

BOARD OF COUNTY COMMISSIONERS



AGENDA REVIEW SHEET

AGENDA: Contract for Sale and Purchase and Addendum from Michael S. Terrel for the Waste Water Treatment and Water Treatment Plants relocation project – District 3

AGENCY: Public Works Department / Land Acquisition

AGENCY CONTACT: Lisa Kruse, Land Acquisition Specialist

CONTACT PHONE: 321-350-8353

	APPROVE	DISAPPROVE	DATE
LAND ACQUISITION Lucy Hamelers, Supervisor	 _____	_____	<u>12-13-2022</u>
COUNTY ATTORNEY Christine Schverak Assistant County Attorney	 _____	_____	<u>12-12-2022</u>

CONTRACT FOR SALE AND PURCHASE

Seller: Michael S. Terrel, a Florida Licensed Real Estate Broker
3885 Valkaria Road, Malabar, Florida 32950

Buyer: Brevard County, a political subdivision of the State of Florida
2725 Judge Fran Jamieson Way, Viera, Florida 32940

Legal description of property being transferred: See attached Exhibit "A" (Brevard County Property Appraiser's Parcel Identification Numbers: 30-38-09-25-A-1 (River Ridge Estates Lots 1 thru 14 Blk A) and 30-38-09-25-*A (River Ridge Estates Tract A))

Terms: Seller agrees to sell, and Buyer agrees to purchase the property pursuant to the following terms and conditions set forth in this Contract for Sale and Purchase, Exhibit "A" Legal Description, Attachment 1 (Standards for Real Estate Transactions), and Attachment 2.

Purchase price: \$3,500,000.00 (Three million five hundred thousand Dollars and No/100)

Deposit: \$100 to be transferred to an escrow account established and held by the Brevard County Clerk, such deposit to be applied to the purchase price.

Time for acceptance of offer; effective date; facsimile: If this offer is not executed by and delivered to all parties OR FACT OF EXECUTION communicated in writing between the parties on or before January 10, 2023, the deposit(s) will, at Buyer's option, be returned and this offer withdrawn. The date of Contract ("Effective Date") will be the date when the last one of the Buyer and Seller has signed this offer as indicated herein. An electronic copy of this Contract and any signatures hereon shall be considered for all purposes as originals.

Title evidence: At least 15 days before closing date, Seller shall, at Seller's expense, deliver to Buyer or Buyer's attorney or Buyer shall at Buyer's expense obtain a title search and/or title insurance commitment (with legible copies of instruments listed as exceptions attached thereto) and, after closing, an owner's policy of title insurance.

Closing Date: This transaction shall be closed and the deed and other closing papers delivered on or before May 4, 2023, unless modified by other provisions of this Contract (hereinafter the "Closing" or "Closing Date").

Warranties: The following warranties are made and shall survive closing.

- a. To the best of Seller's knowledge, SELLER warrants that there are no parties in occupancy other than Seller.
- b. To the best of Seller's knowledge, SELLER warrants there is no hazardous waste or other environmental contamination located in or upon the property being acquired by the County.
- c. SELLER warrants that he/she has no knowledge of any fact or restriction which would prevent use of the property for public utilities purposes.
- d. SELLER hereby represents and warrants to COUNTY that SELLER has not engaged or dealt with any agent, broker or finder, in regard to this Agreement or to the sale and purchase of the property contemplated hereby. BUYER hereby represents and warrants to SELLER that BUYER has not engaged or dealt with any agent, broker or finder, in regard to this Agreement or to the sale and purchase of the property contemplated hereby.
- e. The provisions of this warranty section shall survive the Closing Date.

Inspections: The BUYER shall have 90 days after the Brevard County Board of County Commissioners

executes the contract within which to complete physical inspection and evaluation of the property for environmental, hazardous materials, developability, access, drainage and subsurface conditions. SELLER shall allow the BUYER or its agents reasonable right of entry upon the property for inspection purposes. Before the expiration of the initial 90-day inspection period, BUYER shall have the right to an additional 30-day extension if BUYER's inspections (including, but not limited to, any Phase I or Phase II environmental inspection) are not complete. During the inspection period, including any extension, BUYER may terminate this agreement with a full refund of any deposits, should the results of the inspection indicate the property cannot be used for its intended purpose or that mitigation of conditions would be required.

