# STAFF MEMO: FINANCIAL

**TO:** Honorable Mayor and City Council Members

**FROM:** Tom McKlveen, Parks & Recreation Director

DocuSigned by:
Tom McKlveen
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**DATE:** Submitted on April 18, 2024 for the Monday, April 22, 2024 Regular City Council Meeting

**AGENDA ITEM:** Consideration of a Land Acquisition Agreement Between the City of Milton and Crescent Communities, LLC F/K/A Crescent Communities II, LLC for Purchase of Realty of 21.38 Acres Located at 300 Deerfield Parkway (Parcel 22 528010470262) at a Purchase Price of $8,000,000.

## EXECUTIVE SUMMARY

The City of Milton has identified a parcel of land for acquisition to support the City's current and future active park needs. The parcel is located on Deerfield Parkway and appears to meet the acquisition criteria as outlined in the City of Milton Comprehensive Parks and Recreation Master Plan.

This agenda item contains a Land Acquisition Agreement with Crescent Communities, LLC, to purchase 21.38 acres of land located at 300 Deerfield Parkway at a purchase price of $8,000,000.

Included in the terms of the land acquisition contract is a due diligence period of 90 days. If the City of Milton deems the property fitting for the intended uses, the property's closing date will be scheduled no more than 30 days following the conclusion of due diligence.

**Purpose of the Due Diligence Period:**

The due diligence period serves as a critical phase in the acquisition process, during which we conduct comprehensive investigations to evaluate the feasibility, risks, and potential benefits associated with the proposed purchase. Specifically, our objectives during this period include:

1. **Property Inspection:** We will conduct thorough inspections of the parcel to assess their physical condition, environmental impact, and any existing infrastructural considerations.
2. **Legal and Financial Review:** Our legal and financial teams will examine the title deeds, zoning regulations, and any potential legal encumbrances associated with the properties. Additionally, we will evaluate the financial implications of the acquisition, including the purchase price, taxes, improvements, and ongoing maintenance costs.

3. **Community Impact Assessment:** We will analyze the potential impact of acquiring these parcels on the surrounding community, including considerations such as traffic patterns, environmental preservation, and compatibility with existing development plans.

**Incorporating Public Input:**
As stewards of the public trust, it is essential that we engage with our constituents to gather their feedback, concerns, and suggestions regarding the future use of this parcel. To facilitate this, we will schedule opportunities for public input, including meetings and/or online surveys to ensure that all stakeholders have the opportunity to voice their opinions and contribute to the decision-making process.

**DEPARTMENT RECOMMENDATION**
Staff recommends approval of the land acquisition agreement between the City of Milton and Crescent Communities, LLC.

**PROCUREMENT SUMMARY:**

**Purchasing method used:** Other (See Comment Above)
**Account Number:** 300-6110-541101000
**Requisition Total:** $7,268454.08

**Account Number:** 350-6110-541101000
**Requisition Total:** $731,545.92

**REVIEW & APPROVALS**

**Financial Review:** Karen Ellis, Finance Director
DocuSigned by:
45755D597160487...
**Legal Review:** Ken Jarrard, Jarrard & Davis, LLP
**Concurrent Review**: Steven Krokoff, City Manager
DocuSigned by:
Steven krokoff
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**ATTACHMENT(S)**

Land Acquisition Agreement between the City of Milton and Crescent Communities, LLC.

# AGREEMENT FOR SALE OF REALTY

**THIS AGREEMENT FOR SALE OF REALTY** (the "Agreement") is made and entered into this _____ day of _____, 2024, by and between **CITY OF MILTON**, a Georgia municipal corporation ("Buyer"), and **CRESCENT COMMUNITIES, LLC F/K/A CRESCENT COMMUNITIES II, LLC**, a Delaware limited liability company, or its permitted assignee (referred to herein as "Seller").

## AGREEMENT

1. Subject Property. The Buyer agrees to buy, and the Seller agrees to sell, all that tract of land containing a total of 21.37 acres, more or less, as more particularly described in Exhibit "A," attached hereto and incorporated herein by reference, and otherwise known as Fulton County Tax Parcel 22 528010470262; and including all of Seller's right, title and interest in and to any structures, fixtures and appurtenances attached thereto (hereinafter referred to as the "Property").

