

AGREEMENT TO PURCHASE AND SELL REAL ESTATE

THIS AGREEMENT is entered into as of the ___ day of May, 2022, by and between Indian River County, a political subdivision of the State of Florida, whose address is 1801 27th Street, Vero Beach, FL 32960 (“County”), and Venda R. Burgess, whose address is 3335 58th Avenue, Vero Beach, FL 32966 (“Ms. Burgess”).

WHEREAS, Ms. Burgess owns a 0.30-acre parcel of improved land located at 3335 58th Avenue, Vero Beach, FL 32966 on the west side of 58th Avenue and north of 33rd Street as depicted on the aerial photo attached as Exhibit “A”; and

WHEREAS, the parcel is zoned RS-3, Residential, up to three residential units per acre and lies inside of the Urban Services Boundary; and

WHEREAS, County is undertaking a road expansion project consisting of the expansion of the intersection of 58th Avenue and 33rd Street, for which County needs the entire 0.30-acre of property (Property) to be used as right-of-way; and

WHEREAS, in order to avoid the uncertainty of trial and the costs of litigation, the Parties have agreed to purchase and sell the above parcel of Property to be used for the 58th Avenue/33rd Street Intersection expansion project.

NOW THEREFORE, in consideration of the mutual undertakings herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree, as follows:

Recitals. The above recitals are true and correct and are incorporated herein.

1. Agreement to Purchase and Sell. Ms. Burgess hereby agrees to sell to the County, and the County hereby agrees to purchase from Ms. Burgess, upon the terms and conditions set forth in this Agreement, the 0.30-acre parcel of real property and more specifically described in Exhibit “B” attached and incorporated by reference herein.

2. Purchase Price; Effective Date. The purchase price (the “Purchase Price”) for the Property shall be FIVE HUNDRED TEN THOUSAND DOLLARS (\$510,000.00). The Purchase Price shall be paid on the Closing Date. The Effective Date of this Agreement shall be the date upon which the County shall have approved the execution of this Agreement, by the Indian River County Board of County Commissioners at a formal meeting of such Board.

3. Title to the Property. Ms. Burgess shall convey marketable title to the Property by warranty deed free of claims, liens, easements and encumbrances of record or known to Ms. Burgess; but subject to property taxes for the year of Closing and subject to covenants, restrictions and public utility easements of record provided (a) there exists at Closing no violation of any of the foregoing; and (b) none of the foregoing prevents County’s intended use and development of the Property.

4.0 County may order an Ownership and Encumbrance Report with respect to the Property. County shall, within thirty (30) days from receipt of the Ownership and Encumbrance Report, deliver written notice to Ms. Burgess of title defects. Title shall be deemed acceptable to County if (a) County fails to deliver notice of defects within the time specified, or (b) County delivers notice and Ms. Burgess cures the defects within thirty (30) days from receipt of notice from County of title defects ("Curative Period"). Ms. Burgess shall use best efforts to cure the defects within the Curative Period and if the title defects are not cured within the Curative Period, County shall have thirty (30) days from the end of the Curative Period to elect, by written notice to Ms. Burgess, to: (i) terminate this Agreement, whereupon it shall be of no further force and effect, or (ii) extend the Curative Period for up to an additional 90 days; or (iii) accept title subject to existing defects and proceed to closing.

5. Representations of Ms. Burgess.

5.1 Ms. Burgess is indefeasibly seized of marketable, fee simple title to the Property, and is the sole owner of and has good right, title and authority to convey and transfer the Property, which is the subject matter of this Agreement, free and clear of all liens and encumbrances.

5.2 From and after the Effective Date of this Agreement, Ms. Burgess shall take no action which would impair or otherwise affect title to any portion of the Property, and, except for documents related to construction of her new home and replacement structures, shall record no documents in the Public Records which would affect title to the Property, without the prior written consent of the County.

5.3 There are no existing or pending 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.

6. Default.

6.1 In the event that Ms. Burgess shall fail to perform any of its obligations hereunder, the County shall be entitled to: (i) terminate this Agreement by written notice delivered to Ms. Burgess at or prior to the Closing Date, and pursue all remedies available hereunder and under applicable law; (ii) obtain specific performance of the terms and conditions hereof; or (iii) waive Ms. Burgess's default and proceed to Closing.

