



CONTRACT FOR PURCHASE AND SALE

STATE OF GEORGIA
GWINNETT COUNTY

THIS IS A CONTRACT for the purchase and sale of certain real estate by and between **ADOLFO DIAZ** (hereinafter called "Seller"), and the **CITY OF LAWRENCEVILLE, GEORGIA** (hereinafter called "Buyer") a Georgia Municipal Corporation.

In consideration of the amounts set forth herein, the mutual covenants herein contained, and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Agreement to Buy and Sell.

(a) Seller hereby agrees to sell and Buyer hereby agrees to buy approximately 1.38 +/- acres of property known as 450 Pine Tree Drive (Tax Parcel #5143 285) together with all rights, members, appurtenances and improvements thereto set forth herein. (the Property).

2. Purchase Price.

(a) The purchase price for the Property shall be TWENTY FIVE THOUSAND DOLLARS AND ZERO CENTS (\$25,000.00).

(b) The purchase price shall be paid in all cash at closing. Buyer shall receive credit for the earnest money paid hereunder.

3. Seller's Warranties and Representations.

(a) Seller hereby warrants and represents that to the actual knowledge of the Seller, without any independent investigation (which warranties and representations shall be effective as of the date of Closing) the following: That

- i) Seller has good, insurable and marketable title to the Property, free and clear of all liens, encumbrances and restrictive covenants other than zoning ordinances affecting said Property and recorded general utility easements, restrictions and covenants serving or affecting the Property.
- ii) there are no special assessments against or relating to the Property.
- iii) no goods or services have been contracted for or furnished to the Property which might give rise to any mechanic's liens affecting all or any part of the Property.

- iv) Seller has not entered into any outstanding agreements of sale, leases, options or other rights of third parties to acquire an interest in the Property other than disclosed herein.

Seller shall not further encumber the Property or allow an encumbrance upon the title to the Property or modify the terms or conditions of any existing leases, contracts or encumbrances, if any, without the written consent of Buyer. Buyer acknowledges that Seller may encumber the Property provided that the encumbrance contains a provision that the Property will be released free and clear of encumbrance at or before closing for an amount less than the Purchase Price.

- v) Seller has not entered into any agreements with any state, county or local governmental authority or agency which are not of record with respect to the Property, other than those approved in writing by Buyer.
- vi) there are no encroachments upon the Property.
- vii) Intentionally Deleted.
- viii) Seller has full power to sell, convey, transfer and assign the Property on behalf of all parties having an interest therein.
- ix) Intentionally deleted.
- x) Seller has not received any notice of violation or any laws, rules or regulations regulating hazardous materials or any request for information from any federal, state or local governmental authority concerning hazardous materials and hazardous materials contamination on the Property. The Property neither is currently on, nor has the Property ever been on, any federal or state "Superfund" or "Superlien" list.
- xi) the Property contains no burial ground, burial object or cemetery as defined in O.C.G.A. § 36-72-2 which would subject the Property to the provisions of the Abandoned Cemeteries and Burial Grounds Act (O.C.G.A. § 36-72-1 et seq.). There are no burial grounds, burial objects, cemeteries, sites or structures of historical significance located on the Property that development of the Property would be restricted or require any special approval.
- xii) the execution nor delivery of this Agreement or the consummation of the transactions completed by this Agreement will not (i) conflict with or result in a breach of the terms, conditions, or provisions of

or constitute a default under any agreement or instrument to which Seller is a party; or (ii) violate any restriction to which Seller is subject; or (iii) result in the creation of any lien, charge, or encumbrance on the Property.

The purchase of the Property is contingent upon the substantial accuracy of the Seller's material representations and warranties.

4. Inspection and Deliverables.

(a) For a period from the Effective Date of this Agreement through and until November 17, 2023, Buyer and Buyer's engineers, surveyors, agents and representatives shall have the right to go on the Property to inspect, examine and survey the same and otherwise do what is reasonably necessary to determine the boundaries of the Property and to make all necessary tests to verify the accuracy of the warranties of Seller with respect to the condition of the Property and to determine the suitability of the Property for Buyer's intended use; provided, however, that Buyer shall not be authorized to conduct a Phase II environmental study or any invasive test without the prior written consent of the Seller. To the extent permitted by law, if any, Buyer shall indemnify and hold Seller harmless from all losses, claims, damages and suits resulting from Buyer or Buyer's agents inspecting or testing the Property pursuant to this paragraph. This period shall be deemed the Inspection Period.