Prior to or contemporaneous with closing this transaction, Buyer shall have prepared a survey and associated plat of the Property by a licensed land surveyor and shall make same available for Seller's prior review and approval. The legal description attached hereto as Exhibit "A" shall be the legal description to be attached to the limited warranty deed to be delivered by Seller to Buyer pursuant to Section 7 hereof, and the legal description depicted on the final survey contemplated in this paragraph shall be the legal description to be attached to the quitclaim deed to be delivered by Seller to Buyer pursuant to Section 7 hereof.

2. Purchase Price. The purchase price of the Property shall be Eight Million and No/100 U.S. Dollars ($8,000,000.00) (the "Purchase Price").

3. Earnest Money. Within three (3) business days following the execution of this Agreement, Buyer will deliver to Seller an amount equal to One Hundred Thousand and No/100 U.S. Dollars (**$100,000.00**) as earnest money to be held by Seller ("Earnest Money") until the closing, which Earnest Money shall be applied as part payment of the Purchase Price of the Property at the time of closing. In the event Buyer terminates this Agreement on or before the expiration of the Due Diligence Period (as defined in, and in accordance with the terms of, Section 4), then the Earnest Money shall be returned to Buyer. From and after the expiration of the Due Diligence Period, the Earnest Money shall be non-refundable to Buyer (but shall remain applicable to the Purchase Price), except in the event of a default by Seller under this Agreement.

Upon execution of this Agreement, Seller shall provide a completed IRS Form W-9 (a form of which is attached hereto marked Exhibit "B") to Buyer to facilitate the processing of any and all payments hereunder, including the Earnest Money. Buyer's obligation to pay Earnest Money shall not arise until Buyer has received a completed IRS Form W-9 from Seller.

4. Due Diligence. The Buyer shall have a ninety (90) day due diligence period (the "Due Diligence Period") commencing on the Effective Date (as hereinafter defined). During the Due Diligence Period, the Buyer may enter the property and may conduct environmental testing, including but not limited to soil borings, and may otherwise generally inspect the Property, to include surveying same. Buyer shall have until the expiration of the Due Diligence Period to terminate this Agreement with or without cause by providing written notice to Seller on or before the expiration of the Due Diligence Period, and in the event of such termination on or before the expiration of the Due Diligence Period, Buyer shall receive a full refund of the Earnest Money whereupon neither party shall have any further rights or obligations under this Agreement except for those which expressly survive the termination hereof. At the conclusion of the Due Diligence

Period, the Buyer's right to terminate as described in this Section shall expire. Buyer shall procure, at Buyer's cost, a written title opinion establishing that Seller owns good, insurable, and marketable title (as defined in Section 5) to the Property, subject to the Permitted Exceptions (as hereinafter defined). Buyer, after examining said title opinion, shall notify Seller of any defects or unacceptable exceptions thereto at least ten (10) days prior to the end of the Due Diligence Period (the "Objection Notice"). Seller shall, within five (5) days after receipt of the Objection Notice, notify Buyer which objections, if any, that Seller will elect to cure; provided, however, (i) Seller shall have no obligation to cure any exceptions other than mortgages, deeds to secure debt, mechanics liens or judgments affecting the Property and caused by, through or under Seller (collectively, the "Monetary Encumbrances"), and (ii) Seller's failure to respond to such Objection Notice within such five (5) day period shall be deemed an election by Seller not to cure any such objections. In the event Seller does not elect to cure some or all of such objections, then Buyer shall have the right to terminate this Agreement on or before the expiration of the Due Diligence Period pursuant to third sentence of this Section and receive a full refund of the Earnest Money. In the event Buyer elects to proceed with this transaction by failure to terminate this Agreement on or before the expiration of the Due Diligence Period, then any objections which Seller elected (or is deemed to have elected) not to cure shall be deemed waived by Buyer. With the exception of Monetary Encumbrances, any matters of title or survey which Buyer does not object to or which Buyer waives (or is deemed to have waived) pursuant to the terms of this Section shall be deeded "Permitted Exceptions." It is agreed that such papers that may be legally necessary to carry out the terms of this Agreement shall be executed and delivered by the parties prior to closing.

