

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (hereinafter the "Agreement") is made on this _____ day of _____, 2018 and entered into by and between the **DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY**, a Florida public body corporate and politic created pursuant to Section 163.356 F.S., or its successors and assigns (hereinafter the "SELLER") and **UPTOWN ATLANTIC, LLC**, a Florida limited liability company, its successors and assigns (hereinafter the "PURCHASER").

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 shall have the following meanings:

1.1 **Application Date** means that date which is three hundred sixty five (365) calendar days subsequent to the Effective Date by which the PURCHASER must submit applications for all governmental approvals (as defined herein) to the City of Delray Beach and any other governmental entity required to approve the Project.

1.2 **Approval Date** means that date which is no later than ____ days subsequent to the Application Date on which all governmental approvals including but not limited to the Site Plan approval, necessary for the development and construction of the Project, are issued to the PURCHASER by the applicable governmental authorities and any appeal period (which shall run if no appeal is filed within thirty (30) days) after the date of issuance with respect to such issuance has expired or, if appealed, such issuance to the PURCHASER is confirmed on appeal such that the Site Plan approval, conditional use approval, and any other approval excluding building permits necessary for the development and construction of the Project are final and not appealable.

1.3 **City** means the City of Delray Beach, a Florida municipal corporation.

1.4 **Closing** means the consummation of the transaction contemplated by this Agreement.

1.5 **Closing Date** means that date which is thirty (30) days from and after the Permit Date or such earlier date, if any, as is specified by written notice furnished by the PURCHASER to SELLER provided that such notice shall be furnished, if at all, not fewer than ten (10) days prior to the earlier date selected by the PURCHASER.

1.6 **Deed** means the special warranty deed which shall convey the Property from SELLER to PURCHASER.

1.7 **Earnest Money** means the sum of _____ (\$_____.00) Dollars, which sum shall be delivered from PURCHASER to Escrow Agent pursuant to Section 2.1 of this Agreement.

1.8 **Effective Date** means the date when the last one of the SELLER and PURCHASER executes this Agreement and delivers an unaltered counterpart hereof to the other party.

1.9 Escrow Agent means Goren, Cherof, Doody, & Ezrol, P.A., with offices at 3099 East Commercial Boulevard, Fort Lauderdale, Florida 33308; and 76 N.E. 5th Avenue, Delray Beach, Florida 33483.

1.10 Full Service Grocery Store means A retail operation affiliated with a regional grocery chain and consisting of no less than _____square feet of retail space offering to the general public but not limited to the sale of fresh fruits and fresh vegetables, dairy products meat products, frozen food and vegetables, bakery items and toiletries..

1.11 Governmental Approvals means all necessary governmental approvals to construct the Project (other than a building permit) to be obtained from any governmental entity that has jurisdiction over the development of the Project.

1.12 Inspection Period means the period of ninety (90) calendar days which commences on the Effective Date unless the expiration date ends on a Saturday, Sunday or legal holiday, in which case the expiration date shall be extended until the end of the next business day.

1.13 Permit Date means that date on which the last one of any and all required permits (including but not limited to demolition permits, site development permits, utility permits, mechanical, plumbing, electrical and such necessary permits, authorizations and approvals as are necessary to commence construction of the physical buildings within the Project) issued by all applicable governmental authorities in connection with the construction of the Project is issued to the PURCHASER and any appeal period with respect to such issuance has expired or, if appealed, such issuance to the PURCHASER is confirmed on appeal such that all such required permits are final and not appealable.

1.14 Project means the comprehensive redevelopment project proposed by the Purchaser consisting of the following:

- a) Three (3) mixed use buildings fronting West Atlantic Avenue consisting of a total of 50,830 square feet of retail space and 23,000 square feet of Class A office space;
- b) No less than One Hundred Twelve (112) multifamily residential units of which Thirty Nine (39) shall be located in townhouse-style structures; The number of residential units shall be determined at Site Plan submittal and shall be dependent on the acquisition of additional properties by PURCHASER.
- c) Twenty percent (20%) of the total multifamily residential units shall be set aside for below market workforce housing as defined in the City's workforce housing ordinance.
- d) A signed letter of intent from a full-service grocery store defined as: "A retail operation affiliated with a regional grocery chain and consisting of no less than 20,000 square feet of retail space offering to the general public but not limited to the sale of fresh fruits and fresh vegetables, dairy products meat products, frozen food and vegetables, bakery items and toiletries."
- e) **Local Inclusion and Participation Requirement:** Utilization of six (6) subcontractors/vendors who have their primary residence or registered physical business within the US Postal Zip Codes of 33444, 33445, and 33483 within the incorporated city limits of the City of Delray Beach, and what specific alternatives

for community participation will apply if the number of qualified candidates is not identified.

PURCHASER shall require its General Contractor to have the work performed by Subcontractors based upon their Principal Place of Business in keeping with the hiring US Postal Zip Codes outlined above; provided, however, that nothing contained herein shall require General Contractor to hire a Subcontractor from within the above-mentioned geographic areas that does not possess the necessary skills and qualifications required by such General Contractor for the scope of employment.

- f) **Local Inclusion and Participation Requirement:** Identify and qualify thirty (30) employees skilled and unskilled construction jobs with livable wages for at least 30 (thirty) local persons whose primary residence is in the following US Postal Zip Codes 33444, 33445, and 33483 within the incorporated city limits of the City of Delray Beach, Florida, and what specific alternatives for community participation will apply if the number of qualified candidates is not identified.

Compliance with the above standards shall be measured in terms of both total skilled laborers employed and total skilled man hours worked. The targeted Zip Codes shall not be deemed or construed to require Contractors to hire employees who do not comply with OSHA requirements, drug testing requirements, and insurance company requirements.

