

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: May 5, 2020

DEPARTMENT: Legal

TITLE:

Assignment to the Community Redevelopment Agency (“CRA”) the Agreement for Purchase and Sale of Real Property with 7 North B, LLC for property located at 7 North B Street in Lake Worth Beach.

SUMMARY:

Pursuant to a mediation settlement agreement entered into with 1511 Lucerne, LLC, and WENJO Partners, then owners of properties located at 1511 Lucerne Avenue and 7 North B Street in Lake Worth Beach, respectively, the City agreed to enter into a purchase and sale agreement with WENJO Partners to facilitate development of 7 North B Street. WENJO Partners sold its interest in the property to 7 North B, LLC, before an agreement to sell the property to the City could be facilitated. In a separate agenda item, the city commission has considered whether to enter into the Agreement for Purchase and Sale of Real Property with 7 North B, LLC. If approved, the City Commission is being asked to assign its interest in the Agreement to the CRA.

BACKGROUND AND JUSTIFICATION:

In August 2019, the City Commission entered into a mediation settlement agreement with then owner, 1511 Lucerne, LLC, to settle code enforcement liens on properties owned by 1511 Lucerne, LLC, and to facilitate development of three parcels: 15 North B Street, 7 North B Street, and 1602 Lake Avenue.

The City owns 15 North B Street and 1602 Lake Avenue. WENJO Partners owned 7 North B Street at the time of the mediation and shortly thereafter sold its interest to 7 North B, LLC, whose primary manager is Bhavin Shah.

In a separate transaction, 7 North B, LLC will be selling the 7 North B Street property to the City in accordance with the mediation settlement agreement. The settlement agreement also contemplated that the City would assign its interest to the CRA.

Therefore, if the City Commission approves the purchase of 7 North B Street, and then approves this transaction to assign its interest in 7 North B Street to the CRA, and if the City also approves the Purchase and Sale Agreement with the CRA for properties located at 1602 Lake Avenue and 15 North B Street, then once the CRA has control of all three parcels, it will develop and issue a request for proposals for a qualified developer to develop a project and site plan for the three properties.

MOTION:

Move to approve/disapprove Assignment and Assumption of Contract of the Agreement for Purchase and Sale of Real Property to the CRA for property located at 7 North B Street in Lake Worth Beach.

ATTACHMENT(S):

Fiscal Impact Analysis – n/a

Assignment and Assumption of Contract

Agreement for Purchase and Sale of Real Property with 7 North B, LLC

Mediation Settlement Agreement approved by the Commission in Aug. 2019

ASSIGNMENT AND ASSUMPTION OF CONTRACT

THIS ASSIGNMENT AND ASSUMPTION OF CONTRACT ("Agreement") is entered into and is effective as of this ____ day of May 2020, by and between the City of Lake Worth Beach, a Florida municipal corporation, whose address is 7 N. Dixie Highway, Lake Worth Beach, Florida 33460 ("**Assignor**") and the Lake Worth Beach Community Redevelopment Agency, a Florida public body corporate and public created pursuant to Section 163.356 F.S. ("**Assignee**") whose address is 1121 Lucerne Avenue, Lake Worth Beach, Florida 33460.

WITNESSETH

WHEREAS, Assignor executed and entered into that certain "As-Is" Residential Contract For Sale And Purchase titled "Agreement for Purchase and Sale of Real Property" (the "**Contract**") dated _____, 2020, for the acquisition of that certain vacant real property located at 7 North B Street, Lake worth Beach, Florida (the "**Property**") to said Contract; and,

WHEREAS, pursuant to terms and conditions of the Contract, the Assignor has the right to assign its rights under the Contract subject to the certain terms and conditions thereof; and,

WHEREAS, by execution hereof, the Assignor desires to assign all of its rights and obligations under the Contract to the Assignee and Assignee desires to assume all of Assignor's obligations under the Contract.

NOW, THEREFORE, in consideration of the promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Assignor and Assignee hereby agree as follows:

1. The foregoing recitals are hereby incorporated herein in their entirety.
2. The Assignor and Assignee hereby agree that the Assignor shall assign all its right, title, and interest, and delegate all its obligations responsibilities and duties, in and to the Contract, to the Assignee without omission or alteration.
3. The Assignee hereby accepts the assignment of all of Assignor's obligations responsibilities and duties in and under the terms of the Contract and agrees to accept all of Assignor's right, title and interest in and to the Contract without omission or alteration.
4. This Agreement shall become effective on the date executed by the Chair of the Assignee.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates indicated below.

ASSIGNOR:

CITY OF LAKE WORTH BEACH

Witness

By: _____
Pam Triolo, Mayor

Signed on: _____

Attest:

Approved as to Legal Sufficiency:

Deborah M. Andrea, City Clerk

Glen J. Torcivia, City Attorney

ASSIGNEE:

LAKE WORTH BEACH COMMUNITY
REDEVELOPMENT AGENCY

Witness

By: _____
Brendan Lynch, Chair

Signed on: _____

By: _____
Joan Oliva, Executive Director

Witness

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2020 ("Agreement") by and between the **CITY OF LAKE WORTH BEACH, a Florida municipal corporation**, whose address is 7 N. Dixie Highway, Lake Worth Beach, FL 33460 (hereinafter referred to as "PURCHASER") and **7 NORTH B, LLC**, whose address is 640 Lee Road, Suite 300, Wayne PA 19087 (hereinafter referred to as "SELLER").

WITNESSETH

In consideration of the mutual agreements and upon and subject to the terms and conditions herein contained, the parties hereto agree as follows:

1. DEFINITIONS.

The following terms when used in this Agreement for Purchase and Sale shall have the following meanings:

1.1 Property. The certain portion of property located at 7 North "B" Street, Lake Worth Beach, Florida, (the "Property") which Property is more particularly described with the legal description in **Exhibit "A"**, attached hereto and made a part hereof.