5. Marketable Title. Seller agrees to furnish good, insurable, and marketable title to the Property. For the purposes of this Agreement, "good, insurable, and marketable title" shall

mean fee simple ownership which is: (i) free from all claims, liens, and monetary encumbrances of any kind or nature whatsoever other than the Permitted Exceptions; (ii) insurable by a reputable title insurance company at then-current standard rates under the standard form of ALTA owner's policy of title insurance with all standard or printed exceptions therein deleted (excluding the standard exception for taxes and assessments relating to the year of Closing and the standard exception for acreage) and without exception other than the Permitted Exceptions.

6. Warranty. The Seller hereby affirmatively warrants that it has no actual knowledge of any latent physical condition(s) or hazards(s) of, on or below the Property that will in any material way impede with or frustrate the reasonable use of the Property by Buyer as greenspace and a recreation park. No claim for a breach of any representation or warranty of a Seller under this Agreement shall be actionable or payable if the breach in question results from or is based on a condition, state of facts or other matter which was known to Buyer prior to Closing.

7. Closing Date. A closing shall be conducted within ten (10) days of the conclusion of the Due Diligence Period, which shall be conducted as an escrow-style closing through Holt Ney Zatcoff & Wasserman, LLP, as counsel for Seller. Title to the Property shall transfer at the time of closing. At the closing, the Seller shall deliver to the Buyer a Limited Warranty Deed to the Property using the legal description attached hereto as Exhibit A and conveying good, insurable, and marketable title to the Property, and all mineral and sub-surface rights, with the hereditaments and appurtenances, to the Buyer and its assigns, in fee simple, free and clear of all liens, encumbrances, or exceptions on all or any part of the Property, except for the Permitted Exceptions and easements, restrictions, and other exceptions of record. In addition, if requested by Buyer, Seller shall execute and deliver to Buyer a quitclaim deed to the Property using the legal description derived from Buyer's survey.

8. Taxes/Closing Costs. All taxes, assessments, and Monetary Encumbrances which are a lien against the Property and are due and payable at the time of conveyance to the Buyer shall be satisfied by the Seller. Real estate taxes which are a lien (but are not yet due and payable) will be prorated as of the date of closing. The Seller will pay the documentary revenue stamp tax or transfer, conveyance or recordation tax, assessment or charge, if any. Buyer shall be responsible for all costs associated with the title examination, title commitment, title policy, survey and Buyer's inspections, together with Buyer's counsel legal fees and expenses. Seller shall be responsible for its own legal fees and expenses associated with the Agreement.

9. Risk of Loss. All risk of loss or damage to the Property will pass from the Seller to the Buyer at closing. The Seller shall deliver possession of the Property to the Buyer at the time of closing.

THE SALE OF THE PROPERTY HEREUNDER IS AND WILL BE MADE ON AN "AS IS, WHERE IS" BASIS. SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY OR ANY OTHER MATTER WHATSOEVER EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT. BUYER IS A SOPHISTICATED BUYER WHO IS FAMILIAR WITH THE OWNERSHIP AND OPERATION OF REAL ESTATE PROJECTS SIMILAR TO THE PROPERTY, AND BUYER HAS HAD ADEQUATE OPPORTUNITY OR WILL HAVE ADEQUATE OPPORTUNITY PRIOR TO CLOSING (BUYER'S FAILURE TO SEND A TERMINATION NOTICE PURSUANT TO SECTION 4 SHALL CONSTITUTE AN ACKNOWLEDGMENT BY BUYER