1.15 Property is a collective term which includes those certain parcels of real property situate, lying and being in Palm Beach County, Florida, more particularly described in **EXHIBIT A** attached hereto and made a part hereof, together with all improvements thereon, together with all of the right, title and interest of the SELLER in and to any site plans, site plan approvals, development plans, specifications, engineering drawings, impact fee credits, if any, and all other related matters and things owned by the SELLER which relate to said Property; it being the intent of the SELLER to sell, transfer, set over unto and convey to the PURCHASER all interests of the SELLER of whatsoever kind, type, nature, description or characterization in and to the Property, free and clear of all liens, claims, interests, and encumbrances or possible liens, claims, interests, or encumbrances of whatsoever kind, type, nature, description or characterization, including, without limitation, the following, to-wit:

- a) All buildings and improvements located on the Property;
- b) All right-of-ways, alleys, 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;
- d) To the extent transferable, all licenses, permits, approvals, and other governmental authorizations relating to the operation use or occupancy of the Property (including those all licenses, permits, approvals, and other governmental authorizations obtained by PURCHASER hereunder) and in effect as of the Closing Date and all contracts and leases, if applicable, with respect to the Property;

- e) The conveyance also includes any right to any unpaid award relative to the Property to which the SELLER may be entitled: (1) due to taking by condemnation of any right, title or interest of the SELLER and, (2) for any damage to the Property due to change of grade of any street or highway. SELLER shall 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;
- f) All development rights, if any, including but not limited to entitlements, water and sewer connection rights, air rights, mineral rights, any impact fee credits previously paid.

1.16 Relocation Plan. On or before the Application Date the PURCHASER shall prepare and submit to the SELLER a Relocation Plan for the tenants presently holding a leasehold interest in a portion of the Property. The existing building on the Project Site located at 700 W. Atlantic Avenue ("700 building") is currently occupied by four (4) local small businesses who are in possession of four (4) separate leaseholds. PURCHASER will be required to temporarily accommodate and relocate all four (4) tenants during the construction phase of the development project. Two (2) of the four (4) tenants (Klein's Multi-Services & Blanc Fresh Cut Barber Shop) each currently occupies 790 square feet and the SELLER desires that these two (2) tenants are incorporated into the final development at the Project Site. PURCHASER shall also provide in the Relocation Plan for the relocation of the other two (2) businesses in the 700 building.

1.17 Public Benefits Commitment. As an inducement to the SELLER to enter into this Agreement for the benefit of the Project, and in the interest of furthering the goals of the SELLER and PURCHASER (for itself and its successors and assigns, if any), PURCHASER and SELLER shall enter into at closing a Public Benefit Agreement which shall address and include the following:

- a) Local Inclusion and Participation Requirement: subcontractors/vendors and skilled and unskilled construction laborer.
- b) Living Wage Rates for Skilled and Unskilled Construction Laborers: PURCHASER shall require its Contractors performing work in connection with the Project to pay a minimum hourly wage rate and health benefits (the "Living Wage"). The PURCHASER shall require that each Contractor include the same Minimum Hourly Wage Rates in all contracts and in all subcontracts entered into by such Contractors, which will require that each Contractor stipulate and agree that they will pay the same Minimum Hourly Wage Rates, subject to adjustment.

- c) Job Fairs & Employment Advertising:

Construction Job Opportunities. PURCHASER shall broadly disseminate information regarding job opportunities for local area residents and businesses to allow them to participate in construction of the Project, including, without limitation, hosting at least two (2) job fairs within the City prior to the commencement of the Project.

Permanent Job Opportunities. PURCHASER shall broadly disseminate information regarding job opportunities for local residents and businesses post-construction, with respect to the Project, including newly generated

trade and service related jobs upon completion, including, without limitation, hosting at least one (1) job fair within the City upon Completion.

- d) Collaboration with local organizations – City of Delray Beach Office of Economic Development, West Atlantic Redevelopment Coalition, and CareerSource Palm Beach County.

1.18 Penalties for Non-Compliance with Public Benefits Commitment: shall be set forth in the Public Benefit Agreement.

1.19 Job Monitoring for Public Benefits Commitment: Prior to the issuance of any construction permits for the Project, a firm shall be selected and retained by the SELLER to review the Participation Reports submitted by the PURCHASER and audit the same, as well as audit PURCHASER'S compliance generally with the above-listed community benefits. PURCHASER shall be provided the terms of employment for the firm selected by the PURCHASER for PURCHASER'S review and approval, which approval shall be deemed granted if a written objection to such proposed terms is not submitted to the Executive Director of the SELLER within fifteen (15) days of transmittal of the proposed terms to PURCHASER. PURCHASER shall reimburse the PURCHASER for the costs incurred by it with respect to the retention of the firm for the monitoring of the aforementioned community benefits, which reimbursement by PURCHASER shall not exceed \$_____. This section 1.17 shall survive closing.

1.20 Site Plan means an illustrative site plan which includes, as a minimum, the location of the proposed mixed use buildings, parking lots, garage, office space, full service grocery store, and retail space, and a number of multifamily residential units between _____ (number of units) and _____ (number of units) which constitute the Project and the public streets surrounding the Property and which illustrates the proposed off street parking, sidewalks and major landscape features as such plans may be modified from time to time and approved by SELLER.

1.21 Termination Date means that date which is _____ calendar days (____) subsequent to the Effective Date. The failure of Purchaser to close the transaction contemplated herein on or before _____ shall allow the Seller to terminate this Agreement and retain all Earnest Monies. The Parties shall have no further obligation hereunder.