6.2 In the event of a default by the County, Ms. Burgess shall be entitled, as its sole remedy hereunder, to terminate this Agreement. Ms. Burgess shall have no claim for specific performance, damages or otherwise against the County.

7. Closing.

7.1 The closing of the transaction contemplated herein ("Closing" and "Closing Date") shall take place within 45 days following the Effective Date of this Agreement. The parties agree that the Closing shall be as follows:

- (a) Ms. Burgess shall execute and deliver to the County a warranty deed conveying marketable title to the Property, free and clear of all liens and encumbrances and in the condition required by paragraphs 3 and 4 respectively.
- (b) Ms. Burgess shall be entitled to one year of extended possession without compensation and at the end of the one-year period, shall have removed all of her personal property and equipment from the Property and shall deliver possession of the Property to County vacant and in the same or better condition that existed at the Effective Date hereof. The Parties shall enter into a mutually agreeable lease at the time of closing.
- (c) If Ms. Burgess is obligated to discharge any encumbrances at or prior to Closing and fails to do so, County may use a portion of Purchase Price funds to satisfy the encumbrances.
- (d) Ms. Burgess shall deliver to the County an affidavit, in form acceptable to the County, certifying that Ms. Burgess is not a non-resident alien or foreign entity, such that Ms. Burgess and such interest holders are not subject to tax under the Foreign Investment and Real Property Tax Act of 1980.
- (e) Ms. Burgess and the County shall each deliver to the other such other documents or instruments as may reasonably be required to Close this transaction, including any corrective documents.

7.2. Closing Costs; Expenses. County shall be responsible for preparation of all Closing documents. County shall pay the following expenses at Closing:

- (a) The cost of recording the warranty deed and any release or satisfaction obtained by Seller pursuant to this Agreement.
- (b) Documentary Stamps required to be affixed to the warranty deed.
- (c) All costs and premiums for the owner's marketability title insurance commitment and policy, if any.
- (d) Appraisal fees in the amount of \$12,000.00 to Cantrell Ray Real Estate, LLC.
- (e) Attorney's fees in the amount of \$20,000.00 representing approximately 4% of the purchase price to Brent Simon Law Group.
- (f) Moving expenses in the amount of \$10,000.00 to Vanda R. Burgess

8. Prorations. All taxes and special assessments which are a lien upon the property on or prior to the Closing Date (except current taxes which are not yet due and payable) shall be paid by Ms. Burgess. If the Closing Date occurs during the time interval commencing on November 2 and ending on December 31, Ms. Burgess shall pay all current real estate taxes and special assessments levied against the Property, prorated

based on the "due date" of such taxes established by the taxing authority having jurisdiction over the Property. If the Closing Date occurs between January 1 and November 1, Ms. Burgess shall, in accordance with Florida Statutes Section 196.295, deposit into escrow with the Tax Collector, an amount equal to the current real estate taxes and assessments, prorated to the Closing Date.

9. Miscellaneous.

9.1 Controlling Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida. Venue shall be in Indian River County for all state court matters, and in the Southern District of Florida for all federal court matters.

9.2 Conveyance in Lieu of Eminent Domain. It is understood by the parties that this contract is entered into by Ms. Burgess under the threat and in lieu of condemnation.

9.3 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to this transaction and supersedes all prior agreements, written or oral, between Ms. Burgess and the County relating to the subject matter hereof. Any modification or amendment to this Agreement shall be effective only if in writing and executed by each of the parties.

9.4 Assignment and Binding Effect. Neither County nor Ms. Burgess may assign its rights and obligations under this Agreement without the prior written consent of the other party. The terms hereof shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.

9.5 Notices. Any notice shall be deemed duly served if personally served or if mailed by certified mail, return receipt requested, or if sent via "overnight" courier service or facsimile transmission, as follows:

If to Ms. Burgess: Venda R. Burgess
3335 58th Avenue
Vero Beach, FL 32967

If to County: Indian River County
1801 27th Street
Vero Beach, FL 32960
Attn: Public Works Director

Either party may change the information above by giving written notice of such change as provided in this paragraph.