1.2 Closing. The delivery of a General Warranty Deed to PURCHASER, or such other deed as may be required by the title insurance company, concurrently with the delivery of the purchase price and other cash consideration to SELLER.

1.3 Closing Date. The Closing Date shall occur no later than thirty (30) days after the approval of the site plan for the Project Property, as defined herein, and the expiration of all appeal periods.

1.4 Deed. A General Warranty Deed, or such other deed as may be required by the title insurance company, in its statutory form, which shall convey the Property from SELLER to PURCHASER.

1.5 Settlement Agreement. That certain Settlement Agreement entered into by and between the PURCHASER and SELLER dated July 16, 2019, as approved by Judge Hafele on October 29, 2019, a copy of which is attached hereto as **Exhibit "B,"** and incorporated herein by reference.

1.5 Effective Date. The Effective Date of this Agreement shall be the date upon its execution by all parties to this Agreement: SELLER and PURCHASER, and Escrow Agent.

1.6 Earnest Money Deposit. The sum of Five Thousand and 00/100 Dollars (\$5,000.00) to be delivered from PURCHASER to Escrow Agent pursuant to Section 2.2 set forth herein.

1.7 SELLER's Address. Seller's mailing address is 640 Lee Road, Suite 300, Wayne, PA 19087.

1.8 PURCHASER's Address. Purchaser's mailing address is 7 N. Dixie Highway, Lake Worth Beach, FL 33460, with copy to Weiss Serota Helfman Cole & Bierman, PL, Attn: David N. Tolces, Esq., at 1200 N. Federal Highway, Suite 312, Boca Raton, FL 33432.

1.9 Project Property. The Project Property is defined as follows: 7 North B. Street, 15 North B. Street, and 1602 Lake Avenue, all located in the City of Lake Worth Beach, Florida, as though the properties were unified.

1.10 Other Definitions. The terms defined in any part of this Agreement shall have the defined meaning wherever capitalized herein. Wherever appropriate in this Agreement, the singular shall be deemed to refer to the plural and the plural to the singular, and pronouns of each gender shall be deemed to comprehend either or both of the other genders. As used in this Agreement, the terms "herein", "hereof" and the like refer to this Agreement in its entirety and not to any specific section or subsection.

2. PURCHASE PRICE.

2.1 Subject to the provisions of this Agreement, and the terms of the Settlement Agreement, the SELLER hereby agrees to sell to PURCHASER, and PURCHASER hereby agrees to purchase from SELLER, the Property previously identified on Exhibit "A" for the total Purchase Price of an amount that shall not be less than **Two hundred seventy-two thousand three hundred seventy-five dollars and 68/100 (\$272,375.68)**, (the "Minimum Purchase Price") other good and valuable consideration, and upon and subject to the terms and conditions hereinafter set forth. PURCHASER shall pay the Purchase Price to SELLER at Closing pursuant to the terms of this Agreement by check or wire transfer of readily negotiable funds to an account identified in writing by SELLER. The Purchase Price to be paid to SELLER shall be an amount equal to the pro rata share of the Project Property Purchase Price based on the square footage of the Property in relation to the Project Property, but not less than the Minimum Purchase Price, less SELLER's pro rata share of all fees and costs incurred by the Lake Worth Beach Community Redevelopment Agency ("CRA") with respect to the sale of the Project Property.

2.2 Earnest Money. No later than five (5) business days following approval of this Agreement by the City Commission of the City of Lake Worth Beach, PURCHASER shall deposit and cause to be placed in an escrow account maintained by Weiss Serota Helfman Cole & Bierman, PL ("Escrow Agent") the amount of Five Thousand Dollars (\$5,000.00) ("Earnest Money"). Within twenty-four (24) hours of receipt of PURCHASER's Earnest Money Deposit, Escrow Agent shall send confirmation of receipt to SELLER. PURCHASER's obligation to close the transaction in accordance with provisions of this Agreement is contingent upon the SELLER's ability to deliver good and marketable title for the Property in accordance herewith. Should the SELLER default hereunder, the PURCHASER shall be entitled to an immediate refund of the entire sum of the Earnest Money held by the Escrow Agent. At Closing, a copy of the closing statement signed by both parties hereto shall be conclusive evidence of the SELLER's right to receive the Earnest Money Deposit.

2.3 Balance of Purchase Price. PURCHASER shall pay the balance of the Purchase Price to SELLER at Closing pursuant to the terms of this Agreement by check or wire transfer of immediately available funds to an account identified in writing by SELLER.

2.4 The Purchase includes:

- (a) All buildings and improvements located on the Property;
- (b) All right-of-ways, alleys, waters, privileges, easements and appurtenances which are on or benefit all the Property;
- (c) All right, title and interest, if any, of SELLER in any Property lying in the bed of any public or private street or highway, opened or proposed, in front any of the adjoining Property to the center line thereof. The sale also includes any right of SELLER to any unpaid award to which SELLER may be entitled: (1) due to taking by condemnation of any right, title or interest of SELLER and (2) for any damage to the Property due to change of grade of any street or highway. SELLER will deliver to PURCHASER at closing, or thereafter on demand, proper instruments for the conveyance of title and the assignment and collection of award and damages;
- (d) All fixtures and articles of personal property, if any, attached to or used in connection with the Property as more particularly identified on **Exhibit "C" (personal property)** as provided by SELLER, which is attached hereto and made a part hereof. SELLER represents that such fixtures and articles are paid for and are owned by SELLER free and clear of any lien or encumbrance.

(e) To the extent transferable, all licenses, permits, contracts and leases, if applicable, with respect to the property.