1.22 Other Definitions. The terms defined in 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.

Subject to the provisions of this Agreement, SELLER hereby agrees to sell the Property to PURCHASER, and PURCHASER hereby agrees to purchase the Property from SELLER for the total purchase price of _____ and 00/100 (\$_____.00) Dollars, upon and subject to the terms and conditions set forth herein ("Purchase Price").

2.1 Earnest Money. PURCHASER, concurrently with the final approval of this

Agreement, shall deposit the Earnest Money with GOREN, CHEROF, DOODY AND EZROL, P.A. (hereinafter the "Escrow Agent") the sum of _____ and 00/00 (\$_____.00) Dollars (Earnest Money), which Earnest Money shall be placed in an interest bearing escrow account by the Escrow Agent. At closing, a copy of the closing statement signed by the SELLER and the PURCHASER shall be conclusive evidence of the SELLER's right to receive the Earnest Money. Except in the event of PURCHASER's default hereunder, the interest on the Earnest Money shall inure to the benefit of PURCHASER.

2.2 Balance of Purchase Price. PURCHASER shall pay the Purchase Price to SELLER net of applicable prorations at Closing by readily negotiable funds drawn on a local financial institution pursuant to the terms of this Agreement or by wire transfer to an account identified in writing by SELLER.

3. INSPECTIONS.

PURCHASER shall, during the ninety (90) calendar day Inspection Period, determine (a) whether or not the Property is satisfactory for PURCHASER's purposes in PURCHASER's sole and absolute discretion, and (b) whether or not the Property has adequate services available and that all federal, state, county and local laws, rules and regulations have been and are currently being complied with relative to the Property.

During the Inspection Period, it shall be the responsibility of the PURCHASER to 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 Property and installed to the Property lines. Furthermore, it shall be the responsibility of the PURCHASER to determine whether or not the existing zoning classification of the Property will permit PURCHASER to construct, develop and utilize the Property as the Project, as identified in the Response to the RFP issued by the SELLER. At all times during the Inspection Period, PURCHASER and its agents shall be provided with reasonable access during normal business hours to the Property for purposes of on-site inspections. The scope of the inspections shall be determined by the PURCHASER as deemed appropriate under the circumstances. In the event that any inspections and any review of documents conducted by the PURCHASER relative to the Property during the Inspection Period prove unsatisfactory to the PURCHASER, at its sole and absolute discretion, PURCHASER shall be entitled to terminate this Agreement by providing written notice by mail, overnight delivery service, or by facsimile to SELLER and/or SELLER'S counsel, at any time prior to 5:00 p.m. Florida time on that date which is the second business day next following the expiration of the Inspection Period and receive an immediate refund of the Earnest Money plus interest earned thereon. In the event that PURCHASER fails to provide a timely notice of termination, this Agreement shall not terminate, and the PURCHASER and SELLER shall proceed to Closing as set forth herein. PURCHASER does hereby agree to hold SELLER harmless during inspections conducted on the Property.

During the Inspection Period, SELLER shall provide to PURCHASER reasonable access to any appraisals, environmental reports (Phase I and Phase II, if any), surveys, abstracts and title policies and all other studies, reports, plans or other documents relating to the Property that SELLER may have in its possession or is subject to its control relating to the Property and SELLER shall, without additional consideration, consent to an assignment of such items to PURCHASER or PURCHASER's lending institution and shall provide true and correct copies of all leases in effect with respect to the Property.

PURCHASER's right to inspect and enter onto the Property during the Inspection Period

is expressly conditioned upon PURCHASER's covenant to protect SELLER from the filing of any liens against the Property. In the event that any claims of lien are filed against the Property as a result of work performed or requested by PURCHASER, the PURCHASER shall either pay the sum claimed by the lienor or bond such claim of lien in the manner permitted by law within five (5) business days after PURCHASER receives written notice of the existence of the lien.

Except as otherwise provided herein, all inspections shall be conducted and completed during the Inspection Period. In the event PURCHASER elects not to terminate this Agreement as provided herein, PURCHASER may continue to have access to the Property after the expiration of the Inspection Period upon reasonable notice to SELLER.

4. SELLER'S REPRESENTATIONS. To induce PURCHASER to enter into this Agreement, SELLER makes the following representations, all of which, to the best of its knowledge, in all material respects and except as otherwise provided in this Agreement (i) are now true, and (ii) shall be true on the Closing Date:

4.1 At all times prior to Closing, SELLER shall keep the Property free and clear of any construction, 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.

4.2 SELLER has no actual knowledge of pending or contemplated condemnation proceedings affecting the Property or any part thereof.

4.3 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 or other entity which would affect the use, occupancy or value of the Property or any part thereof or which would otherwise relate to the Property, other than a quiet title action to be initiated by the City.

4.4 No individual, general or limited partnership, limited liability partnership or company, corporation, trust, estate, real estate investment trust, association or any other entity has or is entitled to possession of any part of the Property.

4.5 No transfer of development rights (TDR), within the meaning of Section 4.6.20 of the Land Development Regulations as set forth in the Delray Beach Code of Ordinances, with respect to the Property have been assigned, transferred, leased or encumbered in any manner whatsoever.

4.5.1 SELLER is not a party to any unrecorded contracts, restrictions, easements, leases, option contracts, rights of first refusal or contracts with respect to the Property, nor shall SELLER enter into any of the foregoing from and after the date of execution of this Agreement without the written consent of PURCHASER.

4.5.2 To the best of SELLER's knowledge, SELLER has not received any written notice claiming that the Property or any method of operation of the Property is in violation ("Violation") of any applicable law, ordinance, code, rule, order, regulation or requirement of any governmental authority, the requirements of any local board of fire underwriters (or other body exercising similar functions) and SELLER further represents that the Property shall be delivered free of any Violation at Closing.