THAT IT HAS HAD SUCH AN OPPORTUNITY) TO COMPLETE ALL PHYSICAL AND FINANCIAL EXAMINATIONS RELATING TO THE ACQUISITION OF THE PROPERTY HEREUNDER IT DEEMS NECESSARY, AND WILL ACQUIRE THE SAME SOLELY ON THE BASIS OF AND IN RELIANCE UPON SUCH EXAMINATIONS AND THE TITLE INSURANCE PROTECTION AFFORDED BY BUYER'S TITLE INSURANCE POLICY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER. ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER WITH RESPECT TO THE PROPERTY IS SOLELY FOR BUYER'S CONVENIENCE AND WAS OR WILL BE OBTAINED FROM A VARIETY OF SOURCES. SELLER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO (AND EXPRESSLY DISCLAIMS ALL) REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. SELLER SHALL NOT BE LIABLE FOR ANY MISTAKES, OMISSIONS, OR ANY FAILURE TO INVESTIGATE THE PROPERTY NOR SHALL SELLER BE BOUND IN ANY MANNER BY ANY VERBAL REPRESENTATIONS, APPRAISALS, ENVIRONMENTAL ASSESSMENT REPORTS, OR OTHER INFORMATION PERTAINING TO THE PROPERTY OR THE OPERATION THEREOF, FURNISHED BY SELLER OR BY ANY REAL ESTATE BROKERS, MEMBERS, PARTNERS, AGENTS, REPRESENTATIVES, TRUSTEES, AFFILIATES, DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES, SERVANTS OR AGENTS OF ANY OF THE FOREGOING, OR OTHER PERSONS OR ENTITIES ACTING ON BEHALF OF SELLER OR AT SELLER'S REQUEST (COLLECTIVELY, "SELLER RELATED PARTIES").

10. Right of Entry. The Buyer may enter upon the Property at reasonable times for surveying and other reasonable purposes related to this transaction from the date of execution of

this Agreement, through and including the time of delivery of possession of the Property to the Buyer by the Seller; provided that, prior to any such entry, (i) Buyer shall provide Seller with twenty-four (24) hours prior notice before such entry and Seller shall have the right to have a representative of Seller be present during such inspections, and (ii) Buyer and any consultant of Buyer shall maintain, at all times, liability insurance coverage in an amount not less than One Million and No/100 Dollars ($1,000,000.00) million per occurrence and Two Million and No/100 Dollars ($2,000,000.00) in the aggregate and naming Seller as an additional insured. This right of entry is in addition to those Due Diligence Period rights as identified in Section 4 above. The Buyer's entry upon the Property in accordance with this paragraph shall be undertaken in such a manner so as to not unreasonably interfere with Seller's ongoing operations or in such a manner as would do permanent or long-term damage to the Property. Buyer acknowledges that all entry onto the Property is at Buyer's sole risk, cost and expense. Notwithstanding anything to the contrary in this Agreement, Buyer shall, and hereby covenants and agrees to, repair any and all damage caused by the activities of Buyer or its agents on the Property to materially the same condition as it existed prior to such activities, and to indemnify, defend and hold Seller harmless from any actions, suits, liens, claims, damages, expenses, losses and liability caused by any such activities by Buyer or its appointed agents or independent contractors hereunder. The provisions of this Section 10 shall survive the termination or expiration of this Agreement.

11. Preservation of Property. During the term of this Agreement, and subject to Buyer's inspections pursuant to this Agreement, the Seller agrees that the Property shall remain as it now is until the delivery of possession of the Property by the Seller to the Buyer, and that the Seller will refrain from any use of the Property for any purpose or in any manner which would materially and adversely affect the Buyer's use and enjoyment of the Property in the future. In the event of

such actions, the Buyer may, without liability, refuse to accept the conveyance of title and receive a full refund of the Earnest Money, or the Buyer alternatively may elect to accept conveyance of title to the Property.

12. Default/Remedies/Specific Performance.

A. Default by Buyer: If Buyer fails to perform under this Agreement, including the failure to consummate the purchase of the Property under the terms stated in this Agreement, Seller shall provide Buyer with written notice thereof and Buyer shall have five (5) days from receipt of such notice to cure such default. If the default is not cured within such five (5) day period, Seller shall have the following exclusive remedy: Seller shall terminate this Agreement and, if such termination occurs after the conclusion of the Due Diligence Period, Seller shall also retain the Earnest Money as liquidated damages. It is specifically understood and agreed that payment of the Earnest Money to Seller, as liquidated damages, shall be Seller's sole and exclusive remedy hereunder, and Seller is hereby specifically waiving and relinquishing any and all other remedies at law or in equity. The parties acknowledge that the actual amount of the damages which Seller would sustain as a result of Buyer's breach of this Agreement is difficult or impossible to estimate, that the Earnest Money represents the parties' best estimate of Seller's damages in the event of such breach, that said stipulated sum is a reasonable pre-estimate of the probable loss resulting from such a breach, and that payment of the Earnest Money to Seller is not to be construed as a penalty or forfeiture. Following such termination of this Agreement by Seller, the parties shall have no further rights or obligations hereunder, except for those which expressly survive any such termination of this Agreement.