Condemnation: This property is is not being acquired under threat of condemnation. If so, this agreement includes and settles all issues of full compensation for the property being acquired, including fees and costs.

SELLER shall comply with section 196.295, Florida Statutes.

SELLER hereby agrees to provide the necessary information and execute a beneficial interest and disclosure affidavit as required by section 286.23, Florida Statutes.

Special Clauses: See attached addendum NOT APPLICABLE

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

SELLER

BY: _____ Date 01/10/2023
Rita Pritchett, Chair

 _____ Date 12-6-22
Michael S. Terrel

Agenda Item # _____ Date _____
As approved by the Board 01/10/2023



STANDARDS FOR REAL ESTATE TRANSACTIONS

A. EVIDENCE OF TITLE: A title insurance commitment issued by a Florida licensed title insurer agreeing to issue to Buyer, upon recording of the deed to Buyer, an owner's policy of title insurance in the amount of the purchase price insuring Buyer's title to the Real Property, subject only to liens, encumbrances, exceptions or qualifications set forth in this Contract and those which shall be discharged by Seller at or before closing. Seller shall convey marketable title subject only to liens, encumbrances, exceptions or qualifications specified in this Contract. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law. Buyer shall have 5 days from date of receiving evidence of title to examine it. If title is found defective, Buyer shall within 3 days thereafter, notify Seller in writing specifying defect(s). If the defect(s) render title unmarketable, Seller will have 30 days from receipt of notice to remove the defects, failing which Buyer shall, within five (5) days after expiration of the thirty (30) day period, deliver written notice to Seller either: (1) extending the time for a reasonable period not to exceed 120 days within which Seller shall use diligent effort to remove the defects; or (2) requesting a refund of deposit(s) paid which shall immediately be returned to Buyer. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted the title as it then is, Seller shall, if title is found unmarketable, use diligent effort to correct defect(s) in the title within the time provided therefor. If Seller is unable to remove the defects within the times allowed therefor, Buyer shall either waive the defects or receive a refund of deposit(s), thereby releasing Buyer and Seller from all further obligations under this Contract.

B. SURVEY: Buyer, at Buyer's expense, within time allowed to deliver evidence of title and to examine same may have the Real Property surveyed and certified by a registered Florida surveyor. If survey shows encroachment on Real Property or that improvements located on Real Property encroach on setback lines, easements, lands of others or violate any restrictions, Contract covenants or applicable governmental regulation, the same shall constitute a title defect.

C. INGRESS AND EGRESS: Seller warrants and represents that there is ingress and egress to the Real Property sufficient for its intended use as described in the Warranties section of the agreement.

D. LIENS: Seller shall furnish to Buyer at time of closing an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statement, claims of lien or potential lienors known to Seller and further attesting that there have been no improvements or repairs to the Property for 90 days immediately preceding date of closing. If Property has been improved or repaired within that time Seller shall deliver releases or waivers of construction liens executed by all general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers and materialmen and further affirming that all charges for improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been paid or will be paid at closing of this Contract.

E. TIME PERIOD: Time is of the essence in this Contract.

F. DOCUMENTS FOR CLOSING: Seller shall furnish the deed, bill of sale, construction lien affidavit, owner's possession affidavit, assignments of leases, tenant and mortgagee estoppel letters and corrective instruments. Seller shall furnish closing statement.

G. EXPENSES: Documentary stamps on the deed, if required, and recording of corrective instruments, closing fees, electronic storage fees, disbursement fees shall be paid by Seller. Buyer will pay for the cost of recording the deed and the title search fee.