4.5.3 SELLER shall not encumber the Property, file any application to change the current zoning or land use of the Property unless requested by PURCHASER, or enter into any contracts or leases relating to the Property unless subject to termination provisions.

4.5.4 SELLER shall comply with all of the obligations of SELLER under all leases relating to the Property, the service agreements and all other agreements and contractual arrangements by which SELLER and/or the Property are bound. SELLER shall maintain all existing insurance coverage in full force and effect through Closing and shall pay all required premiums and other charges.

4.6 REAL PROPERTY SOLD AS IS, WHERE IS, RELEASE: Except as otherwise provided herein, SELLER makes and shall make no warranty regarding the title to the Property except as to any warranties which will be contained in the Deed and in the other instruments to be delivered by SELLER at Closing in accordance with this Agreement, and SELLER makes and shall make no representation or warranty either expressed or implied (except as specifically set forth in the Agreement) regarding condition, operability, safety, fitness for intended purpose, use, governmental requirements, development potential, utility availability, legal access, economic feasibility or any other matters whatsoever with respect to the Property. PURCHASER specifically acknowledges and agrees that SELLER shall sell and PURCHASER shall purchase the Property on an "AS IS, WHERE IS, AND WITH ALL FAULTS" basis and that, except for the SELLER'S representations and warranties set forth in this Agreement, PURCHASER is not relying on any representations or warranties of any kind whatsoever, express or implied, from SELLER, its agents, officers, or employees, as to any matter concerning the Property including, without limitation, any matter relating to (i) the quality, nature, adequacy, or physical condition of the Property; (ii) the quality, nature, adequacy or physical condition of soils, fill, geology, or any groundwater; (iii) the existence, quality, nature, adequacy or physical condition of utilities serving the Property; (iv) the development potential, income potential, expenses of the Property; (v) the Property's value, use, habitability, or merchantability; (vi) the fitness, suitability, or adequacy of the Property for any particular use or purpose; (vii) the zoning or other legal status of the Property; (viii) the compliance of the Property or its operation with any applicable codes, laws, rules, regulations, statutes, ordinances, covenants, judgments, orders, directives, decisions, guidelines, conditions, or restrictions of any governmental or quasi-governmental entity or of any other person or entity, including without limitation, environmental person or entity, environmental laws; (ix) the presence of Hazardous Materials, as defined herein, or any other hazardous or toxic matter on, under or about the Property or adjoining or neighboring property; (x) the freedom of the Property from latent or apparent defects; (xi) peaceable possession of the Property; (xii) environmental matters of any kind or nature whatsoever relating to the Property; (xiii) any development order or agreement, or (xiv) any other matter or matters of any nature or kind whatsoever relating to the Property.

As used herein, the term "Hazardous Materials" means (i) those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances" or "solid waste" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §960 et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., the Hazardous Materials Transportation Act, 49 U.S. C. §1801 et seq., or the Clean Water Act, 33 U.S.C. §1321 et seq., as amended, and in the regulations promulgated pursuant thereto; (ii) those substances listed in the United States Department of Transportation Table (49 CFR §172.101) or by the Environmental Protection Agency as "hazardous substances," "hazardous materials," "toxic substances" or "solid waste", (iii) such other substances, materials and wastes which are regulated, or classified as hazardous or toxic, under applicable local, state or federal laws, ordinances or regulations; and any material, waste or substance which is petroleum, asbestos, polychlorinated, biphenyls, flammable explosives or radioactive materials.

Notwithstanding the foregoing, from and after the Effective Date, SELLER shall maintain the Property and shall cause the Property to be maintained in a manner generally consistent with past practices and in a manner fully compliant with applicable law and the SELLER shall reasonably endeavor to prevent the introduction of any Hazardous Materials onto the Property and the SELLER shall reasonably endeavor to prevent the release of any Hazardous Materials onto the Property, and the PURCHASER shall have and is hereby granted the right to enter upon the Property to confirm the compliance of the SELLER with the foregoing duties and obligations. Any notices received by SELLER concerning an environmental condition, condemnation, code violation or other matter concerning the Property shall promptly be sent to PURCHASER.

4.7 SELLER has full power and authority to enter into this Agreement and to assume and perform its obligations hereunder.

4.8 All of the representations, warranties, and covenants of SELLER contained in this Agreement or in any other document delivered to PURCHASER 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 on the Closing Date.

5. EVIDENCE OF TITLE.

5.1 Title to the Property. SELLER shall convey the Property, including all easements and restrictions of record with the exception of the encroachment(s), if any, to PURCHASER at Closing by delivery of the Deed. PURCHASER shall, during the Inspection Period, secure a title insurance commitment issued by a title insurance underwriter insuring PURCHASER's title to the Property. 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 ten (10) days from the date of receiving the title commitment to examine said commitment. If PURCHASER objects to any exception to title as shown in the title commitment, PURCHASER shall, within ten (10) days of receipt of said commitment, notify SELLER in writing specifying the specific exception(s) to which it objects. Any objection(s) of which PURCHASER has so notified SELLER shall be cured by SELLER so as to enable the removal of said objection(s) from the title commitment within one hundred twenty (120) days after PURCHASER has provided notice to SELLER. Within twenty (20) days after the expiration of SELLER'S time to cure any objection, SELLER shall send to PURCHASER a notice in writing (the "Cure Notice") stating either (i) that the objection has been cured and, in such case, enclosing evidence of such cure, or (ii) that SELLER is unable to cure such objection despite the good faith efforts of the SELLER to effectuate the cure. If SELLER is unable to cure all objections within the time period set forth in the preceding sentence despite the good faith efforts of the SELLER, then PURCHASER may (a) terminate this Agreement by written notice to the SELLER within thirty (30) days after receipt of a Cure Notice specifying an uncured objection, in which event all instruments and monies held by the Escrow Agent, together with interest thereon, shall be immediately returned to PURCHASER; or (b) subject to the provisions set forth below, proceed to close the transaction contemplated herein despite the uncured objection. The Property does not contain the alleys located within the Property.