3. INSPECTIONS.

3.1 PURCHASER shall have thirty (30) days commencing on the Effective Date to perform inspections of the property as the PURCHASER deems necessary ("Inspection Period"). During the Inspection Period, PURCHASER shall, at PURCHASER's sole cost and expense, determine that utility services including, water, waste water, electric, telephone and all other utilities are available in the proper size and capacity to serve the existing facilities and installed to the property lines. At all times during the Inspection Period, PURCHASER and PURCHASER's agents shall be provided with reasonable access during normal business hours to the Property for purposes of on-site inspection, upon reasonable prior Notice to SELLER. The scope of the inspection contemplated herein shall be determined by the PURCHASER as deemed appropriate under the circumstances. PURCHASER, at PURCHASER's sole cost and expense, and at PURCHASER's sole discretion, may obtain and accept a satisfactory Phase I Environmental Audit, and if deemed necessary at its discretion, a Phase II Environmental Audit for which it will be granted an additional sixty (60) days for inspections, upon the receipt of an additional Earnest Money Deposit in the amount of \$5,000 ("Additional Earnest Money Deposit"). PURCHASER's Earnest Money Deposit, plus the Additional Earnest Money Deposit, shall be applied to the Purchase Price at closing, unless this Agreement is terminated prior to the expiration of the Inspection Period.

In the event that any inspections and any review of documents conducted by the PURCHASER relative to the Property during this Inspection period prove unsatisfactory in any fashion, the PURCHASER, at PURCHASER's sole discretion, shall be entitled to terminate this Agreement prior to the end of the Inspection Period and PURCHASER also agrees to indemnify and hold SELLER harmless from any losses, claims, costs, and expenses, including reasonable attorney's fees, which may result from or be connected with any acts or omissions of PURCHASER during inspections that are done pursuant hereto. PURCHASER will provide written notice by mail or facsimile to SELLER and/or SELLER's counsel and receive an immediate refund of all Earnest Money deposits plus interest paid hereto in the event the PURCHASER determines that the Property is unsuitable during the Inspection Period or proceed to Closing as set forth herein.

3.2 During the Inspection Period, SELLER shall provide copies of any

surveys, environmental reviews or assessments, and any other information in the SELLER's possession regarding the Property in order to assist PURCHASER with its inspection of the Property.

3.3 Unless this Agreement is terminated prior to the expiration of the Inspection Period, Escrow Agent is hereby authorized to advance the Earnest Money Deposit, and any Additional Earnest Money Deposit, to SELLER without notice or demand.

4. SELLER'S REPRESENTATIONS.

To induce PURCHASER to enter into this Agreement, SELLER makes the following representations, all of which, to the best of SELLER's knowledge, in all material respects and except as otherwise provided in this Agreement (i) are now true, and (ii) shall be true as of the date of the Closing unless SELLER receives information to the contrary, and (iii) shall survive the Closing. In that event, PURCHASER shall be provided immediate notice as to the change to the following representations:

4.1 At all times from the Effective Date until Closing, SELLER shall keep the Property (whether before or after the date of Closing) free and clear of any mechanic's or materialmen's liens for work or materials furnished to or contracted for, by or on behalf of SELLER prior to the Closing, and SELLER shall indemnify, defend and hold PURCHASER harmless from and against all expense and liability in connection therewith (including, without limitation, court costs and reasonable attorney's fees).

4.2 SELLER has no actual knowledge nor has SELLER received any notice of any litigation, claim, action or proceeding, actual or threatened, against SELLER or the Property by any organization, person, individual or governmental agency which would affect (as to any threatened litigation, claim, action or proceeding, in a materially adverse fashion) the use, occupancy or value of the Property or any part thereof or which would otherwise relate to the Property except for those matters set forth in that certain Settlement Agreement entered into by and between the PURCHASER and SELLER dated July 16, 2019, as approved by Judge Hafele on October 29, 2019, a copy of which is attached hereto as **Exhibit "B,"** and incorporated herein by reference.

4.3 SELLER has full power and authority to enter into this Agreement and to assume and perform SELLER's obligations hereunder in this Agreement. SELLER does not and will not conflict with or result in the breach of any condition or provision, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon any of the Property or assets of the SELLER by reason of the terms of any contract,

mortgage, lien, lease, agreement, indenture, instrument or judgment to which the SELLER is a party of which is or purports to be binding upon the SELLER or which affects the SELLER; no action by any federal, state or municipal or other governmental department, CRA, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon the SELLER in accordance with its terms.

4.4 SELLER represents that SELLER will not, between the date of this Agreement and the Closing, without PURCHASER's prior written consent, which consent shall not be unreasonably withheld or delayed, except in the ordinary course of business, create by SELLER'S consent any encumbrances on the Property. For purposes of this provision the term "encumbrances" shall mean any liens, claims, options, or other encumbrances, encroachments, rights-of-way, leases, easements, covenants, conditions or restrictions.

4.5 SELLER represents that there are no parties other than SELLER in possession of the Property or any portion of the Property as a lessee.

4.6 SELLER shall not list or offer the Property for sale or solicit or negotiate offers to purchase the Property while this Agreement is in effect. SELLER shall use SELLER's best efforts to maintain the Property in its present condition so as to ensure that it shall remain substantially in the same condition from the conclusion of the Inspection Period to the Closing Date.

4.7 SELLER represents that SELLER has no actual knowledge nor has SELLER received any notice that the Property has been, is presently or is contemplated to be utilized as a reservoir of hazardous material. As used herein, the term "Hazardous Material" shall mean any substance, water or material which has been determined by any state, federal or local government authority to be capable of posing a risk of injury to health, safety and property, including, but not limited to, all of those materials, wastes and substances designated as hazardous or toxic by the U.S. Environmental Protection Agency, the U.S. Department of Labor, the U.S. Department of Transportation, and/or any other state or local governmental agency now or hereafter authorized to regulate materials and substances in the environment (collectively "Governmental Authority(ies)").

5. EVIDENCE OF TITLE.

5.1 Title to the Property. SELLER shall convey to PURCHASER at Closing, by delivery of a General Warranty Deed, title to the subject Property. PURCHASER shall, within fifteen (15) days of the commencement of the Inspection Period, secure a title

insurance commitment issued by a title insurance underwriter approved and selected by PURCHASER for the Property insuring PURCHASER's title to the Property subject only to those exceptions set forth in the commitment. The costs and expenses relative to the issuance of a title commitment and an owner's title policy shall be borne by the PURCHASER.

