



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

F.4.

11/14/2023

### Subject:

Approval of Resolution to Re-Purchase Property in County-Owned Commerce Park in Titusville

### Fiscal Impact:

Funds to reacquire the industrial lot would come from the NBEDZ account (Fund Center 300031), which was created for use on park-related expenditures only, per Ordinance No. 2013-08.

### Dept/Office:

County Manager's Office

### Requested Action:

The North Brevard Economic Development Zone (NBEDZ) formally requests that the Board of County Commissioners (BOCC) approve a Resolution, permitting the re-purchase of approximately nine and eight/tenths acres (9.8) acres of industrial land in the county-owned Spaceport Commerce Park in Titusville for \$362,600 from the entity known as Dark Storm Development, LLC (Dark Storm Industries), using reserve monies held by the NBEDZ, and authorize the BOCC chair to execute the Contract for Sale and Purchase and all documents in connection thereof.

### Summary Explanation and Background:

Dark Storm Industries is an armaments manufacturing company that produces high-grade small firearms and ordinance accessories. The company, based in New York state, purchased the property from the BOCC in 2021 as part of an expansion project, which was expected to result in the construction of a new 25,000 sq. ft. facility in the Spaceport Commerce Park, and the creation of fifty new jobs for the area.

In the intervening years, however, increased construction costs and delays in obtaining permits, combined with higher interest rates on loan facilities in the commercial market, caused the company to change its expansion plans. Rather than building a facility, the company has decided to lease manufacturing space in the area until the financial climate makes it more feasible to consider a new construction project.

Contained within the deed transferring title to the land from the county to the company was the stipulation that the business entity had to develop the site within a specified timeline. If it did not pursue the construction project at the commerce park site, the county would have the option of re-purchasing the lot if it so chose, for the same price at which it sold the land - \$37,000 an acre, or \$362,600. Once the company made the decision to forego its new construction project, it alerted NBEDZ staff. [Per Ordinance No. 2013-08, the NBEDZ is the county's authorized agent for developing and/or inducing the development of lots within the county-owned business park.] The principals of the company communicated to the NBEDZ that it was prepared to sell the lot back to the county, so that the NBEDZ could market it to other potential users.

The NBEDZ district board of directors, at its September 8, 2023 board meeting, approved action recommending that the Board of County Commissioners allow for the re-purchase of the lot at \$362,600, using reserve funds currently held by the NBEDZ.

**Clerk to the Board Instructions:**

Provide signed copy of adopted resolution and real estate contract to CAO and NBEDZ.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us

November 15, 2023

**M E M O R A N D U M**

**TO:** Frank Abbate, County Manager

**RE:** Item F.4., Resolution to Re-Purchase Property in County-Owned Commerce Park in Titusville

The Board of County Commissioners, in regular session on November 14, 2023, adopted Resolution No. 23-131, permitting the re-purchase of approximately nine and eight/tenths (9.8) acres of industrial land in the County-owned Spaceport Commerce Park in Titusville for \$362,600 from the entity known as Dark Storm Development, LLC (Dark Storm Industries), using reserve monies held by the North Brevard Economic Development Zone (NBEDZ); and authorized the Chair to execute the Contract for Sale and Purchase and all documents in connection thereof. Enclosed is a fully-executed Resolution and Contract.

Your continued cooperation is greatly appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

*for Donna Scott*  
Kimberly Powell, Clerk to the Board

Encl. (2)

cc: County Attorney  
Finance  
Budget  
NBEDZ

**RESOLUTION NO. 2023 - 131**

**A RESOLUTION AUTHORIZING THE REPURCHASE OF A REAL PROPERTY  
INTEREST IN A PARCEL WITHIN THE SPACEPORT COMMERCE PARK**

WHEREAS, Brevard County, Florida, a political subdivision of the State of Florida, 2725 Judge Fran Jamieson Way, Viera, Florida 32940 (hereinafter the COUNTY), conveyed certain real property further described and depicted in Exhibit "A" (hereinafter the PARCEL) to Dark Storm Development, LLC (hereinafter the COMPANY) on October 15, 2021; and,

WHEREAS, pursuant to Chapter 82-264, Laws of Florida, for the purpose of industrial development, the COUNTY is authorized to sell or otherwise dispose of county owned property within specific boundaries of the Gateway Center Industrial Park by private sale without compliance with Section 125.38, Florida Statutes; and,

WHEREAS, the property described above is located within specific boundaries of the Gateway Center Industrial Park (now Spaceport Commerce Park) and the sale in 2021 was made to promote industrial development; and,