5. Objections to Title.

On or before November 17, 2023 Buyer shall deliver to Seller a statement of any objections to Seller's title and Seller shall have a reasonable period of time, not to exceed fifteen (15) days, to notify Buyer in writing which objections, if any, Seller intends to cure (it being acknowledged that Seller shall have no obligation to cure any objections). In the event that Seller fails or refuses to cure such objections prior to closing, Buyer may terminate this Agreement by providing written notice to Seller within ten (10) days of receipt of Seller's response notice, and Buyer recover the earnest money or waive the objections and proceed to close. Marketability of the title herein required to be conveyed by the Seller shall be determined in accordance with Georgia law as supplemented by the Title Standards of the State Bar of Georgia.

6. Closing.

(a) The purchase and sale hereunder shall be closed no later than December 15, 2023, time being expressly made of the essence of this Contract. The closing shall be conducted in Lawrenceville, Georgia, or such other place as may be agreed to by the parties. Seller may elect to have the transaction closed via an escrow arrangement reasonably suitable to the parties.

(b) At closing, Seller shall execute and deliver or cause to be delivered to Buyer the following original documents:

- i) A good and marketable limited warranty deed.
- ii) Owner's Affidavit and additional documents as may be required in such form as is necessary to enable the Buyer to remove any liens and parties in possession exceptions. The affidavit or such additional documents shall run to the benefit of the Buyer and Buyer's Attorney and/or Title Company, be in such form and content acceptable to Seller, Buyer and Buyer's Attorney and/or Title Company and contain without limitation the following information:
That:
 - a) there are no outstanding unrecorded contracts of sale, options, leases or other arrangements with respect to the Property to any person other than Buyer.
 - b) the Property is being conveyed unencumbered except for the Permitted Exceptions (listed in the title commitment or otherwise applicable to the Property), if any.
 - c) no construction or repairs have been made by Seller nor any work done to or on the Property by Seller which have not been fully paid for, nor any contract entered into, nor anything done the consequence of which could result in a lien or a claim of lien to be made against the Property.
 - d) there are no parties in possession of the Property being conveyed other than Seller.
 - e) there are no filings in the office of the Clerk of the Courts of Gwinnett County, nor in the office of the Secretary of State which indicate a lien or security interest in, on or under the Property which will not be released or terminated at Closing.
- iii) Affidavit in compliance with the Foreign Investment in Real Property Tax Act of 1980, as amended, affirming that the Seller is

not a "foreign person" as defined by the Internal Revenue Code.

iv) All other documents as may be reasonably required to be executed and delivered to complete this transaction as contemplated hereunder.

(c) Ad valorem taxes shall be prorated as of the date of closing.

(d) All closing costs involved in the purchase of the Property (other than attorney's fees incurred by Seller), including, without limitation, any transfer tax, shall be paid by Buyer.

7. Conditions to Closing.

The obligation of Buyer under this Agreement to purchase the Property is hereby expressly made subject to the truth and accuracy as of the date of this Agreement and as of the date of closing of each and every warranty or representation herein made by Seller, and the suitability of the inspections and tests set forth in Paragraph 4. If the results of the inspections and tests indicate any difficulty of Buyer to develop the Property, including rock, water, environmental hazards, hazardous materials, hazardous materials contamination, asbestos or other problems, then this Agreement shall be null and void and all earnest money shall be refunded to Buyer. Buyer must furnish Seller written notice of cancellation by the end of the Inspection Period if Buyer desires to cancel the contract based on this condition.

8. Earnest Money.

Contemporaneously with the execution of this Agreement Buyer has paid as Earnest Money the sum of FIVE THOUSAND DOLLARS (\$5,000.00). The Earnest Money shall be paid to the law firm of Pereira, Kirby, Kinsinger & Nguyen, LLP and held in escrow. At the closing hereunder all earnest money shall be applied against the purchase price provided herein. If Seller refuses to or cannot convey unencumbered marketable fee simple title to the Property as provided herein, or in the event any condition set forth herein is not met within the time provided, such condition not having been waived by Buyer, then said earnest money shall be returned to Buyer and this Contract shall terminate. Should Sellers refuse to close and Buyer desires to close, Buyer shall have the right to pursue specific performance. If the purchase and sale hereunder is not closed due to default hereunder by Buyer, the Earnest Money shall be paid to Seller as Seller's sole remedy as full and complete liquidated damages for such default. The parties acknowledge damages caused by the default of the Buyer would be difficult or impossible to ascertain and agree that the payment of the Earnest Money represents a fair and equitable remedy for the Seller.