PURCHASER shall have fifteen (15) days from the date of receiving said commitment to examine the title commitment. If PURCHASER objects to any exception to title as shown in the title commitment, PURCHASER, prior to ten (10) days of expiration of the Inspection Period, shall notify SELLER, and SELLER's counsel, in writing specifying the specific exception(s) to which it objects. Any objection(s) of which PURCHASER has so notified SELLER, and which SELLER chooses to cure, shall be cured by SELLER so as to enable the removal of said objection(s) from the title commitment within ten (10) days after PURCHASER has provided notice to SELLER. Within five (5) days after the expiration of SELLER's time to cure any objection, SELLER shall send to PURCHASER a notice in writing (a "cure notice") stating either (1) that the objection has been cured and in such case enclosing evidence of such cure, or (ii) that SELLER is either unable to cure or has chosen not to cure such objection. If SELLER shall be unable or unwilling to cure all objections within the time period set forth in the preceding sentence, then PURCHASER may (a) terminate this Agreement by written notice to the SELLER within five (5) days after receipt of a cure notice specifying an uncured objection, or (b) subject to the provisions set forth below, proceed to close the transaction contemplated herein despite the uncured objection.

5.2. Survey and Legal Description. Within ten (10) days of the commencement of the Inspection Period, PURCHASER at PURCHASER's own expense shall order: (i) a survey prepared by a registered Property surveyor or engineer licensed in the State of Florida showing the boundaries of the Property, and the location of any easements thereon and certifying the number of acres (to the nearest one thousandth acre) of Property contained in the Property, all buildings, improvements and encroachments; and (ii) a correct legal description of the Property which, upon approval thereof by PURCHASER and SELLER (not to be unreasonably withheld), shall be the legal description used in the deed of conveyance. The survey and legal description shall be prepared and certified by a surveyor licensed and registered in the State of Florida and shall comply with the requirements of the survey map established in connection with the issuance of an owner's title insurance policy on the Property. The survey shall be certified to PURCHASER and the

title insurance company issuing the title insurance.

6. PURCHASER'S REPRESENTATIONS.

PURCHASER hereby represents and warrants to the best of PURCHASER's knowledge that all of the following are true and correct:

6.1 PURCHASER has full power and authority to enter into this Agreement and to assume and perform all of its obligations hereunder.

6.2 The execution and delivery of this Agreement and the consummation of the transaction contemplated hereunder on the part of the PURCHASER do not and will not violate the corporate or organizational documents of PURCHASER and will not conflict with or result in the breach of any condition or provision, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which the PURCHASER is a party.

6.3 Except as provided herein, no action by any federal, state, municipal or other governmental department, CRA, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon PURCHASER in accordance with its terms and conditions.

All of the representations, warranties and covenants of PURCHASER contained in this Agreement or in any other document, delivered to SELLER in connection with the transaction contemplated herein shall be true and correct in all material respects and not in default at the time of Closing, just as though they were made at such time.

7. CONDITIONS PRECEDENT TO CLOSING.

Each of the following events or occurrences ("Conditions Precedents") shall be a condition precedent to PURCHASER's obligation to close this transaction:

7.1 That the PURCHASER has not notified the SELLER, prior to the expiration of the Inspection Period, or any extension thereof, that it has deemed the property to be unsuitable for its intended purpose as a result of the Investigations conducted on the Property during the Inspection Period.

7.2 SELLER has performed all covenants, agreements and obligations, and complied with all conditions required by this Agreement to convey clear and marketable title of the Property to PURCHASER, prior to

closing.

- 7.3 SELLER shall comply with the disclosure requirements as provided in Section 286.23, Florida Statutes.
- 7.4 That the PURCHASER, or any assignee, obtains site plan approval for the development of the Project Property, and that all appeal periods have expired.
- 7.5 Approval of this Agreement by the City of Lake Worth Beach City Commission.

8. RISK OF LOSS.

Risk of loss or damage from fire, other casualty, or both, is assumed by SELLER until the deed described in Paragraph 5.1 hereof is delivered by SELLER to PURCHASER. In the event any portion of the Property is destroyed, rendered unleaseable or dysfunctional by fire or other casualty then the following shall apply:

- 8.1 If the damage, as determined by the insurance adjuster, is not more than Ten Thousand and 00/100 Dollars (\$10,000.00): (i) PURCHASER shall complete settlement and all insurance proceeds relating to the improvements damaged by such casualty loss shall be paid to the PURCHASER, and (ii) SELLER shall assign to PURCHASER on the date of Closing the full amount of any proceeds payable under SELLER's fire and extended coverage insurance policy applicable to said damage; and,
- 8.2 If the damage, as determined by the insurance adjuster, is more than Ten Thousand and 00/100 Dollars (\$10,000.00), PURCHASER shall have the option to (i) complete the settlement hereunder and collect all available insurance proceeds relating to the improvements damaged by such casualty loss, in which case SELLER shall pay to PURCHASER on the date of Closing the full amount of any deductible under SELLER'S fire and extended coverage insurance policy, or (ii) terminate this Agreement and receive a refund of entire deposit and interest. SELLER warrants that it shall maintain until the date of the Closing adequate "All Risk" property insurance.

9. ASSIGNMENT; RIGHT OF FIRST REFUSAL.

9.1 The SELLER authorizes the PURCHASER to assign this Agreement without any prior written consent or authorization to the City of Lake Worth Beach Community Redevelopment Agency ("CRA"). The CRA will then process a Request for Proposals ("RFP") for the development of the Project Property, which includes the property that is the subject of this Agreement. Pursuant to the Settlement Agreement, the CRA shall award the RFP to a qualified developer entity, and a contract between the developer and the CRA shall be executed on or before August 3, 2020. If the CRA does not execute a Purchase and Sale Agreement with a qualified developer entity prior to August 3, 2020, or if the sale of the Project Property does not close on or before February 3, 2021, through no fault of SELLER, then the PURCHASER shall have the right of first refusal to purchase the Property from the SELLER for the Purchase Price. If the PURCHASER exercises the right of first refusal, then the SELLER shall pay the amounts not already paid, as provided in the Settlement Agreement as fines, administrative expenses, and attorney's fees at closing.