B. Default by Seller. If Seller fails to perform under this Agreement, Buyer shall provide Seller with written notice thereof and Seller shall have five (5) days from receipt of

such notice to cure such default. If the default is not cured within such five (5) day period, Buyer shall have the right either (i) to terminate this Agreement by providing written notice to Seller and receive a refund of the Earnest Money, whereupon neither party shall have any further rights, obligations or liabilities hereunder except those which expressly survive the termination hereof, or (ii) to require specific performance on the part of Seller and receive any attorneys' fees and expenses related to the enforcement of Buyer's rights under this Agreement, but shall have no other remedies at law or in equity. Buyer agrees that the remedies set forth in this Agreement are fair and equitable and Buyer agrees that it will not assert the lack of mutuality of remedies as a defense in the event of a dispute. Following such termination of this Agreement by Buyer, the parties shall have no further rights or obligations hereunder, except for those which expressly survive any such termination. The parties agree that in the event of a breach hereof by the Seller (i.e., the refusal to execute the deed at closing or to deliver possession of the Property to the Buyer at the appointed time), damages will be inadequate, and therefore the court having jurisdiction herein may award the Buyer specific performance in lieu of damages or any other remedies allowed by law.

13. Binding Effect. The agreements set forth herein are to apply to and bind the heirs, executors, administrators, successors, personal representatives and assigns of the Seller. Neither party shall assign this Agreement without the prior written consent of the other party; provided, however, Seller shall have the right to assign this Agreement to an affiliate controlling, controlled by or under common control with Seller (provided Seller shall also convey the Property to such affiliate at or prior to Closing).

14. Final Agreement. This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

15. Severability. If any paragraph, subparagraph, sentence, clause, phrase, or any portion of this Agreement shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this Agreement as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Agreement not held to be invalid. It is hereby declared to be the intent of the parties to provide for separable and divisible parts, and they do hereby adopt any and all parts hereof as may not be held invalid for any reason.

16. Governing Law. This Agreement shall be governed, construed and interpreted by, through and under the Laws of the State of Georgia, including but not limited to the Georgia Open Meetings Act (O.C.G.A. § 50-14-1 et seq.) and the Georgia Open Records Act (O.C.G.A. § 50-18-70 et seq.).

17. Public Meeting Requirement. In accordance with the Georgia Open Meetings Act, Buyer's decision to enter into this Agreement to acquire the Property must be made in an open (i.e., public) meeting where the identity of the Property and the terms of the acquisition are disclosed before the vote. See O.C.G.A. § 50-14-3(b).

18. Broker or Agent. Any broker or agent fees incurred by Seller in relation to this transaction shall be borne exclusively by the Seller. Seller and Buyer represent and warrant to each other that neither Seller nor Buyer has dealt with, consulted or engaged any third-party real estate broker, or agent in connection with this transaction, other than Major and Erroll, LLC, who represents Seller. Each party (an "Indemnitor") hereby agrees to indemnify and hold the other

party (the "Indemnitee") harmless from any liability, claim or demand, cost or expense, including reasonable attorneys' fees the Indemnitee may suffer or incur by reason of the claims of any real estate broker or agent who may claim to have dealt with, consulted or been engaged by Indemnitor in connection with this transaction. Notwithstanding anything contained herein to the contrary, this indemnity shall survive Closing or termination of this Agreement.