WHEREAS, the County Deed was recorded on December 7, 2021; and,

WHEREAS, the COMPANY has decided to lease an existing building for the COMPANY's use, and has informed the COUNTY that it does not intend to build upon the industrial Parcel it acquired from the COUNTY; and,

WHEREAS, the COUNTY has an interest in the land within the Spaceport Commerce Park being developed within a reasonable amount of time after a sale has occurred, rather than the Parcel remaining vacant; and,

WHEREAS, the Brevard County Board of Commissioners created the North Brevard Economic Development Zone (NBEDZ) Dependent Special District (hereinafter the DISTRICT) under the powers vested in the Board under Chapter 125, Florida Statutes, Chapter 189, Florida Statutes and section 200.065(1), Florida Statutes; and,

WHEREAS, on September 8, 2023, the DISTRICT voted to recommend that the COUNTY exercise its rights to repurchase the Parcel.

NOW, THEREFORE, BE IT RESOLVED, THAT THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA agree as follows:

1. The foregoing recitations are true and correct and by this reference incorporated.
2. It is in the public interest and the COUNTY's interest to exercise its right to repurchase the property. The COUNTY hereby exercises its rights to repurchase and authorizes the repurchase of the parcel further described in Exhibit "A" together with all riparian and littoral rights appertaining thereto, and all interest in the subsurface oil, gas and phosphate, minerals and metals that were conveyed in the

official records book deed ORB 9349, Page 371, for the sum of \$362,600.00, plus the applicable closing costs associated with the transaction.

3. The Chair, Board of County Commissioners, is empowered to execute all necessary documents related to this real estate transaction.

DONE, ORDERED, and ADOPTED, in regular session, this 14th day of November, 2023.

**ATTEST:**



Rachel M. Sadoff, Clerk

**BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA**



Rita Pritchett, Chair

As approved by the Board on NOV 14 2023

21-088pb

Penny W. Bell Paralegal  
Dawson Law & Title  
3683 S. Sherwood Circle  
Cocoa, FL 32926

Prepared by: Office of the County Attorney  
2725 Judge Fran Jamieson Way  
Building C, Viera, Florida 32940

**COUNTY DEED**  
**(Statutory Form – Section 125.411, Florida Statute)**

THIS DEED, made this 3rd day of December, 2021, by **BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940, Party of the first part, and Dark Storm Development, LLC, a Florida limited liability company, 4116 Sunrise Highway, New York, 11769, Party of the second part.

(Whenever used herein the terms "Party of the first part" and "Party of the second part" shall include all the Parties to this instrument and their heirs, legal representatives, successors and assigns. "Party of the first part" and "Party of the second part" are used for singular and plural as the context requires and the use of any gender shall include all genders.)

WITNESSETH that said Party of the first part, for and in consideration of the sum of \$10.00, and other good and valuable consideration, to it in hand paid by the Party of the second part, receipt whereof is hereby acknowledged, has granted, bargained and sold to the Party of the second part, its heirs and assigns forever, any interest it holds in the parcel of land described at Exhibit "A" (the Parcel), attached hereto, together with all riparian and littoral rights appertaining thereto, and all interests in subsurface oil, gas, metals, phosphates and minerals pursuant to section 270.11(3), Florida Statutes, and made a part of this deed said lands lying and being in Brevard County, Florida, together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining. All easements, covenants, and restrictions of record are reserved.

This parcel is subject to restrictive covenants found in the Official Records Book (ORB) of Brevard County, Florida including but not limited to those at ORB 2460, page 2995-3008; ORB 2508, Page 2917-2919; ORB 6395, Page 2380-2398, and Plat Book 32, Page 74. If Party of the second part, or its successors in interest, fails to commence construction of a building approximately 25,000 square feet, as evidenced by receipt of a building permit from the city of Titusville, and the pouring upon the property of a concrete foundation equal to the building footprint specified above, within two years of the transfer of title from the Party of the first part to the Party of the second part, then the Party of the first part may reacquire the Parcel from the Party of the second part, or their successor in interest, for the amount of Three Hundred Sixty Two Thousand Six Hundred Dollars and no/100 (\$362,600).