9.2 If the PURCHASER does not exercise the right of first refusal within ninety (90) days of the date that the RFP process terminates or fails, this Agreement shall terminate, and SELLER shall retain ownership of the Property, and the Earnest Money Deposit shall be returned to PURCHASER. In such event, the SELLER shall pay to PURCHASER the amounts not already paid, as provided in the Settlement Agreement as fines, administrative expenses, and attorney's fees no later than thirty (30) days following the expiration of the PURCHASER's right of first refusal.

10. CLOSING DOCUMENTS.

At closing, SELLER shall deliver to PURCHASER a General Warranty Deed, or such other deed as may be required by the title insurance company, Bill of Sale, if applicable, No Lien/Gap Affidavit, Non-Foreign Certification in accordance with Section 1445 of the Internal Revenue Code, 1099 Form and any other documents as listed as title requirements in Schedule B-I of the Title Commitment and in this Agreement to assure the conveyance of good and marketable fee simple title of the Property to the PURCHASER.

11. CLOSING COSTS, TAXES AND PRORATIONS.

11.1. At closing the PURCHASER shall pay for all costs relating to the purchase of the Property: title commitment, survey, deed recording costs, attorney's fees, and Owner's Title Policy.

11.2. At closing, SELLER shall pay all real estate taxes, personal property taxes on any tangible personal property, outstanding utility bills, and any

outstanding and unpaid assessments all of which will be prorated through the day of closing.

12. CLOSING DATE AND PLACE.

The Closing will take place on or before the expiration of thirty (30) days subsequent to the approval of the site plan for the development of the Project Property, unless otherwise agreed by the parties in writing, at the law offices of Weiss Serota Helfman Cole & Bierman, PL located at 1200 N. Federal Highway, Suite 312, Boca Raton, FL 33432.

13. DEFAULT.

In the event of a default by SELLER, PURCHASER shall have the election of the following remedies, which shall include the return of the earnest money, and accrued interest as liquidated damages or equitable relief to enforce the terms and conditions of this Agreement either through a decree for specific performance or injunctive relief.

If the PURCHASER shall fail or refuse to consummate the transaction in accordance with the terms and provisions of this Agreement, all monies on deposit and interest earned on the deposit shall be immediately forfeited to SELLER as agreed upon liquidated damages and PURCHASER shall have no other responsibility or liability of any kind to SELLER by virtue of such default. SELLER'S sole and entire remedy shall be restricted to retention of the deposit plus all accrued interest.

14. RESERVED

15. BROKER.

The parties each represent to the other that they have not dealt with any real estate broker, real estate salesman or finder in conjunction with this transaction who is entitled to a fee or brokerage commission in accordance with Florida law.

16. ENFORCEABILITY.

If any provision in this Agreement shall be held to be excessively broad, it shall be construed, by limiting and reducing it, to be enforceable to the extent compatible with applicable law. If any provision in this Agreement shall, notwithstanding the preceding sentence, be held illegal or unenforceable, such illegality or unenforceability shall not affect any other provision of this Agreement.

17. NOTICE.

All written notices shall be deemed effective if sent to the following places:

PURCHASER: City of Lake Worth Beach
 7 N. Dixie Highway

Lake Worth Beach, Florida 33460
Attn: Michael Bornstein, City Manager

With Copy to: David N. Tolces, Esq.
WEISS SEROTA HELFMAN COLE & BIERMAN, PL
1200 N. Federal Highway, Suite 312
Boca Raton, Florida 33432
Tel: (561) 835-2111
Fax:(954) 764-7770

Glen J. Torcivia, City Attorney
7 N. Dixie Highway
Lake Worth Beach, Florida 33460

SELLER: 7 North B, LLC
c/o Sandra Ross
640 Lee Road, Suite 300
Wayne, PA 19087
Tel: 610-296-6028

With a Copy to: Michael W. Simon, Esq.
Simon & Sigalos, LLP
3839 NW Boca Raton Blvd. #100
Boca Raton, FL 33431
Tel: (561) 447-0017
Fax:(561) 447-0018

18. GOVERNING LAW.

This Agreement shall be governed by the laws of the State of Florida. Venue shall be in the Federal or State Courts in Palm Beach County, Florida.

19. ENTIRE AGREEMENT.

All prior understandings and agreements between SELLER and PURCHASER are merged in this Agreement. This Agreement completely expresses their full agreement.

20. AMENDMENT.

No modification or amendment of this Agreement shall be of any force or effect unless in writing and executed by both SELLER and PURCHASER.

21. SUCCESSORS.

This Agreement shall apply to and bind the executors, administrators, successors and assigns of SELLER and PURCHASER.

22. COUNTERPARTS.

This Agreement may be executed in two or more counterparts, each of which shall be

taken to be an original and all collectively deemed one instrument. The parties hereto agree that a facsimile copy hereof and any signatures hereon shall be considered for all purposes as originals.

23. LITIGATION COSTS.

In connection with any litigation arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all costs and expenses incurred, including its reasonable attorney's fees at all trial and appellate levels and post judgment proceedings.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the parties have executed this Agreement for Purchase and Sale of Real Property as of the dates indicated below:

PURCHASER:

CITY OF LAKE WORTH BEACH,
a Florida municipal corporation

Witness:

Print Name:

By: Pam Triolo, Mayor

Signed on: _____

Attest:

Approved as to Legal Sufficiency:

Deborah M. Andrea, City Clerk

Glen J. Torclvia, City Attorney

SELLER:

7 NORTH B, LLC

BY: Brookeville Associates, LLC.
Its; Manager

Witness:

Sandra Rhee Ross
Print Name: Sandra Rhee Ross

Bhavin Shah
Print Name: Bhavin Shah
Signed on: February 25, 2020
[Corporate Seal]

State of PENNSYLVANIA

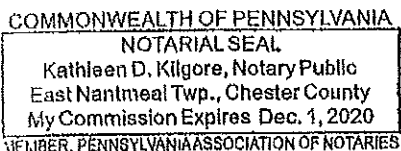
County of DELAWARE

The foregoing instrument was acknowledged before me this 25th day of February, 2020, by BHAVIN SHAH who is personally known to me or produced a photo I.D. as identification. He did not take an oath.

