOWNSITE

Development Name:

St: Expired

Range Price:

Geo Area: PB28

Taxes: 643.25

Tax Year: 2020

Special Assessment: No

Dock:

Membership Fee Required: No

List Price: \$309,900

Type: Single Family Detached

List Price/SqFt: 422.78

County: Palm Beach

Front Exp: North

Garage Spaces: 0

Carport Spaces:

Total Covered Spaces: 0

Private Pool: No

REO: No

Short Sale Addendum: No

Short Sale: No

Owner/Agent: No

Model Name:

Parcel ID: 00434217070030010

Waterfront: No

Waterfrontage:

Lot SqFt: 8,888

Multiple Ofrs Acptd:

HOPA: No

Hopa

Zoning: RM

Gated Community: No

Elementary School: Allamanda Elementary School

Middle School: Howell L. Watkins Middle School

High School: Palm Beach Gardens High School

Virtual Tour: [Click to View Virtual Tour](#)

Kitchen	12 X 8	Master Bedroom	12 X 12	LivSqFt: 733	Total Bedrooms: 3
Living Room	25 X 10			SqFt - Total: 733	Main Level Bedrooms: 3
				SqFt Source: Owner	Baths - Full: 1
				Guest Hse:	Baths - Half: 0
				Yr Built: 1955	Baths - Total: 1
				Builder Name:	Main Level Baths: 1
				Property Condition: Resale	
				Pets Allowed: Yes	

HOA/POA/COA (Monthly):		Bldg #:		Land Lease:	Mobile Home Size:
Governing Bodies:	None	Total Floors/Stories:	1	Recreation Lease:	Decal #:
Homeowners Assoc:	None	Total Units in Bldg:		Min Days to Lease:	Serial #:
Lease Times p/Year:		Ttl Units in Complex:		Assoc Contact Phone:	Brand Name:
Application Fee:		Unit Floor #:		Assoc Website:	Total Assessed Value:
Capital Contribution:		Membership Fee Amount:		Association Deposit:	No
Capital Contribution Amount:					

Auction: No
Directions: NORTHLAKE BLVD TO NORTH ON OLD DIXIE HWY, CORNER OF OLD DIXIE HWY AND RICHARD RD.

Showing Instructions: Schedule Online; SUPRA; Vacant

LO: 801624	Your Home Sold Guaranteed Realty of Florida	561-408-0904		
LM: 20011988	Rick L Kendrick	561-702-4782	rick@chasewoodrealty.com	
CLO: 801624	Your Home Sold Guaranteed Realty of Florida	561-408-0904		
CLM: 276543949	Karen Ford	561-635-2654	561-635-2654	karen@chasewoodrealty.com
Com/BuyerAgt:	Comm/Non-Rep: 3.0%	Trans Brk: 3.0%	Bonus:	LD: 07/08/2021
3.0%				
Var/Dual Rate: No	List Type: Ex Rt	List Off Agency:	XD: 11/10/2021	
		Transaction Broker		

Owner Name: See tax record
Broker Only Remarks: Schedule Showings Online. Sold as is for seller convenience. All offers must include DU Approval and Proof of Funds. Exceptions: Selling Broker/Agent must be present at initial showing in order to be compensated by listing Broker; and no commission paid until title passes. Buyer to Verify Measurements to their satisfaction.
Any Broker Advertise: No

Design: < 4 Floors; Traditional	View: Garden
Construction: CBS	Waterfront Details: None
Unit Desc: Corner	Cooling: Ceiling Fan; Wall-Win A/C
Flooring: Ceramic Tile	Heating: No Heat
Furnished: Unfurnished	Security:
Dining Area:	Utilities: Electric; Public Water; Septic
Master Bedroom/Bath: Mstr Bdrm - Ground	Special Info: Sold As-Is
Lot Description: West of US-1; < 1/4 Acre; Corner Lot; Paved Road; Public Road; Sidewalks	Terms Considered: Cash; Conventional; FHA; VA
Storm Protection: None	Parking: 2+ Spaces; Driveway
Restrict: None	Roof: Other