IN WITNESS WHEREOF, the said Party of the first part has caused these presents to be executed in its name by its Board of County Commissioners, the day and year aforesaid

ATTEST:

Rachel Sadoff, Clerk of Circuit Court  
Brevard County, Florida

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

By:

Kristine Zonka, Chair

As approved by the Board on March 23, 2021

**EXHIBIT "A" PAGE 1 of 2**

A PARCEL OF LAND IN SECTION 4, TOWNSHIP 23 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, SAID PARCEL BEING A PORTION OF PARCEL "D" OF ENTERPRISE PARK AS RECORDED IN PLAT BOOK 32, PAGE 74, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHEASTERLY RIGHT OF WAY OF SHEPHERD DRIVE AND THE SOUTHEASTERLY RIGHT OF WAY OF STATE ROAD NO. 407; THENCE RUN S 59°03'25" E ALONG SAID NORTHEASTERLY RIGHT OF WAY OF SHEPHERD DRIVE A DISTANCE OF 380.01 FEET TO A POINT OF CURVATURE CONCAVE NORTHERLY HAVING A RADIUS OF 800.00 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 15°57'40", A DISTANCE OF 222.86 FEET; THENCE RUN N 30°56'35" E A DISTANCE OF 419.17 FEET; THENCE RUN N 15°13'37" W A DISTANCE OF 640.39 FEET; THENCE RUN N 59°03'25" W A DISTANCE OF 138.02 FEET TO THE SOUTHEASTERLY RIGHT OF WAY OF STATE ROAD NO. 407; THENCE RUN S 30°56'35" W ALONG SAID EASTERLY RIGHT OF WAY A DISTANCE OF 893.50 FEET TO THE POINT OF BEGINNING.





## CONTRACT FOR SALE AND PURCHASE

**Seller:** Dark Storm Development LLC  
3390 North Courtenay Parkway  
Suite K, Merritt Island, FL 32953

**Buyer:** Board of County Commissioners, Brevard County, Florida  
2725 Judge Fran Jamieson Way, Viera, Florida, 32940

**Legal description of property being transferred:** A parcel containing approximately ten (10) acres (more or less), and located within Parcel "D" of the Enterprise Park Plat, recorded at Brevard County Official Plat Records Book 32, Page 74, more particularly described in Exhibit "A" attached hereto and incorporated herein, together with all riparian and littoral rights appertaining thereto, and all interests in subsurface oil, gas, and phosphate, minerals and metals that were conveyed by Brevard County pursuant to section 270.11, Florida Statutes in the county deed recorded at official records book 9349, page 371. The parcel has Brevard County Property Appraiser Identification #23-35-04-NN-D.7.

**Terms:** The Seller agrees to sell, and Buyer agrees to buy the Property pursuant to the terms and conditions set forth in this Contract for Sale and Purchase, Addendum 1 (Standards for Real Estate Transactions), and Exhibit "A" Legal Description.

**Purchase price:** \$362,600 (Three Hundred Sixty-Two Thousand Six Hundred and no/100 dollars).

**Deposit:** None.

**Time for acceptance of offer; effective date; facsimile:** Buyer is exercising a right to repurchase the parcel pursuant to a right to reacquire in a deed recorded at official records book 9349, page 371, and both Parties are agreed. The date of Contract ("Effective Date") will be the date when the last one of the Buyer and Seller has signed the offer. An electronic copy of this Contract and any signatures hereon shall be considered for all purposes as originals.

**Title evidence:** During the inspection period, Buyer may, at Buyer's option, obtain (a) title search and/or (b) title insurance commitment (with legible copies of instruments listed as exceptions attached thereto) and, after closing, an owner's policy of insurance.

**Closing Date:** This transaction shall be closed and the deed and other closing papers delivered on or before January 19, 2024, unless modified by other provisions of this Contract (hereinafter the "Closing" or "Closing Date").

**Warranties and Brokers:** The following warranties are made and shall survive closing:

- a. SELLER warrants that there are no parties in occupancy other than SELLER.

- b. SELLER warrants that the person signing this Contract on behalf of SELLER has all necessary authority to sign and bind SELLER. SELLER is a limited liability company duly organized, validly existing and in good standing under the laws of the state of its formation. The SELLER's performance under this Contract will not conflict with, or result in a breach of, any of the terms, conditions and provisions of its limited liability company operating agreement, or of any law, statute, rule, regulation, order, judgment, writ, injunction or decree of any court or governmental instrumentality, or any contract, agreement or instrument to which SELLER is a party or by which is bound.
- c. SELLER warrants that SELLER has not deposited any hazardous waste or other environmental contamination onto the property being acquired by the County during SELLER's ownership.
- d. SELLER warrants that he/she has no knowledge of any fact or restriction which would prevent use of the property for construction of light industrial uses in accordance with the restrictive covenants of the Spaceport Commerce Park.
- e. SELLER hereby represents and warrants to BUYER that SELLER has not engaged or dealt with any agent, broker or finder, in regard to this Agreement or to the sale and purchase of the property contemplated hereby. SELLER hereby acknowledges and covenants that SELLER is solely responsible for any and all commissions due arising out of or connected within the sale or transfer of the property.
- f. Each Party warrants that it is not a foreign person or foreign entity within the meaning of section 1445(f) of the Internal Revenue Code.
- g. SELLER warrants that the property to be conveyed hereunder shall be conveyed free of mortgages or other encumbrances, except those of matters of record, and any security interests in personal property.
- h. The provisions of this warranty section shall survive the Closing Date.