19. Corporate Seller Disclosures. Seller hereby represents and warrants to Buyer that (i) the Board of Managers of Seller consists of Chairman Brian Natwick, Atsushi Iwasaki, Ippei Ikebuchi, Yujiro Yoshizawa, Kevin Lambert, Jason LaBonte, and Toshihide Nagayama, and (ii) the sole owner of Seller is Sumitomo Forestry Company of America, Inc., a Washington corporation. Additionally, within thirty (30) days following the Effective Date, Seller shall deliver to Buyer such organizational documentation (e.g., articles of incorporation, bylaws, corporate resolutions, articles of organization, operating agreements, partnership agreements, certificates of trust, certificates of authority, etc.) as may be reasonably required regarding this transaction.

20. Counterparts/Facsimiles/PDF. To facilitate execution, this Agreement may be executed in as many counterparts as may be required; and it shall not be necessary that the signature of, or on behalf of, each party, or that the signatures of the persons required to bind any party, appear on one or more such counterparts. All counterparts shall collectively constitute a single agreement. Execution evidenced by facsimile signature and/or PDF signature shall be deemed an original for all purposes. This does not, however, and shall not excuse the improper execution by any party, representative of any party, any witness or notary public.

21. Notices. All notices, consents and other communications hereunder shall be in writing and shall be (i) personally delivered, (ii) sent by a nationally recognized overnight courier

service, (iii) sent by first class, registered or certified mail, return receipt requested, postage prepaid, or (iv) sent by emailed transmission with confirmation of sending, as follows:

(A) If to Seller, to the address stated below, or to such address as may have been furnished by Seller to Buyer in writing:

Crescent Communities, LLC (f/k/a Crescent Communities II, LLC)
601 S. Tryon Street, Suite 800
Charlotte, North Carolina 28202
Attention: Brendan Pierce / Eric Liebendorfer
Email: Bpierce@crescentcommunities.com /
Eliebendorfer@crescentcommunities.com

with copy to:

Holt Ney Zatcoff & Wasserman, LLP
100 Galleria Parkway, Suite 1800
Atlanta, Georgia 30339
Attention: Andrew H. Prussack, Esq. / Ryan C. Pulley, Esq.
Email: aprussack@hnzw.com / rpulley@hnzw.com

(B) If to Buyer, to the address stated below, or to such other address as may have been furnished by Buyer to Seller in writing:

City of Milton, Georgia
2006 Heritage Walk
Milton, Georgia 30004
Attention: Steve Krokoff
Email: steven.krokoff@miltonga.gov

with copy to:

Jarrard & Davis, LLP
222 Webb Street
Cumming, Georgia 30040
Attention: Ken Jarrard / Jeff Strickland
Email: kjarrard@jarrard-davis.com / jstrickland@jarrard-davis.com

Any such notice, request, consent or other communications shall be deemed received (i) at such time as it is personally delivered by hand, (ii) one business day after deposit with a courier delivery service, (iii) on the third business day after it is mailed, or (iv) upon sending by emailed transmission, as the case may be. Anything contained in this Agreement to the contrary notwithstanding, all notices pursuant to this Agreement, whether from Seller to Buyer or from Buyer to Seller, will be effective if executed by and sent by the attorney of the party sending such

notice. Buyer and Seller hereby agree that if a notice is given hereunder by counsel, such counsel may communicate directly in writing with all principals, as may be required to comply with the notice provisions of this Agreement.

22. Time is of the Essence/ Business Day. Time is of the essence with respect to the performance of each of the covenants and agreements under this Agreement. If any date or any period provided in this Agreement ends on a Saturday, Sunday or legal holiday, the applicable period shall be extended to the first business day following such Saturday, Sunday or legal holiday.

23. Attorneys' Fees. In the event that a party hereto engages attorneys to enforce its rights in connection with or related to this Agreement (including suits after closing which are based on or related to this Agreement), the prevailing party in any such action shall be entitled to receive from the non-prevailing party its reasonable attorneys' fees and costs actually incurred, and court costs.

(remainder of this page intentionally left blank)

(signature pages follow)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above (the "Effective Date"), which is the date a letter of intent with respect to this Agreement was approved by the City of Milton City Council.