Rooms: Laundry-Inside

Taxes: City/County
Equestrian Features:

Equip/Appl:Dishwasher; Microwave; Range - Electric; Refrigerator
SubdivInfo:None
Interior:Entry Lvl Lvng Area
Exterior:Auto Sprinkler; Fence; Fruit Tree(s); Room for Pool; Shed
Maintenance Fee Incl:
Original List Price: \$334,999
Days On Market: 125
Sold Price:
Buyer Office:
Buyer Agent:
Co-Buyer Office:
Co-Buyer Agent:

Sold Price Sqft:
Terms of Sale:
Buyer Contributions Amount:

Cumulative DOM: 125
Under Contract Date:
Sold Date:
Seller Concessions Amount:

Public Remarks:LOCATION! LOCATION! Wrought iron and wood fencing surrounds this adorable freshly painted, 3 bedroom home situated on an oversized, corner lot in unincorporated Lake Park. Investors dream with AirBnB potential. Additional parking with gate access from back. Beautiful and lush landscaping including bamboo and coconut trees, fresh sod and property has a Tiki Hut and storage shed. Room for RV or boat parking. Access to the house from Old Dixie, Hi Dr, and Richard Rd. Roof recently sealed. No HOA. Lot is large enough to expand to make this your dream home! Just minutes to I-95, shopping and an abundance of restaurants. DON'T MISS THIS TERRIFIC OPPORTUNITY!
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PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (hereinafter referred to as "Agreement") is made and entered into on _____, 20__ by and between Palm Beach County, a political subdivision of the State of Florida (hereinafter referred to as "County") and Carl Diamond, a single man (hereinafter referred to as the "Seller") (hereinafter together referred to as "Parties").

WITNESSETH:

1. **DEFINITIONS.** The following terms as used herein shall have the following meanings:

1.1 **"Agreement"** - this instrument, together with all exhibits, addenda, and proper amendments hereto.

1.2 **"Closing and Closing Date"** - the consummation of the transaction contemplated hereby which shall be held upon the date reflected in Section 10.2 of this Agreement, unless extended by the terms of this Agreement, or by mutual consent of the parties.

1.3 **"Current Funds"** - Palm Beach County wire transfer drawn against a public banking institution located in Palm Beach County, Florida.

1.4 **"Effective Date"** - the date upon which the Palm Beach County Board of County Commissioners (hereinafter referred to as the "Board") approves this Agreement at a formal meeting of the Board.

1.5 **"Inspection Period"** - that certain period of time commencing upon the Effective Date and terminating thirty (30) days thereafter, unless extended as provided for herein.

1.6 **"Permitted Exceptions"** - those exceptions to the title of the Property as set forth in Exhibit "B" attached hereto, together with any other title matters that may be accepted in writing by County.

1.7 **"Personal Property"** - Any items of personal property remaining upon the Real Property at Closing, including, but not limited to, sheds, carports, shall, at the option of County, become the property of County and maybe retained by or disposed of by County at its sole discretion.

1.8 **"Property"** - the Real Property and any personal property located thereon that is owned by Seller (if any).

1.9 **"Purchase Price"** - the price set forth in, or determined in accordance with, Section 3.1 of this Agreement.

1.10 **"Real Property"** - the Real Property legally described in Exhibit "A" attached hereto and made a part hereof, together with all improvements situate thereon.

1.11 **"Warranty Deed"** or **"Statutory Warranty Deed"** - means the deed of conveyance of the Real Property as set forth in Section 10.3.1 of this Agreement.

2. **SALE AND PURCHASE.** In consideration of the mutual covenants herein contained, and various other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller agrees to sell and convey to County and County agrees to purchase from Seller, on the terms, covenants, and conditions hereinafter set forth, the Property, together with all improvements located thereon, if any, and all right, title, interest, privileges, estates, tenements, hereditaments, and appurtenances appertaining to the Real Property, including, without limitation, any and all streets, roads, highways, easements, accesses, and rights of way appurtenant thereto.