**Disclosure Obligations:** SELLER to disclose to BUYER any applicable leases, assignments, mortgages, liens, permits, binding development plans, or other agreements that are binding on the property. SELLER to disclose to BUYER any pre-development or development that has occurred on the property.

**Inspections:** The BUYER shall have sixty (60) days after the Brevard County Board of County Commissioners executes the contract within which to complete physical inspection and evaluation of the property for environmental, hazardous materials, suitability for development, access, drainage and subsurface conditions (hereinafter the "Inspection Period"). In the event a Phase I environmental assessment meeting ASTM standards is prepared and environmental issues objectionable to BUYER are detected, SELLER shall 1) take all steps necessary to remove BUYER'S objections prior to the expiration of the 60-day inspection period, if possible or 2) if acceptable to BUYER, SELLER shall allow an additional ninety (90) days to provide adequate time to conduct a Phase II assessment meeting ASTM standards. If the Phase I assessment reveals

contamination, this agreement may be terminated by BUYER and BUYER may decline to allow SELLER to clean up or to proceed to a Phase II assessment. Likewise, if the Phase II assessment reveals contamination objectionable to BUYER, BUYER may terminate this agreement. Alternatively, BUYER may grant SELLER an additional ninety (90) days to clean up the site after the Phase II assessment, but BUYER is not required to do so. SELLER shall allow the BUYER or its agents reasonable right of entry upon the property for inspection purposes. Before the expiration of the initial 60-day inspection period or the additional 90-day extension for a Phase II assessment, BUYER shall have the right to terminate this agreement with a full refund of any deposits, should the results of the inspection indicate the property cannot be used for its intended purpose or that mitigation of conditions would be required. If clean up after a Phase II assessment is attempted but unacceptable to BUYER, the BUYER shall have the right to termination of this Contract and receive a full refund of any deposits it has applied to the sale.

**Condemnation:** This property is not being acquired under threat of condemnation. If so, this agreement includes and settles all issues of full compensation for the property being acquired, including fees and costs.

SELLER shall comply with section 196.295, Florida Statutes.

SELLER hereby agrees to provide the necessary information and execute a beneficial interest and disclosure affidavit as required by section 286.23, Florida Statutes.

Special Clauses:

None.

(Signature Page Follows)

IN WITNESS WHEREOF, the Parties have caused this instrument to be executed by their duly authorized representatives.

**BUYER:**

**BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA**

BY:   
RITA PRITCHETT, CHAIR  
As approved by the Board on: NOV 14 2023


ATTEST:   
Rachel Sadoff, Clerk

Approved as to legal form and sufficiency:

  
County Attorney

**SELLER:**

**DARK STORM DEVELOPMENT LLC**

BY:   
PRINT NAME: Edward Newman, Managing Member  
DATE: 11 / 8 / 2023

## STANDARDS FOR REAL ESTATE TRANSACTIONS

- A. EVIDENCE OF TITLE:** (Applicable in the event Buyer opts to obtain a title commitment). A title insurance commitment issued by a Florida licensed title insurer agreeing to issue to Buyer, upon recording of the deed to Buyer, an owner's policy of title insurance in the amount of the purchase price insuring Buyer's title to the Real Property, subject only to liens, encumbrances, exceptions or qualifications set forth in this Contract and those which shall be discharged by Seller at or before closing. Seller shall convey marketable title subject only to liens, encumbrances, exceptions or qualifications specified in this Contract. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law. Buyer shall have 5 days from date of receiving evidence of title to examine it. If title is found defective, Buyer shall within 3 days thereafter, notify Seller in writing specifying defect(s). If the defect(s) render title unmarketable, Seller will have 30 days from receipt of notice to remove the defects, failing which Buyer shall, within five (5) days after expiration of the thirty (30) day period, deliver written notice to Seller either: (1) extending the time for a reasonable period not to exceed 120 days within which Seller shall use diligent effort to remove the defects; or (2) requesting a refund of deposit(s) paid which shall immediately be returned to Buyer. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted the title as it then is. Seller shall, if title is found unmarketable, use diligent effort to correct defect(s) in the title within the time provided therefor. If Seller is unable to remove the defects within the times allowed therefor, Buyer shall either waive the defects or receive a refund of deposit(s), thereby releasing Buyer and Seller from all further obligation under this Contract.
- B. SURVEY:** Buyer, at Buyer's expense, within the time allowed to deliver evidence of title and to examine same, may have the Real Property surveyed and certified by a registered Florida surveyor. If survey shows encroachment on Real Property or that improvements located on Real Property encroach on setback lines, easements, lands of others or violate any restrictions, Contract covenants or applicable governmental regulation, the same shall constitute a title defect.
- C. INGRESS AND EGRESS:** Seller warrants and represents that there is ingress and egress to the Real Property sufficient for its intended use as described in the Warranties section of the agreement.
- D. LIENS:** Seller shall furnish to Buyer at time of closing an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statement, claims of lien or potential lienors known to Seller and further attesting that there have been no improvements or repairs to the Property for 90 days immediately preceding date of closing. If Property has been improved or repaired within that time Seller shall deliver releases or waivers of construction liens executed by all general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers and materialmen and further affirming that all charges for improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been paid or will be paid at closing of this Contract.

- E. TIME PERIOD:** Time is of the essence in this Contract.
- F. DOCUMENTS FOR CLOSING:** Seller shall furnish a warranty deed, bill of sale, construction lien affidavit, owner's possession affidavit, assignments of leases, tenant and mortgagee estoppel letters and corrective instruments. Buyer shall furnish closing statement.
- G. EXPENSES:** Documentary stamps on the deed, if required, and recording of corrective instruments shall be paid by Buyer. Buyer will pay for the cost of recording the deed.
- H. PRORATIONS; CREDITS:** Taxes, assessments, rent, interest, insurance and other expenses and revenue of Property shall be prorated through day before closing. Buyer shall have the option of taking over any existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at closing shall be increased or decreased as may be required by prorations. Prorations will be made through day prior to occupancy if occupancy occurs before closing. Advance rent and security deposits will be credited to Buyer and escrow deposits held by mortgagee will be credited to Seller. Taxes shall be prorated based on the current year's tax with due allowance made for maximum allowable discount, homestead and other exemptions. If closing occurs at a date when the current year's millage is not fixed and current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If current year's assessment is not available, then taxes will be prorated on the prior year's tax. If there are completed improvements on the Real Property by January 1st of year of closing, which improvements were not in existence on January 1st of the prior year, then taxes shall be prorated based upon the prior year's millage and at an equitable assessment to be agreed upon between the parties, failing which, request will be made to the County Property Appraiser for an informal assessment taking into consideration available exemptions. Any tax proration based on an estimate shall, at request of either Buyer or Seller, be subsequently readjusted upon receipt of tax bill on condition that a statement to that effect is in the closing statement.
- I. SPECIAL ASSESSMENT LIENS:** Certified, confirmed and ratified special assessment liens as of date of closing (not as of Effective Date) are to be paid by Seller. Pending liens as of date of closing shall be assumed by Buyer. If the improvement has been substantially completed as of Effective Date, any pending lien shall be considered certified, confirmed or ratified and Seller shall, at closing, be charged an amount equal to the last estimate of assessment for the improvement by the public body.
- J. PROCEEDS OF SALE; CLOSING PROCEDURE:** The deed shall be recorded upon clearance of funds. If abstract of title has been furnished, evidence of title shall be continued at Buyer's expense to show title in Buyer, without any encumbrances or change which would render Seller's title unmarketable from the date of the last evidence. Proceeds of the sale shall be held in escrow by Seller's attorney or by another mutually acceptable escrow agent for a period of not more than five (5) days after closing date. If Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 5-day period, notify Seller in writing of the defect and Seller shall have 30 days from date of receipt of such notification to cure the defect. If Seller fails to timely cure the defect, all deposit(s) and closing funds shall, upon written demand by Buyer and within five (5) days after demand, be returned to Buyer and, simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and reconvey the Property to Seller by special warranty deed and bill of sale. If Buyer fails to make timely demand for refund, Buyer

shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale. The escrow and closing procedure required by this Standard shall be waived if title agent insures adverse matters pursuant to Section 627.7841, Florida Statutes (1993), as amended.