Notary Public:

(Notary Seal)

Kathleen D. Kilgore
Print Name: Kathleen D. Kilgore
My commission expires: 12/1/2020



ESCROW AGENT:

Accepted and Agreed to:

Weiss Serota Helfman Cole & Bierman, PL

By: _____ Signed on _____, 2019
David N. Tolces

EXHIBIT "A"
LEGAL DESCRIPTION

A portion of PCN: 38-43-44-21-15-501-0040

Lot 4 and 5, Block A, Palm Beach Farms Company Plat No. 2, (now known as Lake Worth), according to the Plat thereof recorded in Plat Book 2, pages 29 through 40, Public Records of Palm Beach County, Florida.

(SUBJECT TO VERIFICATION BY SURVEY TO BE OBTAINED BY PURCHASER)

EXHIBIT "B"
SETTLEMENT AGREEMENT

IN THE CIRCUIT COURT OF THE 15th JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CITY OF LAKE WORTH, FLORIDA,
a municipal corporation

Plaintiff,
vs.

1511 LUCERNE, LLC., a Florida Corporation;
et. al.,

Defendants.

CASE NO: 50-2018-CA-008086-XXXX-MB

FILED DISPOSITION FORM
UNRATIFIED Case 1094

THE CLERK IS DIRECTED TO CLOSE THIS FILE
UPON THE FINAL DISPOSITION

Settled by check Settled by cash
 Settled by check Settled by cash
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AGREED ORDER

THIS CAUSE having come before the Court on Plaintiff and Defendant's Mediation Settlement Agreement, the Court understanding counsels for the parties have reached an agreement, and the Court having considered the Mediation Settlement Agreement entered on July 18, 2019, and being otherwise fully advised in the premises, it is hereby:

ORDERED AND ADJUDGED:

1. With regard to the property located at 1511 Lucerne Avenue, Lake Worth Beach, Florida, Plaintiff shall accept \$6,320.00 plus administrative costs of \$1,000.00 as full and final settlement of all claims and liens on said property. Payment shall be made on or by closing, on or before February 3, 2021, or as otherwise provided by the Mediation Settlement Agreement attached hereto as *Exhibit "A"* (hereafter "MSA").
2. With regard to the property located at 1108 1st Avenue South, Lake Worth Beach, Florida. Plaintiff shall accept \$23,900.00 plus administrative costs of \$1,000.00 as full and final settlement of all claims and liens on said property. Payment shall be made on or by closing, on or before February 3, 2021, or as otherwise provided by the Mediation Settlement Agreement.
3. At the time of signing the Mediation Settlement Agreement, Defendant was, and is, in compliance with regard to the above-referenced properties.
4. WENJO Florida, LLC, a Florida limited liability company, successor to WENJO Partners, (hereafter "WENJO") will enter into a purchase and sale agreement with the City of Lake Worth Beach, Florida (the "City") in accordance with the provisions of the

MSA and both shall perform their requirements and obligations, all as set out in Paragraphs 5 through 12 of the MSA.

5. The Plaintiff shall file a Notice of Voluntary Dismissal with Prejudice no later than 10 days after the closing of the sale of the Subject Property.
6. Defendant shall pay to Plaintiff \$7,500.00 for attorneys' fees on or by closing, on or before February 3, 2021.
7. The Mediation Settlement is hereby accepted by the Court.
8. The Mediation Settlement may be amended by mutual agreement of both the Plaintiff and Defendant and WENJO.
9. The Court shall retain jurisdiction to enforce the terms of the Joint Stipulation of Settlement consistent with the terms of said document. *The case shall be closed for administrative purposes but may be reopened w/one fee in case of default.*
10. To the extent anything is not contained in these recitals herein or anything is contradicted by the mediation settlement agreement, the provisions of the mediation settlement agreement control.

DONE and ORDERED in Chambers, at Palm Beach County, Florida on this 29 day of October, 2019.



DONALD W. HAFELE
CIRCUIT JUDGE

Copies Furnished To:

Brian J Sherman, Esq. (bsherman@gorencherof.com)

Goren, Cherof, Doody & Ezrol, P.A., 3099 E. Commercial Blvd., Suite 200, Fort Lauderdale, FL 33308

John F. Romano, Esq. and Corey B. Friedman, Esq. (Service@RomanoLawGroup.com)

P.O. Box 21349, West Palm Beach, FL 33416

Robert Bulfin, Esq. (rbulfin@panzamaurer.com)

Panza, Maurer & Maynard, P.A., 2400 E. Commercial Blvd., Suite 905, Fort Lauderdale, FL 33308

Bernie Conko, Esq. (bac@cohenorris.com)

Cohen, Norris, Wolner, Ray, Telepman, Berkowitz & Cohen, 712 US Highway One, Suite 400, North Palm Beach, FL 33408

CASE NO.: 2018-CA-008086 MB

IN THE CIRCUIT COURT OF THE 15th JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CITY OF LAKE WORTH,
FLORIDA, a municipal corporation,

CASE NO.: 2018-CA-008086 MB

Plaintiff,

v.

1511 LUCERNE, LLC,
a Florida Corporation,

Defendant.