3. **PURCHASE PRICE AND METHOD OF PAYMENT.**

3.1 **Purchase Price.** The purchase price of the Property shall be TWO HUNDRED NINETY FIVE THOUSAND DOLLARS (\$295,000.00).

3.2 **Payment of Purchase Price.** On the Closing Date, County shall pay the total amount of the Purchase Price of the Property in Current Funds, subject to any adjustments, credits, prorations, and fees as herein provided.

4. **ACKNOWLEDGMENTS, REPRESENTATIONS AND WARRANTIES OF SELLER.** As a material inducement to County to enter into this Agreement, Seller hereby acknowledges, represents, and warrants to County as follows:

4.1 Seller is indefeasibly seized of marketable, fee simple title to the Real Property, and is the sole owner of and has good right, title, and authority to convey and transfer the Property free and clear of all liens and encumbrances, excepting only the Permitted Exceptions.

4.2 There are no unrecorded leases, licenses, contracts or other agreements or claim of rights, written or unwritten, that affect occupancy, possession or use of the Property by anyone other than Seller with the exception of the following: None

4.3 The Real Property abuts a public roadway to which access is not limited or restricted.

4.4 There is no litigation, investigation, or proceeding pending, or to the knowledge of Seller threatened, which relates to or adversely affects Seller's ability to perform its obligations under this Agreement.

4.5 There are no judicial or administrative actions, suits, or judgments affecting the Property pending, or to the knowledge of Seller threatened, which relate to or adversely affect Seller's ability to perform its obligations under this Agreement, including, without limitation, those relating to any laws, ordinances, rules, or regulations of any governmental authority having jurisdiction over the Property.

4.6 Seller represents there are no existing or pending general or special assessments affecting the Property, which are or may be assessed by any governmental authority, water or sewer authority, school district, drainage district, or any other special taxing district, except as shown on the tax bill for the Property.

4.7 Seller represents there are no condemnation, environmental, zoning, or other land-use regulation proceedings, either instituted or planned to be instituted, with regard to the Property.

4.8 On the Closing Date there will be no outstanding contracts made by Seller for any improvements to the Property which have not been fully paid for, and Seller shall cause to be discharged all mechanics' or construction liens arising from any labor or materials furnished to the Property prior to the time of Closing.

4.9 All documents executed or to be executed by Seller which are to be delivered to County at Closing will be legal, valid, and binding obligations of Seller.

4.10 There are no leases or service contracts affecting the Property which will survive Closing.

4.11 That all ad valorem and non-ad valorem taxes for the Property have been fully paid or will be paid at or prior to Closing in accordance with Section 12 hereof, for the year of Closing and all prior years.

4.12 Seller has entered into no other contracts for the sale of any portion of the Property which remain in force.

4.13 There are no facts known to Seller affecting the value of the Property which have not been disclosed in writing to County.

4.14 Seller has complied and shall comply from the date hereof until Closing with all applicable Federal, State, County and municipal regulations, rules, ordinances, statutes and other requirements and regulations pertaining to the Property.

4.15 Seller has not used, is not currently using, and will not in the future (for so long as Seller owns the same) use the Property for the handling, storage, transportation or disposal of hazardous materials and, to the best of Seller's knowledge, the Property has not in the past been so used.

In the event that any of Seller's acknowledgments, representations and warranties shall prove to be materially untrue, the same shall be considered a default for which County shall have the rights and remedies identified in Section 17.1 hereof. Except as otherwise expressly provided for in this Agreement, Seller has made no representations or warranties regarding Seller or the Property.