9.6 Survival and Benefit. Except as otherwise expressly provided herein, each agreement, representation or warranty made in this Agreement by or on

behalf of either party, or in any instruments delivered pursuant hereto or in connection herewith, shall survive the Closing Date and the consummation of the transaction provided for herein. The covenants, agreements and undertakings of each of the parties hereto are made solely for the benefit of, and may be relied on only by the other party hereto, its successors and assigns, and are not made for the benefit of, nor may they be relied upon, by any other person whatsoever.

9.8 Attorney's Fees and Costs. In any claim or controversy arising out of or relating to this Agreement, each party shall bear its own attorney's fees, costs and expenses.

9.9. Counterparts. This Agreement may be executed in two or more counterparts, each one of which shall constitute an original.

9.10. County Approval Required: This Agreement is subject to approval by the Indian River County Board of County Commissioners as set forth in paragraph 2.

SIGNATURES ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first set forth below.

AS TO VENDA R. BURGESS:

BOARD OF COUNTY COMMISSIONERS
OF INDIAN RIVER COUNTY, FLORIDA

By: Venda R. Burgess
Venda R. Burgess

By: _____
Peter D. O'Bryan, Chairman

Date Signed: ^{VRB} May 4, 2022

Date Signed: _____

ATTEST: Jeffrey R. Smith, Clerk of
the Court and Comptroller

By: _____
Deputy Clerk

Approved as to form and
legal sufficiency:

Indian River County Administrator

William K. DeBraal
William K. DeBraal
Deputy County Attorney

By: _____
Jason E. Brown



EXHIBIT "A"



Overview



Legend

- Parcels
- Street Centerlines
- Municipal Boundaries 2
- IRC_Private_School
- Government Facilities**
- FEDERAL GOVERNMENT
- COUNTY GOVERNMENT
- LOCAL GOVERNMENT
- SCHOOL
- HOSPITAL
- FIRE STATION
- LAW ENFORCEMENT
- STATE PARK
- COUNTY PARK
- CITY PARK
- BOAT RAMP
- CANOE LAUNCH
- CANOE LANDING
- Golf Courses**
- Water

Parcel ID	32393200009002000011.0	Prop ID	53012	Owner	BURGESS VENDOR	Last 2 Sales			
Sec/Twp/Rng	32-32-39	Class	0100 - Single Family - Improved	Address	3335 58TH AVE VERO BEACH, FL 32966	Date	Price	Instr	Qual
Property	3335 58TH AV	Acreage	0.3			9/1/1987	\$89500	n/a	U
Address	VERO BEACH					5/1/1984	\$12000	n/a	U
						Plat Book Link			

District 7- COUNTY- NO SEBASTIAN INLET
Brief Tax Description REPLAT OF LASAR PARK SUB BLK 2 LOTS 11 & 12 PBI 2-20
 (Note: Not to be used on legal documents)

Date created: 5/2/2022
 Last Data Uploaded: 5/2/2022 8:06:29 AM

Sketch and Legal Description for: INDIAN RIVER COUNTY

Legal Description (Right of Way Acquisition)

LOTS 11 AND 12, BLOCK 2, REPLAT OF LASAR PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 20, PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA.

CONTAINING 13,151 SQUARE FEET (0.30 ACRES), MORE OR LESS

Surveyor's Notes

- 1). THIS LEGAL DESCRIPTION SHALL NOT BE VALID UNLESS:
 - (A) PROVIDED IN ITS ENTIRETY CONSISTING OF 2 SHEETS, WITH SHEET 2 SHOWING THE SKETCH OF THE DESCRIPTION.
 - (B) REPRODUCTIONS OF THE DESCRIPTION AND SKETCH ARE SIGNED AND SEALED WITH AN EMBOSSED SURVEYOR'S SEAL.
- 2). THIS SKETCH AND LEGAL DESCRIPTION WAS PREPARED WITHOUT THE BENEFIT OF A TITLE POLICY. THEREFORE, THERE MAY EXIST EASEMENTS, RESERVATIONS, RESTRICTIONS OR OTHER ENCUMBRANCES NOT SHOWN HEREON, BUT CAN BE FOUND IN THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA.