5.2 Survey and Legal Description. During the Inspection Period, PURCHASER shall order: (i) a current survey ("current" is defined to be certified within ninety (90) days of the Effective Date), prepared by a registered land surveyor or engineer licensed in the State of Florida

showing the boundaries of the Property, and the location of any easements and other matters as reflected on Schedule B II of the title commitment thereon and certifying the number of acres (to the nearest one thousandth acre) of land 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, conditioned or delayed), shall be the legal description used in the Deed. The survey shall be certified to SELLER, PURCHASER and the title insurance company issuing the title insurance.

In the event the survey shows any material encroachments, strips, gores, or any portion of the land non-contiguous to any other portion of the Property or any other matter materially affecting the intended use of the Property or marketability of title to the Property (any such matter is herein called a "Survey Objection" and treated as a title defect), PURCHASER shall have a period of ten (10) days after receipt of the survey by PURCHASER within which to approve or disapprove any survey objection and to give notice to SELLER of any disapproval thereof indicating in reasonable detail the nature and reasons for PURCHASER's objection. In the event PURCHASER provides a notice of disapproval of a survey objection to SELLER, the rights and obligations of the parties respecting such objections shall be governed by Section 5.1 hereof such that the parties shall have the same rights and objections as though such survey objection objected to was a new exception to title which was discovered and objected to within the contemplation of Section 5.1. The area described as alleyways shall not be subject to a title objection survey objection.

6. RISK OF LOSS.

Risk of loss or damage from fire, other casualty, or both, is assumed by SELLER until the Deed is delivered by SELLER to PURCHASER. In the event any portion of the Property is destroyed by fire or other casualty then the PURCHASER shall proceed to close the transaction contemplated herein. In the event the damage results in increased costs to PURCHASER relating to demolition costs, Hazardous Material abatement costs, or both, as determined during the Inspection Period, the insurance proceeds equal to the amount of said increase in costs shall be paid to the PURCHASER.

7. TRANSFER OF TITLE SUBJECT TO.

Except as otherwise set forth, the Property shall be conveyed subject only to water lines, sanitary sewer, drainage, gas distribution, electrical and telephone easements of record. It shall be the sole and exclusive responsibility of the PURCHASER to relocate any utilities and any such relocation costs and expenses shall be borne by the PURCHASER. PURCHASER shall, in the event of any relocation of the utilities, provide to the City or the appropriate service provider, easements for the relocated utilities. Adjustments shall be based upon the maximum discount available.

8. ADJUSTMENTS AT CLOSING.

The following are to be apportioned pro-rata to the Closing Date:

All utilities, security deposits, rental payments, electric, non-delinquent taxes and assessments (real property and personal property), and water and sewer charges.

9. CLOSING DATE AND PLACE.

The Closing shall occur no later than that date which is thirty (30) calendar days from and after the Permit Date and the Closing shall be held in the offices of the SELLER'S attorney.

10. TERMINATION.

In the event the closing does not occur solely because of PURCHASER's failure to close on or before thirty (30) calendar days from and after the Permit Date but in any event no later than the Termination Date as defined herein, the SELLER shall have the right to terminate this Agreement and retain all the Earnest Money plus any interest earned, and each Party shall be released from any and all liability to one another.

11. DEFAULT BY PURCHASER.

The PURCHASER shall be deemed to be in default hereunder only upon the occurrence of any of the following events, to-wit:

- (a) In the event that PURCHASER fails to file with the City, or any other governmental entity that an approval is required on or before the Application Date, an application for all necessary government approvals with the necessary documentation required by the governmental entities and an application for conditional use approval necessary for the development and construction of the Project;
- (b) In the event the PURCHASER fails to obtain all necessary approvals on or before the Approval Date (because of PURCHASER's actions or inactions).
- (c) In the event that the PURCHASER fails to close the transaction on or before the Termination Date and such failure to close is not otherwise attributable to a default by SELLER;
- (d) Failure to provide a financial commitment letter as required by Section 19.1 herein.
- (e) Failure to provide the Letter of Credit or Performance Bond as required by 19.2 herein.

If PURCHASER defaults in the performance of any of the performances to which reference is made in the immediately preceding subsections (a) through (c), both inclusive, and PURCHASER fails to remedy such default within thirty (30) days after written notice by SELLER to PURCHASER of such default(s) (the "Default Notice"), SELLER shall have, as its sole and exclusive remedies for such default the option to: (a) demand the payment of the Deposit, if any, and all interest earned thereon as agreed upon liquidated damages, and upon the receipt thereof, this Agreement shall become null and void, and neither party shall have any claims of whatsoever kind, type, nature or description against the other party, or (b) pursue an action against the PURCHASER for specific performance of this Agreement.

12. DEFAULT BY SELLER.

If the SELLER shall fail or refuse to consummate the transaction in accordance with the terms and provisions of this Agreement, PURCHASER shall have, as its sole and exclusive remedy for such default, the option to: demand the payment of the Earnest Money and all interest earned thereon, and upon the receipt thereof, this Agreement shall become null and void, and

neither party shall have any claims of whatsoever kind, type, nature or description against the other party.

13. BROKER.

a) SELLER represents that it has not listed the Property for sale or otherwise entered into any agreement for the payment of a real estate brokerage commission regarding the sale of the Property with any broker or any other person entitled to be paid a brokerage commission in accordance with Florida law.

b) PURCHASER represents that it has not employed, or otherwise used, any broker or any other person entitled to be paid a brokerage commission in accordance with Florida law in conjunction with Purchaser's interest in purchasing the Property.