5. **INSPECTION OF PROPERTY.** During the Inspection Period, County and its engineers, surveyors, agents and representatives shall have unrestricted access to the Property for purposes of survey, testing and inspection thereof. All surveys, testing and inspections shall be conducted by County at its expense, and shall be performed by licensed persons or firms dealing in the respective areas or matters tested. All testing shall be done in the least intrusive manner reasonably practical. In the event County elects not to close upon its purchase of the Property, County shall restore the Property to the condition in which it existed prior to such inspections, using materials of like kind and quality. County shall satisfy all liens encumbering the Property as a result of County's inspections, and such obligation shall survive the termination of this Agreement. Nothing contained herein shall be construed to prohibit County from disclosing the results of said inspections as may be required by applicable law. In the event that such inspections shall reveal a deficiency in the Property, as determined by County in its sole and absolute discretion, County shall have the option of: (a) accepting the condition of the Property as it then exists; or (b) extending the Inspection Period, for a period not to exceed an additional thirty (30) days; or (c) terminating this Agreement at any time during the Inspection Period by giving written notice thereof to Seller, whereupon the parties shall be relieved of all further obligations hereunder. If County elects to extend the Inspection Period, for a period not to exceed an additional thirty (30) days, as provided above, at the termination of the said additional thirty (30) day period, County shall have the option of: (a) accepting the condition of the Property as it then exists; or (b) terminating this Agreement by giving written notice thereof to Seller, whereupon the parties shall be relieved of all further obligations hereunder.

6. **EVIDENCE OF TITLE.**

6.1 During the Inspection Period, Seller shall provide County an owner's title insurance commitment, issued by a title insurance company acceptable to County, agreeing to issue to County upon the recording of the Warranty Deed to the Real Property, an owner's title insurance policy in the amount of the Purchase Price, insuring the marketability of the fee title of County to the Real Property, subject only to the Permitted Exceptions, no later than thirty (30) days after the Effective Date. Seller shall be responsible for cost of said title insurance commitment and title insurance policy.

County shall have until the end of the Inspection Period in which to review same. In the event the title insurance commitment shall show as an exception any matter other than the Permitted Exceptions, County shall notify Seller of County's objection thereto, and Seller shall act with reasonable effort, excluding bringing suit, to remove such exception(s), which exceptions shall be deemed to constitute title defects. Seller shall be entitled to ninety (90) days from the date of notification by County (with postponement of the Closing Date, if necessary) within which to cure such defects or to make arrangements with the title insurer for deletion of any such title defects from the title insurance commitment without the inclusion of any additional exceptions to

coverage. Notwithstanding the foregoing, Seller shall have the option of discharging any such matters at closing with the closing proceeds. If Seller exercises reasonable efforts to remove such exception but the defect(s) shall not have been so cured or removed from the title insurance commitment by endorsement thereto at the termination of the said ninety (90) day period, County shall have the option of: (a) accepting title to the Property as it then exists; or (b) terminating this Agreement, by giving written notice thereof to Seller, thereby waiving any rights or remedies available to County due to such default by Seller, including an action for damages.

6.2 County may request, prior to the Closing, an endorsement of the title insurance commitment making it effective to within fifteen (15) days of the Closing Date. At Closing, Seller shall deliver reasonable and customary documentation to County that will permit County to cause the title insurance commitment to be endorsed to remove, without the inclusion of any additional exceptions to coverage, any and all requirements or preconditions to the issuance of an owner's title insurance policy, and to delete any exceptions for: (a) any rights or claims of parties in possession not shown by the public records; (b) encroachments, overlaps, boundary line disputes and any other matters which would be disclosed by an accurate survey and inspection of the Property (provided County obtains a survey in accordance with Section 7 hereof); (c) easements or claims of easement not shown by the public records (provided County obtains a survey in accordance with Section 7 hereof); (d) any lien, or right to a lien, for services, labor or material heretofore or hereinafter furnished, imposed by law and not shown by the public records; (e) taxes for the year of Closing and all prior years, and taxes or special assessments which are not shown as existing liens by the public records; (f) matters arising or attaching subsequent to the Effective Date of the title insurance commitment but before the acquisition of record of title to the Property by County; and (g) any general or specific title exceptions other than the Permitted Exceptions.