Legend and Abbreviations

- I.R.F.W.C.D. = INDIAN RIVER FARMS WATER CONTROL DISTRICT
- L.L.C. = LIMITED LIABILITY COMPANY
- O.R.B.= OFFICIAL RECORD BOOK
- (P) = PLAT
- P.B.= PLAT BOOK
- PG = PAGE
- PBS = PLAT BOOK ST. LUCIE
- Δ=DELTA ANGLE
- SQ. FT. = SQUARE FEET
- R = RADIUS
- R/W = RIGHT-OF-WAY
- ↔ = JOINT OWNERSHIP

Certification

(NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER)

I HEREBY CERTIFY THAT THE SKETCH AND LEGAL DESCRIPTION OF THE PROPERTY SHOWN AND DESCRIBED HEREON WAS COMPLETED UNDER MY DIRECTION AND SAID SKETCH AND LEGAL IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

I FURTHER CERTIFY THAT THIS SKETCH AND DESCRIPTION MEETS THE STANDARDS OF PRACTICE FOR SURVEYS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17.052 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027 FLORIDA STATE STATUTES.

DATE OF SIGNATURE

DAVID W. SCHRYVER
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 4863

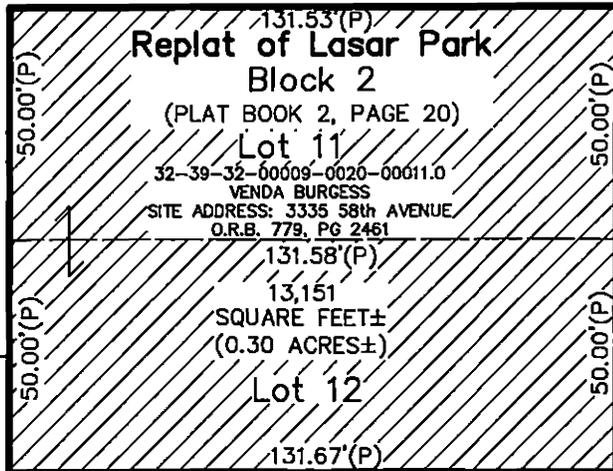
This is not a Boundary Survey
PROVIDED IN ITS ENTIRETY CONSISTING OF 2 SHEETS
WITH SHEET 2 BEING THE SKETCH OF DESCRIPTION

AGENCY: INDIAN RIVER COUNTY, FL PUBLIC WORKS DEPT./ENGINEERING DIV.	
DATE: 11/02/2021	DRAWN BY: R. INGLETT
SCALE: N/A	APPROVED BY: D. SCHRYVER
SHEET: 1 OF 2	JOB NO: 1356

Sketch and Legal Description
for:
INDIAN RIVER COUNTY
(3335 58th Avenue)

Sketch and Legal Description for: INDIAN RIVER COUNTY

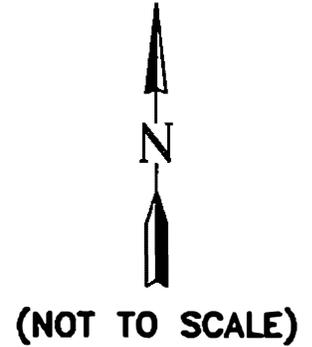
Shadow Brook Subdivision
(PLAT BOOK 9, PAGE 17)
Lot 5



58th Avenue (Kings Highway)

EAST LINE OF NORTHEAST 1/4 SECTION 32-32-39
WEST LINE OF NORTHWEST 1/4 SECTION 33-32-39

RIGHT OF WAY LINE



35' ROAD R/W
65'
35'
RIGHT OF WAY LINE AND SOUTH LINE LOT 12
SOUTH LINE OF NORTHEAST 1/4 SECTION 32-32-39

**I.R.F.W.C.D.
SUB-LATERAL A-4 CANAL**

50' CANAL R/W

32

WEST 1/4 CORNER SECTION 33,
TOWNSHIP 32 SOUTH, RANGE 39 EAST

SOUTH LINE OF NORTHWEST 1/4 SECTION 33-32-39

33rd Street

RIGHT OF WAY LINE

RIGHT OF WAY LINE

RIGHT OF WAY LINE

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AGENCY: INDIAN RIVER COUNTY, FL PUBLIC WORKS DEPT./ENGINEERING DIV.	
DATE: 11/02/2021	DRAWN BY: R. INGLETT
SCALE: N/A	APPROVED BY: D. SCHRYVER
SHEET: 2 OF 2	JOB NO: 1356

Sketch and Legal Description
for:
INDIAN RIVER COUNTY
(3335 58th Avenue)