14. CLOSING COSTS.

Upon Closing, PURCHASER shall be responsible for the costs and expenses related to the recording of the Deed. SELLER shall pay for documentary stamps affixed to the Deed. PURCHASER, at its own expense, may conduct and obtain an Environmental Site Assessment Phase I and Phase II (if so mandated by the Phase I) of the Property. All costs and expenses related to the development of the Property shall be borne by PURCHASER.

15. PURCHASER'S WARRANTIES.

PURCHASER hereby acknowledges and warrants to the best of its knowledge that all of the following are true and correct as of Closing:

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

(b) The execution and delivery of this Agreement and the performance by PURCHASER of the obligations hereunder have been duly authorized by the PURCHASER as may be required, and no further action or approval is required in order to constitute this Agreement as a binding obligation of the PURCHASER.

(c) 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 organizational documents of PURCHASER and do 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 terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which PURCHASER is a party.

All of the representations, warranties and covenants of PURCHASER contained in this Agreement shall be true and correct in all material respects and not in default at the time of Closing, just as though they were made on the Closing Date.

PURCHASER shall indemnify, hold harmless and defend SELLER against all claims, demands, losses, liabilities, costs and expenses, including attorney's fees, imposed upon or accruing against SELLER as a result of the representations contained in this Section 14 not being true and correct in all material respects.

16. RIGHT TO REPURCHASE.

SELLER expressly reserves the right at its sole option and election to repurchase the

Property for the same Purchase Price as paid by PURCHASER to SELLER hereunder. It is expressly agreed to by PURCHASER and SELLER that the funds to be paid by SELLER in the event it elects to repurchase the property as provided for herein, shall not exceed the sum total of any funds actually tendered by PURCHASER to SELLER at closing. The SELLER may elect to repurchase the Property in the event the PURCHASER:

- a) Rails to include full-service grocery store, as defined herein within the Project.
- b) Fails to commence construction of the Project, as certified by PURCHASER's architect, within _____ (__) days next following the later to occur of the Closing, or the Permit Date, subject however, to extensions for delays attributable to Force Majeure, as approved by the CRA Board of Commissioners.
- c) Fails to commence the installation of the concrete foundation for at least one of the structures to be constructed within the Project within _____ (__) days next following the later to occur of (i) the commencement of construction to which reference is made in subsection (b) above, and (ii) the issuance of the building permit(s) requisite to performing foundation work.

The term "commence construction" means the initiation by PURCHASER of site preparation work for the Project which shall, for purposes of this Section 16, include excavation, fencing of the site, installation of the construction trailer, clearing and any required relocation of utilities at the site.

The SELLER's right to repurchase and its terms and conditions herein shall be incorporated in a Memorandum of Agreement and the Deed executed by the parties prior to Closing and shall survive the Closing. Seller shall record a termination of the right to repurchase within ten (10) days of PURCHASER satisfying the conditions set forth above in 16 (a), 16 (b), and 16 (c).

Notwithstanding the foregoing provisions, the commencement dates provided above and all other times for the commencement or completion of all performances required herein by the PURCHASER shall be extended on a day for day basis for delays occasioned by acts of God; catastrophe; pandemic or other health related occurrence; terrorism; once construction begins - inclement weather which is in excess of those days normally forecasted by the National Weather Service for the given month in South Florida, which interfere with construction; unforeseen physical conditions on the site, unavailability or shortages of material or labor, labor disputes unavailability of water, gas, utilities sewerage and/or telephone or the site is rendered unsafe for health and safety purposes not otherwise caused by PURCHASER; withholding of governmental approvals or restrictions not due to the fault or negligence of the PURCHASER, or the imposition of restrictions by a governmental body that materially changes the design or scope of the project to an extent that renders the project so difficult to construct as to make it commercially unreasonable; appeals of governmental approvals, claims or lawsuits by any third party (whether individual or otherwise) threatened or instituted to prevent the issuance of any approvals or permits, the commencement of construction or otherwise stop construction of the development after commencement; or similar events not reasonably foreseeable and beyond the reasonable control of PURCHASER (collectively "Force Majeure"). By the tenth (10) business day of each of month, PURCHASER shall deliver or cause to be delivered to SELLER a list of the days during each proceeding month as to which PURCHASER believes the Force Majeure provisions apply and the reasons therefor. SELLER shall, within ten (10) business days after receipt of any such list, provide notice to PURCHASER as to whether SELLER disputes that any of the days set forth on that list would give rise to an extension of time for PURCHASER's performance based on Force

Majeure. Any days claimed to be subject to the foregoing Force Majeure provision by PURCHASER which is not so disputed by SELLER within said time period shall be deemed approved by SELLER. In the event of a dispute between SELLER and PURCHASER as to whether there has been a commencement of construction as provided in this Section or whether a claim for delay is valid or otherwise in connection with this Agreement and the transactions contemplated thereby shall be resolved and settled by mediation using a mutually acceptable third-party mediator. Such mediator shall be appointed upon the written demand of either party. Upon such appointment, the mediation shall be held within fifteen (15) days at a mutually agreeable site in Palm Beach County, Florida. The fees and expenses of such mediator shall be born equally by the parties hereto. In the event of the failure of the parties to settle the dispute by mediation, either party may bring the dispute for legal redress before the Circuit Court in and for Palm Beach County, Florida.

This Section 16 shall survive Closing. Notwithstanding the foregoing, any repurchase rights granted herein shall be subject to and subordinate to any acquisition, development and/or construction loan and mortgage on the Property.