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

7. **SURVEY.** County shall have the right, within the time period provided in Section 6 for delivery and examination of title, to obtain a current survey of the Real Property and all improvements thereon. If the survey reveals any encroachments, overlaps, boundary disputes, or other defects, or any matters other than the Permitted Exceptions, the same shall be treated as title defects as described in Section 6 of this Agreement, and County shall have the same rights and remedies as set forth therein.

8. **MAINTENANCE.** Between the Effective Date and Closing, Seller shall maintain the Property in the condition in which it existed as of the Effective Date, reasonable wear and tear excepted. Notwithstanding the foregoing, Seller shall deliver the Property at Closing free of any sheds, carports, trash, refuse or other debris. Seller shall bear the risk of any loss, damage or casualty to the Property prior to Closing. County shall have access to the Property at any reasonable time prior to Closing to verify Seller's compliance herewith.

9. **CONDITION PRECEDENT TO CLOSING.** The following are conditions precedent to County's obligation to close upon its purchase of the Property: (1) Seller shall have performed all of the covenants and obligations under this Agreement that it is obligated to perform at or prior to Closing, on or prior to the dates such performance is required hereby; and (2) Seller's representations and warranties identified in this Agreement shall be true and correct; and (3) there shall have been no change in the condition of the Property or the status of title to the Property, other than as specifically permitted by this Agreement. The foregoing conditions precedent are for the exclusive benefit of County and may be unilaterally waived by County.

10. **CLOSING.** The parties agree that the Closing upon the Property shall be consummated as follows:

10.1 **Place of Closing.** The Closing shall be held at County's Engineering Department Roadway Production Division office, 2300 North Jog Road, 3rd Floor West, West Palm Beach, Florida, or at the sole discretion of the County, be a mail away closing.

10.2 **Closing Date.** The Closing shall take place within sixty (60) days after the Effective Date, or at such earlier date as is mutually agreed upon by the parties, unless extended by mutual agreement or as otherwise provided for in this Agreement. Notwithstanding the foregoing, either party may extend the Closing Date for an additional sixty (60) days upon written notice to the other, in order to enable Seller to cure title.

10.3 **Closing Documents.** County shall be responsible for preparation of the following Closing documents, which Seller shall deliver, or cause to be delivered to County, at Closing, each fully executed and acknowledged as required.

10.3.1 **Statutory Warranty Deed.** A Statutory Warranty Deed conveying good and marketable fee simple title to the property, subject only to the Permitted Exceptions.

10.3.2 **Affidavit of Seller.** A Seller's Affidavit stating that the Property is free and clear of all encumbrances, mortgages, liens, leases, licenses, contracts or claim of rights in a form sufficient to permit the title insurer to delete the "Gap" and "Standard Exceptions" from the title insurance policy and insure County's title to the Property in accordance with Section 6 of this Agreement, subject only to the Permitted Exceptions.

10.3.3 **Non-Foreign Affidavit.** Seller represents and warrants to County that Seller is not a "foreign person" as defined by the Federal Foreign Investment in Real Property Tax Act (the "Act"). At Closing, Seller shall execute and deliver to County a "Non-Foreign Affidavit," as required by the Act. Seller acknowledges that in the event Seller fails to deliver the Non-Foreign Affidavit, County shall be authorized to withhold from the closing proceeds an amount equal to ten percent (10%) of the gross amount of the purchase price, and to remit same to the Internal Revenue Service, as required by the Act.

10.3.4 **Closing Statement.** A Closing Statement prepared in accordance with the terms hereof.

10.3.5 **Additional Documents.** Seller shall also deliver and/or execute such other instruments as are necessary or reasonably required to consummate the transactions herein contemplated including, without limitation, if applicable, such documents as County or the title company may require evidencing Seller's existence, good standing, power and authority to enter into and consummate the transaction herein contemplated.

10.4 **Possession.** At Closing, Seller shall deliver all keys to the Property held by Seller, and actual physical possession of the Property to County.