SELLER:

**CRESCENT COMMUNITIES, LLC F/K/A CRESCENT COMMUNITIES II, LLC**, a Delaware limited liability company

By: _____
Name: Brendan Pierce
Title: President, Commercial

SIGNED, SEALED, AND DELIVERED
in the presence of:

_____
Witness

_____
Notary Public

TERI A. EDWARDS
Notary Public, North Carolina
Mecklenburg County
My Commission Expires
May 07, 2025

[NOTARY SEAL]

My Commission Expires: May 7, 2025

(signatures continue on following page)

BUYER:

**CITY OF MILTON, a Georgia municipal corporation**

By: _____
Peyton Jamison, Mayor

ATTEST:

_____
City Clerk

SIGNED, SEALED, AND DELIVERED in the presence of:

[CITY SEAL]

_____
Witness

_____
Notary Public

[NOTARY SEAL]

My Commission Expires:_____

# EXHIBIT A

## Subject Property Legal Description of Record

All that tract of land lying and being in Land Lots 1113, 1114 & 1047 of the 2nd District, 2nd Section of Fulton County, Georgia and being more particularly described as follows:

Commence at the southeast intersection of Georgia Highway #9 (80 foot right-of-way) and the southerly right-of-way line of Webb Road (60 foot right-of-way); thence along the southerly right-of-way line of Webb Road, run North 88 degrees 46 minutes 57 seconds East a distance of 464.27 feet to a point; thence leaving said right-of-way, run South 01 degrees 19 minutes 33 seconds East a distance 257.07 feet to the TRUE POINT OF BEGINNING; thence North 88 degrees 40 minutes 27 seconds East a distance of 180.00 feet to a point; thence North 01 degrees 19 minutes 33 seconds West a distance of 37.58 feet to a point; thence North 88 degrees 40 minutes 27 seconds East a distance of 170.00 feet to a point; thence South 01 degrees 19 minutes 33 seconds East a distance of 20.14 feet to a point; thence South 25 degrees 08 minutes 14 seconds East a distance of 625.59 feet to a point on the northwesterly right-of-way line of Deerfield Parkway (right-of-way varies); thence along the northwesterly, westerly and southwesterly right-of-way lines of Deerfield Parkway South 75 degrees 10 minutes 41 seconds West a distance of 402.13 feet to a point; thence continuing along the westerly right-of-way of Deerfield Parkway along a curve to the left for an arc length of 1196.53 feet with a radius of 762.83 feet, said arc being subtended by a chord of 1077.59 feet and chord bearing of South 30 degrees 14 minutes 38 seconds West to a point; thence leaving said right-of-way North 79 degrees 54 minutes 45 seconds West for a distance of 701.27 feet to a point; thence North 49 degrees 04 minutes 15 seconds West for a distance of 29.25 feet to a point; thence North 13 degrees 31 minutes 00 seconds East a distance of 292.28 feet to a point; North 46 degrees 21 minutes 53 seconds East a distance of 1334.37 feet to a point; North 01 degrees 19 minutes 33 seconds West a distance of 227.68 feet to a point and the TRUE POINT OF BEGINNING. Said tract contains 21.37 acres, more or less, and is as shown on Survey dated March 1, 2000, last revised May 22, 2000, prepared for Crescent Resources, Inc. and Chicago Title Insurance Company by Frontline Surveying & Mapping, Inc., under the certification and seal of Thomas Edward Peay, Jr., Georgia Registered Land Surveyor No. 2402, bearing Job No. 03852, which survey is incorporated herein by this reference and made a part of this description.

EXHIBIT B

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

# Request for Taxpayer Identification Number and Certification

▶ **Go to *www.irs.gov/FormW9* for instructions and the latest information.**

**Give Form to the requester. Do not send to the IRS.**

Print or type. See **Specific Instructions** on page 3.

**1** Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

**2** Business name/disregarded entity name, if different from above

**3** Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

**Note:** Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

**4** Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

*(Applies to accounts maintained outside the U.S.)*

**5** Address (number, street, and apt. or suite no.) See instructions.

Requester's name and address (optional)

**6** City, state, and ZIP code

**7** List account number(s) here (optional)

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN,* later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

**Social security number**

| | | | – | | – | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | |

**or**

**Employer identification number**

| | | – | | | | | | | |
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## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

**Sign Here** **Signature of U.S. person ▶** **Date ▶**

# General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments**. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9.*

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See* What is backup withholding, *later.*