17. ENFORCEABILITY.

If any term, covenant or condition of this Agreement, or the application thereof to any person or circumstance, shall be determined to be unenforceable by a court of competent jurisdiction (the "Offending Provision"), then the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term, covenant and condition of this Agreement shall be valid and enforced to the fullest extent permitted by law; provided however, that the parties affected by the Offending Provision shall endeavor in good faith, within sixty (60) days after the date such determination is made, to agree upon alternative provisions which shall have the same practical effect as the Offending Provision and upon any agreement being reached, the new provision shall be incorporated into and form a part of this Agreement.

18. NO MERGER.

All warranties, representations, covenants, terms and conditions herein contained shall survive the delivery and recording of the Deed for a period of nine (9) months.

19. CONDITIONS PRECEDENT TO CLOSING AND CONTINGENCIES.

19.1 Conditions Precedent to Closing: SELLER's obligation to close the subject transaction is contingent upon the satisfaction of the following conditions:

(a) Financial Commitment. PURCHASER shall provide, no later than sixty (60) days prior to Closing, documentation certifying to SELLER, PURCHASER's receipt of a financial commitment letter from a United States financial lending institution ("Financial Commitment") for the lending of funds in an amount not less than seventy percent (70%) of estimated acquisition, development and construction costs required to complete the Project; the Financial Commitment shall be utilized to acquire the Property and to construct and develop the Project, as generally described herein. However, a lesser amount of financing is determined by PURCHASER in PURCHASER's sole and absolute discretion to be satisfactory upon terms

acceptable to PURCHASER. PURCHASER shall deliver to SELLER those pertinent provisions of the Financial Commitment evidencing PURCHASER's acknowledgment and the financial institution's agreement to finance the Project in accordance with the Financial Commitment.

(b) PURCHASER's delivery to SELLER, ten (10) days prior to Closing, of a letter of credit issued by a financial institution reasonably satisfactory to SELLER or a performance bond. The letter of credit, if used, must be in a form and amount reasonably satisfactory to SELLER or if a performance bond, such performance bond must be in a form reasonably acceptable to SELLER. The letter of credit or performance bond shall serve to guarantee completion of construction of the Project in accordance with the approved Site Plan and this Agreement. The letter of credit, if used, shall be specifically callable by SELLER in the event of the PURCHASER's failure to construct the Project in accordance with the provisions of this Agreement and the Site Plan approved by the City. The letter of credit shall be in an amount equal to one hundred ten (110%) percent of the budgeted costs for the construction of the Project or in the case of a Performance Bond, one hundred (100%) percent of the budgeted costs for the construction of the Project (excluding FF&E), in accordance with the Site Plan, design plan, and approved plans and specifications of the Project. Not later than the time the letter of credit or performance bond is required to be delivered to SELLER, PURCHASER shall also cause to be delivered to SELLER an agreement of the architects and engineers who prepared the plans for the Project which provides that if SELLER calls the letter of credit, in accordance with the terms of this Agreement, SELLER shall have the right to utilize said plans to construct the Project, as to its respective interest in said plans.

(c) The SELLER reserves unto itself and PURCHASER acknowledges and agrees that SELLER shall have the right to approve the architectural design and the Site Plan for the Project which approval shall not be unreasonably withheld.

19.2 Contingencies: The SELLER's obligation to close the transaction is contingent upon the following:

- a) PURCHASER satisfying to the satisfaction of the SELLER the conditions precedent set forth in Section 19 herein;
- b) PURCHASER obtaining a building permit for the Project;

20. NOTICE.

Except as otherwise provided herein, all written notices shall be effective upon the actual receipt or first refusal of the addressee to accept delivery after having been sent by reputable overnight delivery service or by certified mail, postage prepaid, return receipt requested, to the following addressees:

SELLER: Delray Beach Community Redevelopment Agency
20 North Swinton Avenue
Delray Beach, Florida 33444
Attn: Jeff Costello, Executive Director

With Copy to: Donald J. Doody, Esquire
GOREN, CHEROF, DOODY & EZROL, P.A.
3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, Florida 33308
Telephone: (954) 771-4500
Fax: (954) 771-4923

PURCHASER: Uptown Atlantic, LLC
5100 PGA Blvd. Bldg. 2-4A
Palm Beach Gardens, FL 33418

With a Copy to: Lewis F. Crippen, Esquire
c/o Gunster, Yoakley & Stewart, P.A.
777 South Flagler Drive, Suite 500 E
West Palm Beach, FL 33401

ESCROW AGENT: GOREN, CHEROF, DOODY & EZROL, P.A.
3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, Florida 33308
Telephone: (954) 771-4500
Fax: (954) 771-4923

21. EFFECTIVE DATE.

This Agreement shall be deemed effective as of the Effective Date.

22. GOVERNING LAW.

This Agreement shall be governed by the laws of the State of Florida.

23. ENTIRE AGREEMENT.

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

24. NO ORAL CHANGE.

This Agreement may not be changed or amended orally.

25. SUCCESSORS.

This Agreement shall apply to and bind the successors and assigns of SELLER and PURCHASER. The PURCHASER shall not assign this agreement without first obtaining the written approval of the SELLER, which approval shall not be unreasonably withheld.

26. COUNTERPARTS.

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

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 thereon shall be considered for all purposes as originals

27. RADON GAS.

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health unit.

28. ATTORNEYS' FEES.

If for any reason a party initiates any legal or equitable action to secure, protect or enforce its rights under this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs and expenses incurred by it, including, without limitation, reasonable arbitration, paralegals', attorneys' and experts' fees and expenses, whether incurred without the commencement of a suit, in any suit, arbitration, or administrative proceeding, or in any appellate or bankruptcy proceeding.