10.5 **County's Obligations.** At Closing, County shall deliver, or cause to be delivered, to Seller the following:

10.5.1 **Cash due at Closing.** The required payment due in Current Funds as provided elsewhere herein.

10.5.2 **Closing Statement.** A Closing Statement prepared in accordance with the terms hereof.

11. **EXPENSES.**

11.1 County shall pay the following expenses at Closing.

11.1.1 The cost of recording the deed of conveyance.

11.1.2 Documentary Stamps required to be affixed to the deed of conveyance.

11.2 Seller shall pay the following expenses at Closing:

11.2.1 All costs necessary to cure title defect(s) or encumbrances, other than the Permitted Exceptions, and to satisfy or release of record all existing mortgages and liens upon the Property.

11.2.2 All costs and premiums for the owner's title insurance commitment and policy.

11.3 Seller and County shall each pay their own attorney's fees.

12. **PRORATIONS.**

12.1 **Taxes.** On or before the Closing Date, Seller shall establish an escrow fund with the Palm Beach County Tax Collector pursuant to Florida Statutes Section 196.295, and shall pay into such escrow Seller's prorata portion of ad valorem and non-ad valorem real property taxes and assessments for the year of Closing and any prior years as determined by the Tax Collector. Seller's prorata share of all taxes and assessments shall include the day of Closing.

12.2 **Assessments.** If as of the Closing Date, assessments or charges have been imposed against the Property or any part thereof which are, or which may become payable in annual installments, the first installment of which is then a charge or lien, or has been paid, then for the purposes of this Agreement, all of the unpaid installments of any such assessments, including those which become due and payable after the Closing Date, shall be deemed to be due and payable and to be a lien upon the premises affected thereby, and shall be paid and discharged by Seller on or before the Closing Date. Any other assessments not deemed to be due and payable as aforesaid which burden County owned property shall be deemed to be payable on a calendar year basis in arrears and prorated accordingly.

13. **CONDEMNATION.** In the event that all or any part of the Property shall be acquired or condemned for any public or quasi-public use or purpose, or if any acquisition or condemnation proceedings shall be threatened or begun prior to Closing, County shall have the option to either terminate this Agreement, and the obligations of all parties hereunder shall cease, or to proceed, subject to all other terms, covenants, conditions, representations, and warranties of this Agreement, to Closing, receiving, however, any and all damages, awards, or other compensation arising from or attributable to such acquisition or condemnation proceedings. County shall have the right to participate in any such proceedings.

14. **REAL ESTATE BROKER.** Seller and County each represent and warrant to the other that it has not dealt with any broker, salesman, agent or finder in connection with this transaction. Without limiting the effect of the foregoing, Seller agrees to indemnify, defend, save and hold County harmless from the claims and demands of any real estate broker, salesman, agent or finder, claiming to have dealt with Seller. Such indemnity shall include, without limitation, the payment of all costs, expenses and attorney's fees incurred or expended in defense of such claims or demands. In the event any warranties and representations under this Section 14 shall prove to be untrue, County or Seller, as applicable, shall, in addition to any other remedy provided for herein, have the right to require the other party to provide a brokerage release, in a form and substance acceptable to the requesting party, prior to Closing. The terms of this Section 14 shall survive the Closing or termination of this Agreement.

15. **NOTICES.** All notices and elections (collectively, "notices") to be given or delivered by or to any party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service, or national overnight delivery service, telecopied or faxed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The Effective Date of any notice shall be the date of delivery of the notice if by personal delivery, courier services, or national overnight delivery service, or on the

date of transmission with confirmation of successful transmission if by telecopier or fax if transmitted before 5PM on a business day and on the next business day if transmitted after 5PM or on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

15.1 County:
Palm Beach County Dept. of Engineering & Public Works
Attention: Director, Roadway Production Division
2300 North Jog Road, 3rd Floor West
West Palm Beach, Florida 33411

With a copy to:
County Attorney's Office
Attention: Howard J. Falcon III
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401-4791
Fax 561-355-4398

15.2 Seller:
Carl Diamond
9363 Old Dixie Highway
Lake Park, Florida 33403

Any party may from time to time change the address at which notice under this Agreement shall be given such party, upon three (3) days prior written notice to the other parties.