9. Broker.

The Seller and Buyer hereby warrant and covenant that they do not have any real estate brokers or agents involved in this transaction representing either party. To the extent allowed by law, Buyer and Seller agree to indemnify and hold the other party harmless against any claim, suit, or action for a real estate brokerage commission as a result of their actions in the sale and

purchase of the Property, including reasonable attorney's fees and costs.

10. Notices.

Any notices required or permitted to be given under this Contract to Seller or to the Buyer shall be in writing, postage pre-paid and will be sent by fax transmission, overnight delivery by courier of choice or registered or certified mail to:

BUYER: City of Lawrenceville, Georgia
70 S Clayton St
P.O. Box 2200
Lawrenceville, Georgia 30046
Attention: Chuck Warbington, City Manager

Copy To: Pereira, Kirby, Kinsinger & Nguyen, LLP
P.O. Box 1250
Lawrenceville, GA 30046
Attention: Lawrenceville City Attorney
Email: fhartley@pkknlaw.com and lthompson@pkknlaw.com

SELLER: Aldofo Diaz
5515 Wake Forrest Run
Duluth, Ga 30097

11. Miscellaneous.

(a) Interpretation. In this Agreement, the neuter gender includes the feminine and masculine, and the singular number includes the plural, and the words "person" and "party" include corporation, partnership, individual, form, trust, or association wherever the context so requires.

(b) Attorney's Fees. In the event it becomes necessary for either Buyer or Seller to bring an action at law or other proceeding to enforce any of the terms, covenants or conditions of this Contract, the prevailing party in any such action or proceeding shall be entitled to recover its costs and expenses incurred in such action from the other party, including without limitations reasonable attorney's fees as determined by the court without a jury. As used herein, the term "prevailing party" shall mean as to the plaintiff, obtaining substantially all relief sought, and such term shall mean as to the defendant, denying the obtaining of substantially all relief sought by the plaintiff.

(c) Time of Essence. Buyer and Seller hereby agree that this Agreement was entered into with the understanding that time is of the essence.

(d) Severability. In the event any provision, or any portion of any provision, of this Contract shall be deemed to be invalid, illegal, or unenforceable by a court of competent

jurisdiction, such invalid, illegal or unenforceable provision or portion of a provision shall not alter the remaining portion of any provision or any other provision, as each provision of this Agreement shall be deemed to be severable from all other provisions.

(e) Inurement. This Agreement shall be binding upon and inure to the benefit of the successors and assigns, if any, of the respective parties hereto.

(f) Effective Date. The Effective Date of the Agreement shall be the date the last party signs a fully executed copy of the Contract for Purchase and Sale.

12. Modification of Contract.

No modification of this Agreement shall be deemed effective unless in writing and signed by the parties hereto, and any waiver granted shall not be deemed effective except for the instance and in the circumstances particularly specified therein and unless in writing and executed by the party against whom enforcement of the waiver is sought.

13. Entire Contract.

This Agreement constitutes the entire agreement between the parties for the purchase and sale of the Property. All terms and conditions contained in any other writings previously executed by the parties regarding the Property shall be deemed to be superseded.

14. Mutual Drafting.

Each party has participated in the drafting of this Agreement and the provisions of this Agreement shall not be construed against or in favor of either party.

15. Survival of Contract.

This Agreement shall merge into the documents executed at the closing, and any representations and warranties regarding title and right of possession of the Property shall not survive the closing.

16. Special Stipulations

(a) This Contract is contingent on the final approval of this Contract in a public meeting by the Buyer in accordance with the provisions of the Georgia Open Meetings Act and compliance with all purchase and sale procedures of the Buyer.

This Agreement is agreed to this
12 day of October, 2023.

ADOLFO DIAZ

By: 

Title: OCT - 12 - 2023

This Agreement is agreed to this
12 day of October, 2023.

CITY OF LAWRENCEVILLE, GEORGIA

By: 

Title: Cory Manager