H. PRORATIONS; CREDITS: Taxes, assessments, rent, interest, insurance and other expenses and revenue of Property shall be prorated through day before closing. Buyer shall have the option of taking over any existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at closing shall be increased or decreased as may be required by prorations. Prorations will be made through day prior to occupancy if occupancy occurs before closing. Advance rent and security deposits will be credited to Buyer and escrow deposits held by mortgagee will be credited to Seller. Taxes shall be prorated based on the current

year's tax with due allowance made for maximum allowable discount, homestead and other exemptions. If closing occurs at a date when the current year's millage is not fixed and current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If current year's assessment is not available, then taxes will be prorated on the prior year's tax. If there are completed improvements on the Real Property by January 1st of year of closing, which improvements were not in existence on January 1st of the prior year, then taxes shall be prorated based upon the prior year's millage and at an equitable assessment to be agreed upon between the parties, failing which, request will be made to the County Property Appraiser for an informal assessment taking into consideration available exemptions. Any tax proration based on an estimate shall, at request of either Buyer or Seller, be subsequently readjusted upon receipt of tax bill on condition that a statement to that effect is in the closing statement.

I. SPECIAL ASSESSMENT LIENS: Certified, confirmed and ratified special assessment liens as of date of closing (not as of Effective Date) are to be paid by Seller. Pending liens as of date of closing shall be assumed by Buyer. If the improvement has been substantially completed as of Effective Date, any pending lien shall be considered certified, confirmed or ratified and Seller shall, at closing, be charged an amount equal to the last estimate of assessment for the improvement by the public body.

J. PROCEEDS OF SALE; CLOSING PROCEDURE: The deed shall be recorded upon clearance of funds. If abstract of title has been furnished, evidence of title shall be continued at Buyer's expense to show title in Buyer, without any encumbrances or change which would render Seller's title unmarketable from the date of the last evidence. Seller will provide a gap affidavit at closing. Title agent will provide a marked up title commitment at closing.

K. FAILURE OF PERFORMANCE: If Buyer fails to perform this Contract within the time specified, including payment of all deposit(s), the deposit(s) paid by Buyer and deposit(s) agreed to be paid, may be retained by or for the account of Seller as agreed upon liquidated damages, consideration for the execution of this Contract and in full settlement of any claims; whereupon, Buyer and Seller shall be relieved of all obligations under this Contract; or Seller, at Seller's option, may proceed in equity to enforce Seller's rights under this Contract, including but not limited to specific performance. If for any reason other than failure of Seller to make Seller's title marketable after diligent effort, Seller fails, neglects or refuses to perform this Contract, the Buyer may seek specific performance or elect to receive the return of Buyer's deposit(s) without thereby waiving any action for damages resulting from Seller's breach. In the event of any litigation arising out of this contract, each party shall bear its own attorney's fees and costs. **THE PARTIES HEREBY AGREE TO WAIVE TRIAL BY JURY AND ANY TRIAL SHALL BE NON-JURY.**

L. CONVEYANCE: Seller shall convey title to the Real Property by statutory warranty, trustee's, personal representative's or guardian's deed, as appropriate to the status of Seller. Personal Property shall, at request of Buyer, be transferred by an absolute bill of sale with warranty of title, subject only to such matters as may be otherwise provided for herein.

M. OTHER AGREEMENTS: No prior or present agreements or representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

N. WARRANTY: Seller warrants that there are no facts known to Seller materially affecting the value of the Property which are not readily observable by Buyer or which have not been disclosed.

O. 1031 EXCHANGE: Both Seller and Buyer reserve the right that the transaction contemplated hereunder may be completed as a Tax-Free Exchange of Like Kind Property pursuant to 1031 of the Internal Revenue Code of 1986 as amended. The Parties shall cooperate with Purchase in effectuating such exchange provided such cooperation shall not impose liability upon the other party, nor require payment of any costs or fees by the other party. Furthermore, the Parties shall have the right to pay for, or receive the Property through an intermediary.