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

17. **DEFAULT.**

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

17.2 **Defaults by County.** In the event County fails or refuses to perform any term, covenant, or condition of this Agreement for which a specific remedy is not set forth in this Agreement, Seller shall have the right to (1) terminate this Agreement at any time prior to Closing by written notice to County, in which event the parties shall be released from all obligations hereunder other than those which specifically survive termination of this Agreement; (2) grant County a reasonable period of time within which to cure such default during which time County shall utilize County's best efforts, including bringing suit, to remedy such default; or (3) seek specific performance of the terms hereof. In the event Seller elects option number two (2) set forth

hereinabove and County fails or is unable to cure such default within the applicable time period, Seller shall have the rights identified in option numbers one (1) and three (3) set forth hereinabove. In the event Seller elects option number three (3) and Seller is unable to obtain specific performance of this Agreement for any reason, Seller shall have the right to terminate this Agreement and pursue damages.

18. **GOVERNING LAW & VENUE.** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Florida. Venue in any action, suit or proceeding in connection with this Agreement shall be in a state court of competent jurisdiction in Palm Beach County, Florida.

19. **BINDING EFFECT.** This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective legal representatives, successors, and assigns.

20. **MEMORANDUM OF AGREEMENT.** County shall be entitled to record the Memorandum of Agreement attached hereto as Exhibit "C" in the Public Records of Palm Beach County, Florida after the expiration of the Inspection Period. In the event this Agreement is thereafter terminated, County shall deliver a termination of such Memorandum of Agreement to Seller in recordable form within sixty (60) days of such termination.

21. **TIME OF ESSENCE.** Time is of the essence with respect to the performance of each and every provision of this Agreement where a time is specified for performance.

22. **INTEGRATION.** This Agreement constitutes the entire understanding and Agreement between the parties with respect to the subject matter hereof, and may not be modified or amended, except in a writing signed by all of the parties hereto.

23. **EFFECTIVE DATE OF AGREEMENT.** This Agreement is expressly contingent upon the approval of the Board, and shall become effective only when signed by all parties and approved by the Board (the "Effective Date").

24. **HEADINGS.** The paragraph headings or captions appearing in this Agreement are for convenience only, are not part of this Agreement, and are not to be considered in interpreting this Agreement.

25. **NON-DISCRIMINATION.** The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Seller warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.

26. **CONSTRUCTION.** No party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final Agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

27. **ENTIRE UNDERSTANDING.** This Agreement represents the entire understanding between the Parties, and supersedes all other negotiations, representations, or agreements, written or oral, relating to this Agreement.

28. **SURVIVAL.** The parties' warranties, agreements, covenants and representations set forth in this Agreement shall not be merged and shall survive consummation of the transaction contemplated by this Agreement.

29. **WAIVER.** No waiver of any provision of this Agreement shall be effective against any party hereto unless it is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

30. **AMENDMENT.** This Agreement may be modified and amended only by written instrument executed by the Parties hereto.

31. **INCORPORATION BY REFERENCE.** Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

32. **TIME COMPUTATION.** Any references in this Agreement to time periods of less than six (6) days shall, in the computation thereof, exclude Saturdays, Sundays, and federal or state legal holidays; any time period provided for in this Agreement that shall end on a Saturday, Sunday, or federal or state legal holiday shall extend to 5:00 p.m. (EST) of the next day that is not a Saturday, Sunday, or federal or state legal holiday.

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

34. **OFFICE OF THE INSPECTOR GENERAL.** Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Seller, its officers, agents, employees and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

35. **NO THIRD PARTY BENEFICIARIES.** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of County and/or Seller.

36. **SEVERABILITY.** If any term of the Agreement or the application thereof to any person or circumstance shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement, or the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term of the Agreement shall be valid and enforceable to the fullest extent permitted by law.