MEDIATION SETTLEMENT AGREEMENT

Plaintiff (also referred to as "City") and Defendant agree as follows, (subject to approval by the Lake Worth Beach City Commission):

1. With regard to the property located at 1511 Lucerne Avenue, Lake Worth Beach, Florida, Plaintiff agrees to accept \$6,320.00 plus administrative costs of \$1,000 as full and final settlement of all claims and liens on said property. Payment shall be made on or by closing, or as otherwise provided herein.
2. With regard to the property located at 1108 1st Avenue South, Lake Worth Beach, Florida, Plaintiff agrees to accept \$23,900.00 plus administrative costs of \$1,000 as full and final settlement of all claims and liens on said property. Payment shall be made on or by closing, or as otherwise provided herein.
3. Plaintiff agrees at the time of signing this Agreement, Defendant is in compliance with regard to the above-referenced properties.
4. Plaintiff and Defendant shall jointly inform the Court of this settlement, and request a stay of the proceedings within 30 days following approval of this Agreement by the City Commission. Plaintiff shall file a "Notice of Voluntary Dismissal with Prejudice" of the above-captioned litigation no later than 10 days after receipt of payment of the fines, fees, and liens as referenced herein.



5. WENJO Partners, hereinafter referred to as "WENJO," is the Owner of property located at 7 North B Street, Lake Worth Beach, Florida. In an effort to reach agreement with the City, Defendant has induced WENJO to become a part of this Mediation Settlement Agreement. As such, WENJO agrees to enter into a Purchase and Sale Agreement with the City as it relates to 7 North B Street. The Purchase and Sale Agreement shall be in a form substantially similar to the FAR-BAR Contract, and provide, among other things, a specific purchase price that shall be determined as follows:
 - a. The City shall order and provide to Defendant and WENJO an appraisal for the 7 North B. Street, 15 North B. Street, and 1602 Lake Avenue properties, all located in the City of Lake Worth Beach, Florida, as though the properties were unified, ("The Project Property") within 30 days of execution of this Agreement.
 - b. If Defendant/WENJO does not accept the appraisal obtained by the City, then Defendant/WENJO shall obtain its own appraisal of the Project Property within 30 days of receiving the City's appraisal.
 - c. If the appraisals differ by less than 15%, then the parties shall split the difference between the two appraisals, and the resulting amount will be included in the Purchase and Sale Agreement. If the appraisals differ by more than 15%, then the parties shall split the cost of a third appraisal from an appraiser who the City's and Defendant/WENJO's appraisers shall select within 15 days. The third appraiser must provide the appraisal within 15 days of selection. The three appraisals shall then be averaged together, and the average of the appraisals shall determine the minimum purchase price for the sale of the Project Property ("The Purchase Price").
 - d. Upon the sale of the Project Property, WENJO shall be entitled to receive an amount equal to the pro rata share of the Purchase Price based on the square footage of the 7 North B Street property in relation to the entire Project Property, less WENJO's pro rata share of all fees and costs incurred by the

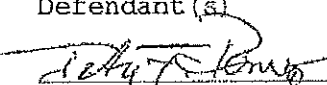
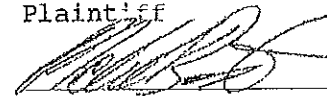
CASE NO.: 2018-CA-008086 MB

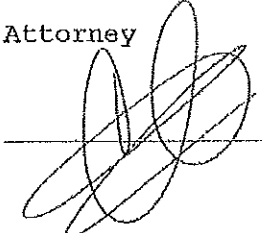

Lake Worth Beach Community Redevelopment Agency ("CRA") with respect to the sale of the Project Property.

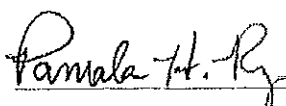
6. The closing on the sale of 7 North B Street shall be contingent on the approval of a site plan for a project ("Project") located on The Project Property by the City Commission and the expiration of all appeal periods.
7. The City shall be entitled to assign the Purchase and Sale Agreement to the CRA without having to obtain the consent of the Defendant/WENJO.
8. The Defendant/WENJO may assign its interest in the Purchase and Sale Agreement to a third party, subject to the consent of the City Commission and the CRA, such consent shall not be unreasonably withheld. The City Commission and the CRA shall consider the request for the assignment no later than sixty (60) days after receipt of the request for the assignment from Defendant/WENJO. The request for the assignment shall be provided to the City Manager with a copy to the City Attorney.
9. When the Purchase and Sale Agreement is assigned to the CRA, the CRA shall issue a Request for Proposals ("RFP") for the development and sale of The Project Property no later than 60 days after the execution of the Purchase and Sale Agreement by the City. If the Purchase and Sale Agreement is not assigned to the CRA, then the CRA's obligations contained in this Agreement shall become the City's obligation.
10. The RFP shall be awarded by the CRA to a qualified developer entity, and a contract between the developer and the CRA shall be executed on or before August 3, 2020.
11. If the CRA does not execute a Purchase and Sale Agreement with a qualified developer entity prior to August 3, 2020, or if the sale of the Project Property does not close on or before February 3, 2021, through no fault of Defendant or WENJO, then the City shall have the right of first refusal to purchase 7 North B Street from WENJO for the Purchase Price as calculated through the process contained herein.

CASE NO.: 2018-CA-008086 MB

12. If the City does not exercise the right of first refusal within ninety (90) days of the date that the RFP process terminates or fails, the Purchase and Sale Agreement shall terminate and WENJO shall retain ownership of 7 North B Street. In such event, the Defendant shall pay to Plaintiff the amounts stated herein as fines, administrative expenses, and attorneys fees no later than thirty (30) days following the expiration of the City's right of first refusal.
13. Defendant shall pay to Plaintiff \$7,500.00 for attorneys' fees. Payment shall be made on or by closing, or as otherwise provided herein.
14. This Agreement may be amended by mutual agreement of both the Plaintiff and Defendant.
15. The Court reserves jurisdiction to enforce the terms of this Settlement Agreement.