29. COOPERATION.

SELLER shall reasonably cooperate with PURCHASER, its agents and professional advisors, in connection with the filing of applications and the obtaining of all required permits and approvals (including but not limited to demolition permits, site development permits, utility permits, landscaping, mechanical, plumbing, electrical and all necessary permits, authorizations and approvals to commence immediate improvements for the Project) and any necessary utility access agreements, and shall sign any application reasonably made by PURCHASER that is required in order to obtain such permits and approvals and utility access agreements and shall provide PURCHASER with any information and/or documentation not otherwise reasonably available to PURCHASER (if available to SELLER) which is necessary to procure such permits and approvals and utility access agreements. Any such accommodation by SELLER shall be without prejudice to, and shall not constitute a limit on, impairment or waiver of, or otherwise affect SELLER's rights to exercise its discretion in connection with its governmental or quasi-governmental functions. During the term of this Agreement, PURCHASER agrees to provide SELLER with updates as to the status of the Project on at least a quarter-annual basis.

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

WITNESS:

Witness

Witness

PURCHASER:

Uptown Atlantic, LLC, a Florida limited liability company

By: _____

Title: _____

Date: _____, 2018

SELLER:

DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY

By: _____

Title: _____

Date: _____, 2018

ESCROW AGENT:

GOREN, CHEROF, DOODY & EZROL, P.A.

By: _____

Title: _____

Date: _____, 2018.

EXHIBIT A
LEGAL DESCRIPTION

(SUBJECT TO VERIFICATION BY SURVEY THAT THE AFOREMENTIONED PARCELS
OF REAL PROPERTY ARE: a) CONTIGUOUS, AND b) CONSTITUTE, IN THE
AGGREGATE, ALL REAL PROPERTY WHICH IS THE SUBJECT OF THE RFP)

Potential Off-Site Workforce Housing Location Map

LOCATION MAP



Property Control Number and Location Description

PCN 12-43-46-17-31-000-0110
700 SW 2nd Court, Delray Beach, Florida 33444
Carver Square, Lot 11

PCN 12-43-46-17-31-000-0210
702 SW 2nd Terrace, Delray Beach, Florida 33444
Carver Square, Lot 21

PCN 12-43-46-17-31-000-0120
SW 2nd Court, Delray Beach, Florida 33444
Carver Square, Lot 12

PCN 12-43-46-17-31-000-0220
704 SW 2nd Terrace, Delray Beach, Florida 33444
Carver Square, Lot 22

PCN 12-43-46-17-31-000-0130
SW 2nd Court, Delray Beach, Florida 33444
Carver Square, Lot 13

PCN 12-43-46-17-31-000-0230
708 SW 2nd Terrace, Delray Beach, Florida 33444
Carver Square, Lot 23

PCN 12-43-46-17-31-000-0140
SW 2nd Court, Delray Beach, Florida 33444
Carver Square, Lot 14

PCN 12-43-46-17-31-000-0240
712 SW 2nd Terrace, Delray Beach, Florida 33444
Carver Square, Lot 24

PCN 12-43-46-17-31-000-0150
716 SW 2nd Court, Delray Beach, Florida 33444
Carver Square, Lot 15

PCN 12-43-46-17-31-000-0250
716 SW 2nd Terrace, Delray Beach, Florida 33444
Carver Square, Lot 25

PCN 12-43-46-17-31-000-0160
SW 2nd Court, Delray Beach, Florida 33444
Carver Square, Lot 16

PCN 12-43-46-17-31-000-0260
717 SW 3rd Street, Delray Beach, Florida 33444
Carver Square, Lots 26 & 27

PCN 12-43-46-17-31-000-0170
713 SW 2nd Terrace, Delray Beach, Florida 33444
Carver Square, Lot 17

PCN 12-43-46-17-31-000-0280
709 SW 3rd Street, Delray Beach, Florida 33444
Carver Square, Lot 28

PCN 12-43-46-17-31-000-0180
709 SW 2nd Terrace, Delray Beach, Florida 33444
Carver Square, Lot 18

PCN 12-43-46-17-31-000-0290
705 SW 3rd Street, Delray Beach, Florida 33444
Carver Square, Lot 29

PCN 12-43-46-17-31-000-0190
705 SW 2nd Terrace, Delray Beach, Florida 33444
Carver Square, Lot 19

PCN 12-43-46-17-31-000-0300
701 SW 3rd Street, Delray Beach, Florida 33444
Carver Square, Lot 30

PCN 12-43-46-17-31-000-0200
703 SW 2nd Terrace, Delray Beach, Florida 33444
Carver Square, Lot 20

PCN 12-43-46-16-01-008-0260
SW 4th Street, Delray Beach, Florida 33444
Town of Delray, Lots 26, 29, & 30

PCN 12-43-46-16-01-008-0340
SW 7th Avenue, Delray Beach, Florida 33444
Town of Delray, Lot 34

PCN 12-43-46-16-01-008-0270
SW 4th Street, Delray Beach, Florida 33444
Town of Delray, Lots 27 and 28

PCN 12-43-46-16-01-008-0350
SW 7th Avenue, Delray Beach, Florida 33444
Town of Delray, Lot 35 and 36

PCN 12-43-46-16-01-008-0310
322 SW 7th Avenue, Delray Beach, Florida
33444
Town of Delray, Lot 31

PCN 12-43-46-16-01-008-0370
SW 7th Avenue, Delray Beach, Florida 33444
Town of Delray, Lot 37

PCN 12-43-46-16-01-008-0320
SW 7th Avenue, Delray Beach, Florida 33444
Town of Delray, Lot 32

PCN 12-43-46-16-01-015-0320
238 SW 6th Avenue, Delray Beach, Florida 33444
Town of Delray, Lot 32 and 33

PCN 12-43-46-16-01-008-0330
SW 7th Avenue, Delray Beach, Florida 33444
Town of Delray, Lot 33

CENSUS TRACTS