Reviewed for legal form and content:

UMD

(Assistant) County Attorney

AS

Seller's Initials

ATTACHMENT 2

ADDENDUM

This Addendum is attached to and made a part of the CONTRACT FOR SALE AND PURCHASE dated this 10th day of January, 2023 by and between Michael S. Terrel as Seller, and Brevard County, Florida as Buyer, 2725 Judge Fran Jamieson Way, Viera, Florida 32940. For value received, the Parties hereto agree as follows:

1. As a condition of closing, and in coordination with the process to obtain title insurance, the River Ridge Estates Property Owner's Association must be dissolved and release all interest in Appraiser's Parcel Identification Numbers: 30-38-09-25-A-1 (River Ridge Estates Lots 1 thru 14 Blk A) and 30-38-09-25-*A (River Ridge Estates Tract A)); and proof of said dissolution and release recorded in the public records.
2. As a condition of closing, and in coordination with the process to obtain title insurance, any Declaration of Covenants, conditions, reservations and restrictions, including but not limited to the Declaration at Official Records Book 5552, Page 0694, must be terminated, cancelled or otherwise nullified, and said actions must be recorded in the public records of Brevard County, Florida.
3. There is a quit claim deed at Brevard County official records book 5148, page 2784 that purports to give St. John's River Water Management District and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida a one-half interest in all of section 9, township 30 South, Range 38 East, Brevard County, Florida with some exceptions. In the event there is an exception on the title insurance policy for this deed, Seller will provide a quit claim deed from the St. John's River Water Management District and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida releasing any interest that they may still have to Appraiser's Parcel Identification Numbers: 30-38-09-25-A-1 (River Ridge Estates Lots 1 thru 14 Blk A) and 30-38-09-25-*A (River Ridge Estates Tract A)), less any interest they may have in the Micco South levee and canal; or Buyer shall the option to void this Contract and receive a refund of any deposit(s).
4. Seller represents and Buyer hereby acknowledges that Seller is a licensed real estate broker. Seller does not claim a commission on this sale.
5. Seller and Buyer hereby agree to use Stephen Spira, Esq. of Spira Law Group, PA ("Spira") as closing agent for this transaction and issuer of the Title Policy at the Buyer's expense. The parties hereto acknowledge that Spira represents the Seller and agree that Spira's duties hereunder shall not prevent Spira from representing Seller, or its assignees, on any matters in the future, including but not limited to representation in any disputes between the parties and/or Spira. The Parties hereto waive any conflict in connection therewith.
6. All other terms and conditions of the Contract for Sale and Purchase between the Parties shall remain in full force and effect.

Signature Page Follows



BUYER:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

BY: _____
Rita Pritchett, Chair

Date: 01/10/2023
As Approved by the Board on _____, 2023
Agenda Item # _____

SELLER:



Michael S. Terrel

Date: 12-6-22

Reviewed for legal form and content:

 (Assistant) County Attorney



LOCATION MAP

Section 09, Township 30 South, Range 38 East - District: 3

PROPERTY LOCATION: Edisto Drive north of Dottie Drive in Grant

OWNERS NAME(S): Michael S. Terrel



PROPERTY FACT SHEET

PROJECT: Relocation of Barefoot Bay Waste Water Treatment Plant and Water Treatment Plant

OWNER: Michael S. Terrel

PARCEL LOCATION: Edisto Drive Grant, Florida

PARCEL SIZE: 80.44 total (parcel 1 and 2)

ZONING/LANDUSE: GU, General Use

IMPROVEMENTS: Vacant platted residential subdivision with infrastructure

TOPOGRAPHY: level

FLOOD ZONE: X

TAX PARCEL ID#: 30-38-09-25-A-1 (parcel1) and 30-38-09-25-*-A (parcel 2)

ASSESSED VALUE: \$958,310.00 (parcel 1), \$10.00 (parcel 2), (2021 Assessment - Property Appraiser Records)

PUBLIC UTILITIES: Underground electric, septic and well

PROPERTY TRANSACTION: Date: 03/28/2018
(Clerk of the Court Records) Sale amount: \$750,000.00 (parcel 1 and 2)

CALLAWAY APPRAISAL DATE: 06/24/2022
Appraisal Amount: \$2,650,000.00

CLAYTON, ROPER & MARSHALL APPRAISAL DATE: 07/30/2022
Appraised Value: \$2,750,000.00