Defendant(s)	Date	Plaintiff	Date
	6-20-19		7/16/19

Attorney	Date	Attorney	Date
	7/15/19		7/10/19

City Attorney	Date
	7/16/19

On behalf of WENJO Partnership

Date


John Romano, Partner

6 JUL 2019

EXHIBIT "C"
PERSONAL PROPERTY
(TO BE PROVIDED IF ANY)

IN THE CIRCUIT COURT OF THE 15th JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CITY OF LAKE WORTH,
FLORIDA, a municipal corporation,

CASE NO.: 2018-CA-008086 MB

Plaintiff,

v.

1511 LUCERNE, LLC,
a Florida Corporation,

Defendant.

MEDIATION SETTLEMENT AGREEMENT

Plaintiff (also referred to as "City") and Defendant agree as follows, (subject to approval by the Lake Worth Beach City Commission):

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2. With regard to the property located at 1108 1st Avenue South, Lake Worth Beach, Florida, Plaintiff agrees to accept \$23,900.00 plus administrative costs of \$1,000 as full and final settlement of all claims and liens on said property. Payment shall be made on or by closing, or as otherwise provided herein.
3. Plaintiff agrees at the time of signing this Agreement, Defendant is in compliance with regard to the above-referenced properties.
4. Plaintiff and Defendant shall jointly inform the Court of this settlement, and request a stay of the proceedings within 30 days following approval of this Agreement by the City Commission. Plaintiff shall file a "Notice of Voluntary Dismissal with Prejudice" of the above-captioned litigation no later than 10 days after receipt of payment of the fines, fees, and liens as referenced herein.

5. WENJO Partners, hereinafter referred to as "WENJO," is the Owner of property located at 7 North B Street, Lake Worth Beach, Florida. In an effort to reach agreement with the City, Defendant has induced WENJO to become a part of this Mediation Settlement Agreement. As such, WENJO agrees to enter into a Purchase and Sale Agreement with the City as it relates to 7 North B Street. The Purchase and Sale Agreement shall be in a form substantially similar to the FAR-BAR Contract, and provide, among other things, a specific purchase price that shall be determined as follows:

- a. The City shall order and provide to Defendant and WENJO an appraisal for the 7 North B. Street, 15 North B. Street, and 1602 Lake Avenue properties, all located in the City of Lake Worth Beach, Florida, as though the properties were unified, ("The Project Property") within 30 days of execution of this Agreement.
- b. If Defendant/WENJO does not accept the appraisal obtained by the City, then Defendant/WENJO shall obtain its own appraisal of the Project Property within 30 days of receiving the City's appraisal.
- c. If the appraisals differ by less than 15%, then the parties shall split the difference between the two appraisals, and the resulting amount will be included in the Purchase and Sale Agreement. If the appraisals differ by more than 15%, then the parties shall split the cost of a third appraisal from an appraiser who the City's and Defendant/WENJO's appraisers shall select within 15 days. The third appraiser must provide the appraisal within 15 days of selection. The three appraisals shall then be averaged together, and the average of the appraisals shall determine the minimum purchase price for the sale of the Project Property ("The Purchase Price").
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Lake Worth Beach Community Redevelopment Agency ("CRA") with respect to the sale of the Project Property.

6. The closing on the sale of 7 North B Street shall be contingent on the approval of a site plan for a project ("Project") located on The Project Property by the City Commission and the expiration of all appeal periods.
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8. The Defendant/WENJO may assign its interest in the Purchase and Sale Agreement to a third party, subject to the consent of the City Commission and the CRA, such consent shall not be unreasonably withheld. The City Commission and the CRA shall consider the request for the assignment no later than sixty (60) days after receipt of the request for the assignment from Defendant/WENJO. The request for the assignment shall be provided to the City Manager with a copy to the City Attorney.
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- 12. If the City does not exercise the right of first refusal within ninety (90) days of the date that the RFP process terminates or fails, the Purchase and Sale Agreement shall terminate and WENJO shall retain ownership of 7 North B Street. In such event, the Defendant shall pay to Plaintiff the amounts stated herein as fines, administrative expenses, and attorneys fees no later than thirty (30) days following the expiration of the City's right of first refusal.
- 13. Defendant shall pay to Plaintiff \$7,500.00 for attorneys' fees. Payment shall be made on or by closing, or as otherwise provided herein.
- 14. This Agreement may be amended by mutual agreement of both the Plaintiff and Defendant.
- 15. The Court reserves jurisdiction to enforce the terms of this Settlement Agreement.

Defendant (s)

Date

Plaintiff

Date

John F. Romano 6/10/19

[Signature] 7/14/19

Attorney

Date

Attorney

Date

[Signature]

7/19/19

[Signature] 7/10/19

City Attorney

Date

Pamela H. Ry 7/16/19

On behalf of WENJO Partnership

Date

John F. Romano
John Romano, Partner

6 JUL 2019

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: May 5, 2020

DEPARTMENT: Legal

TITLE:

Consideration of settlement with Brenda Marie Velez-Martinez in the amount of \$65,000 (inclusive of attorney's fees)

SUMMARY:

This is a request to settle a lawsuit with Ms. Velez-Martinez for injuries she sustained in a motor vehicle accident in November 2018. If approved, the claimant will execute a general release in favor of the City.

BACKGROUND AND JUSTIFICATION:

This case arises out of a motor vehicle accident between former City employee Yvalon Perou and Brenda Marie Velez-Martinez ("Plaintiff") on November 13, 2018. Mr. Perou was a public services employee. Plaintiff's vehicle sustained significant damage during the accident, requiring her to be extracted because most of the damage was to her driver's side door. Plaintiff filed suit against the City and over the next year, she underwent chiropractic and orthopedic care and according to medical records, continues to seek pain management for her back and neck. Plaintiff's medical expenses total \$44,041.58 to date, which will increase with time.

On April 6, 2020, the parties participated in court ordered mediation, and a settlement agreement was entered into for \$65,000, which is inclusive of attorney's fees and costs. The settlement agreement is contingent upon City Commission approval. Settlement is recommended.

MOTION:

Move to approve the settlement with Ms. Velez-Martinez for \$65,000, in exchange for a complete release.

ATTACHMENT(S):

Fiscal Impact Analysis