37. **WAIVER OF JURY TRIAL.** THE PARTIES HERETO WAIVE TRIAL BY JURY IN CONNECTION WITH PROCEEDINGS OR COUNTER CLAIMS BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER IN CONNECTION WITH THIS AGREEMENT.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in their respective names on the dates set forth below.

Signed, sealed, and delivered in the presence of:

Seller:

Carl Diamond, a single man

By:

Seller Signature

Date of Execution by Seller

Witness Signature

Print Witness Name

Witness Signature

Print Witness Name

Date of Execution by County:

ATTEST:

JOSEPH ABRUZZO

Clerk of the Circuit Court & Comptroller

By:

Deputy Clerk

PALM BEACH COUNTY, a political subdivision of the State of Florida

By:

Robert S. Weinroth, Mayor

APPROVED AS TO
LEGAL SUFFICIENCY

By:

Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By:

Division Director

SCHEDULE OF EXHIBITS

EXHIBIT "A" - LEGAL DESCRIPTION

EXHIBIT "B" - PERMITTED EXCEPTIONS

EXHIBIT "C" - MEMORANDUM OF AGREEMENT

EXHIBIT "A"

LEGAL DESCRIPTION

Lot 1 of Block "C" West Townsite to the Lands of Prosperity Farms Company as recorded in Plat Book 6, Page 34, Section 17, Township 42 South, Range 43 East; said lands are situate and lying in Palm Beach County, Florida.

EXHIBIT "B"

PERMITTED EXCEPTIONS

1. None.
-

EXHIBIT "C"
MEMORANDUM OF AGREEMENT

Prepared By/Return To:
Toni Sharp
Palm Beach County Engineering
Attn: Toni Sharp, Right-of-Way Specialist
2300 North Jog Road, 3rd Floor West
West Palm Beach, FL 33411-2750

MEMORANDUM OF AGREEMENT

This is a MEMORANDUM OF AGREEMENT regarding that certain Agreement for Purchase and Sale, dated _____ (Resolution No. _____) (the "Agreement"), by and between PALM BEACH COUNTY, a political subdivision of the State of Florida, with an address of 301 North Olive Avenue, Administration, 11th Floor, West Palm Beach, Florida 33401, ("County"), and Carl Diamond, a single man, with an address of 9363 Old Dixie Highway, Lake Park, Florida 33403 ("Seller").

WITNESSETH:

WHEREAS, County and Seller have entered into the Agreement pursuant to which Seller has agreed to sell to County and County has agreed to purchase from Seller the Real Property located in Palm Beach County legally described in Exhibit "A" attached hereto and made a part hereof (the "Property"); and

WHEREAS, Seller has executed this Memorandum of Agreement for the purpose of giving public notice of the existence of the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller hereby acknowledges, and gives notice of, the existence of the Agreement.

This Memorandum of Agreement is not a complete summary of the Agreement. Provisions of this Memorandum shall not be used to interpret the provisions of the Agreement, and, in the event of a conflict between this Memorandum and the Agreement, the Agreement shall control.

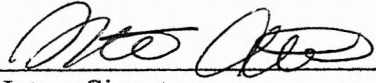
This Memorandum shall automatically terminate upon recording of the deed from the Seller conveying to County the Property or that portion of the Property accepted by the County at closing.

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STATE OF NJ
COUNTY OF Burlington

Before me personally appeared Carl Diamond, who is (choose one) ☒ personally known to me, or ☐ has produced _____ as identification, and who executed the foregoing instrument, and acknowledged before me by means of (choose one) ☐ physical presence or ☐ online notarization, that they executed the instrument for the purposes therein.

Witness my hand and official seal this 25 day of December, 2021.



Notary Signature

EXHIBIT "A"

(to the Memorandum of Agreement)

Lot 1 of Block "C" West Townsite to the Lands of Prosperity Farms Company as recorded in Plat Book 6, Page 34, Section 17, Township 42 South, Range 43 East; said lands are situate and lying in Palm Beach County, Florida.