**K. FAILURE OF PERFORMANCE:** If Buyer fails to perform this Contract within the time specified, including payment of all deposit(s), the deposit(s) paid by Buyer and deposit(s) agreed to be paid, may be retained by or for the account of Seller as agreed upon liquidated damages, consideration for the execution of this Contract and in full settlement of any claims; whereupon, Buyer and Seller shall be relieved of all obligations under this Contract; or Seller, at Seller's option, may proceed in equity to enforce Seller's rights under this Contract. If for any reason other than failure of Seller to make Seller's title marketable after diligent effort, Seller fails, neglects or refuses to perform this Contract, the Buyer may seek specific performance or elect to receive the return of Buyer's deposit(s) without thereby waiving any action for damages resulting from Seller's breach.

**L. APPLICABLE LAW AND VENUE.** This Contract shall be construed in accordance with the laws of the State of Florida and venue for resolution of all disputes, whether by mediation or litigation, shall lie in Brevard County, Florida. In the event of any litigation arising out of this contract, each Party shall bear its own attorney's fees and costs. **THE PARTIES AGREE TO WAIVE TRIAL BY JURY AND ANY TRIAL SHALL BE NON-JURY.**

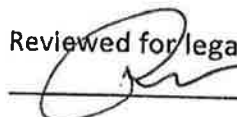
**M. CONVEYANCE:** Seller shall convey title to the Real Property by statutory warranty, trustee's, personal representative's or guardian's deed, as appropriate to the status of Seller. Personal Property shall, at request of Buyer, be transferred by an absolute bill of sale with warranty of title, subject only to such matters as may be otherwise provided for herein.

**N. OTHER AGREEMENTS:** No prior or present agreements or representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

**O. WARRANTY:** Seller warrants that there are no facts known to Seller materially affecting the value of the Property which are not readily observable by Buyer or which have not been disclosed.

**PROPERTY TAX DISCLOSURE SUMMARY:** BUYER SHOULD NOT RELY ON SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.

Reviewed for legal form and content:

 (Assistant) County Attorney

 Seller's Initials

**EXHIBIT "A"**

Survey & Legal Description

(on the following page)



21-088pb

Penny W. Bell Paralegal  
Dawson Law & Title  
3683 S. Sherwood Circle  
Cocoa, FL 32926

Prepared by: Office of the County Attorney  
2725 Judge Fran Jamieson Way  
Building C, Viera, Florida 32940

**COUNTY DEED**  
**(Statutory Form – Section 125.411, Florida Statute)**

THIS DEED, made this 3rd day of December, 2021, by **BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940, Party of the first part, and Dark Storm Development, LLC, a Florida limited liability company, 4116 Sunrise Highway, New York, 11769, Party of the second part.

(Whenever used herein the terms "Party of the first part" and "Party of the second part" shall include all the Parties to this instrument and their heirs, legal representatives, successors and assigns. "Party of the first part" and "Party of the second part" are used for singular and plural as the context requires and the use of any gender shall include all genders.)

WITNESSETH that said Party of the first part, for and in consideration of the sum of \$10.00, and other good and valuable consideration, to it in hand paid by the Party of the second part, receipt whereof is hereby acknowledged, has granted, bargained and sold to the Party of the second part, its heirs and assigns forever, any interest it holds in the parcel of land described at Exhibit "A" (the Parcel), attached hereto, together with all riparian and littoral rights appertaining thereto, and all interests in subsurface oil, gas, metals, phosphates and minerals pursuant to section 270.11(3), Florida Statutes, and made a part of this deed said lands lying and being in Brevard County, Florida, together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining. All easements, covenants, and restrictions of record are reserved.

This parcel is subject to restrictive covenants found in the Official Records Book (ORB) of Brevard County, Florida including but not limited to those at ORB 2460, page 2995-3008; ORB 2508, Page 2917-2919; ORB 6395, Page 2380-2398, and Plat Book 32, Page 74. If Party of the second part, or its successors in interest, fails to commence construction of a building approximately 25,000 square feet, as evidenced by receipt of a building permit from the city of Titusville, and the pouring upon the property of a concrete foundation equal to the building footprint specified above, within two years of the transfer of title from the Party of the first part to the Party of the second part, then the Party of the first part may reacquire the Parcel from the Party of the second part, or their successor in interest, for the amount of Three Hundred Sixty Two Thousand Six Hundred Dollars and no/100 (\$362,600).

IN WITNESS WHEREOF, the said Party of the first part has caused these presents to be executed in its name by its Board of County Commissioners, the day and year aforesaid

ATTEST:

Rachel Sadoff, Clerk of Circuit Court  
Brevard County, Florida

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

By:

Kristine Zonka, Chair

As approved by the Board on March 23, 2021

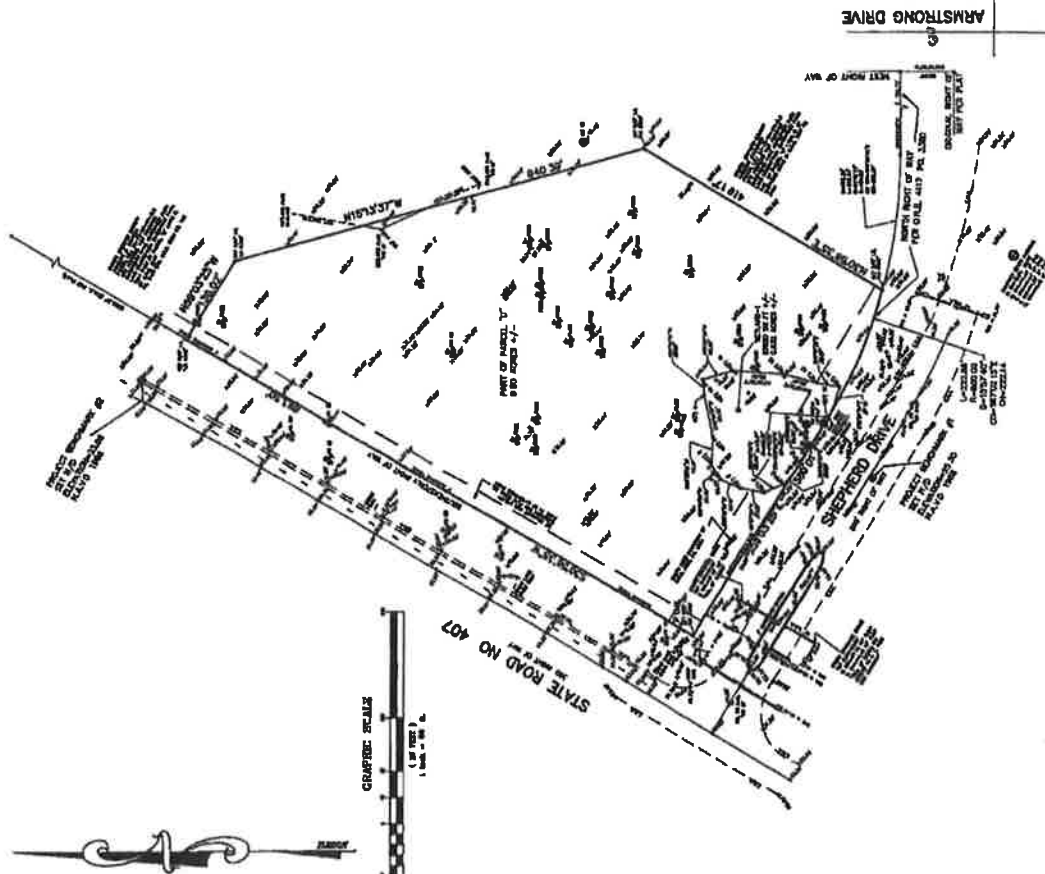
**EXHIBIT "A" PAGE 1 of 2**

A PARCEL OF LAND IN SECTION 4, TOWNSHIP 23 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, SAID PARCEL BEING A PORTION OF PARCEL "D" OF ENTERPRISE PARK AS RECORDED IN PLAT BOOK 32, PAGE 74, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHEASTERLY RIGHT OF WAY OF SHEPHERD DRIVE AND THE SOUTHEASTERLY RIGHT OF WAY OF STATE ROAD NO. 407; THENCE RUN S 59°03'25" E ALONG SAID NORTHEASTERLY RIGHT OF WAY OF SHEPHERD DRIVE A DISTANCE OF 380.01 FEET TO A POINT OF CURVATURE CONCAVE NORTHERLY HAVING A RADIUS OF 800.00 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 15°57'40", A DISTANCE OF 222.86 FEET; THENCE RUN N 30°56'35" E A DISTANCE OF 419.17 FEET; THENCE RUN N 15°13'37" W A DISTANCE OF 640.39 FEET; THENCE RUN N 59°03'25" W A DISTANCE OF 138.02 FEET TO THE SOUTHEASTERLY RIGHT OF WAY OF STATE ROAD NO. 407; THENCE RUN S 30°56'35" W ALONG SAID EASTERLY RIGHT OF WAY A DISTANCE OF 893.50 FEET TO THE POINT OF BEGINNING.

## SECTION 4, TOWNSHIP 23 SOUTH, RANGE 35 EAST

# MAP OF BOUNDARY AND TOPOGRAPHIC SURVEY



## Notes

- [illegible]

### FIELD OF APPLICATION

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PM - PINE TREE WITH DIAMETER AT  
BREAST HEIGHT IN INCHES

**QK = OAK TREE WITH DIAMETER AT  
BREAST HEIGHT IN INCHES**

LEGAL DESCRIPTION	ACRES	OWNER	PROPERTY CLASSIFICATION	TAXES	REMARKS

A PARCEL OF LAND IN SECTION 4, TOWNSHIP 23 SOUTH RANGE 35 EAST BREVARD COUNTY, FLORIDA SAID PARCEL BEING A PORTION OF PARCEL "D" OF ENTERPRISE PARK AS RECORDED IN PLAT BOOK 22, PAGE 74. PUBLIC RECORDS OF BREVARD COUNTY FLORIDA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

beginning at the intersection of the northeasterly right of way of the railroad with the southeasterly right of way of the railroad, and running southeasterly, a distance of 300 feet to a point of curvature, thence northeasterly, a distance of 500 feet, then along the line of the railroad, a distance of 25 feet to a point of tangency, thence northeasterly, a distance of 148 feet to the southeasterly right of way of State Road 403, then southeasterly, a distance of 315 feet to a point of tangency, thence southeasterly, a distance of 840 feet, then along the line of the railroad, a distance of 1,362 feet to the southeasterly right of way of State Road 403, then southeasterly, a distance of 315 feet to a point of tangency, thence southeasterly, a distance of 840 feet to the southeasterly right of way of the railroad, and then southeasterly, a distance of 300 feet to the point of beginning. Containing 10.45 acres, or less.

[illegible]

I HEREBY CERTIFY THAT THE PROPERTY HEREON WAS SURVEYED UNDER MY DIRECT SUPERVISION AND THAT THIS MAP OF SURVEY IS ACCURATE AND CORRECT. I FURTHER CERTIFY THAT THIS SURVEY MEETS OR EXCEEDS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS IN CHAPTER 32-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO

SECRET FOR	ROBERT M. GOODMAN JR.
DARK STORM	
CRASHING BLUES.	
SECRET	

old

## CONTRACT FOR SALE AND PURCHASE

**Seller:** Dark Storm Development LLC  
3390 North Courtenay Parkway  
Suite K, Merritt Island, FL 32953

**Buyer:** Board of County Commissioners, Brevard County, Florida  
2725 Judge Fran Jamieson Way, Viera, Florida, 32940

**Legal description of property being transferred:** A parcel containing approximately ten (10) acres (more or less), and located within Parcel "D" of the Enterprise Park Plat, recorded at Brevard County Official Plat Records Book 32, Page 74, more particularly described in Exhibit "A" attached hereto and incorporated herein, together with all riparian and littoral rights appertaining thereto, and all interests in subsurface oil, gas, and phosphate, minerals and metals that were conveyed by Brevard County pursuant to section 270.11, Florida Statutes in the county deed recorded at official records book 9349, page 371. The parcel has Brevard County Property Appraiser Identification #23-35-04-NN-D.7.

**Terms:** The Seller agrees to sell, and Buyer agrees to buy the Property pursuant to the terms and conditions set forth in this Contract for Sale and Purchase, Addendum 1 (Standards for Real Estate Transactions), and Exhibit "A" Legal Description.

**Purchase price:** \$362,600 (Three Hundred Sixty-Two Thousand Six Hundred and no/100 dollars).

**Deposit:** None.

**Time for acceptance of offer; effective date; facsimile:** Buyer is exercising a right to repurchase the parcel pursuant to a right to reacquire in a deed recorded at official records book 9349, page 371, and both Parties are agreed. The date of Contract ("Effective Date") will be the date when the last one of the Buyer and Seller has signed the offer. An electronic copy of this Contract and any signatures hereon shall be considered for all purposes as originals.

**Title evidence:** During the inspection period, Buyer may, at Buyer's option, obtain (a) title search and/or (b) title insurance commitment (with legible copies of instruments listed as exceptions attached thereto) and, after closing, an owner's policy of insurance.

**Closing Date:** This transaction shall be closed and the deed and other closing papers delivered on or before January 19, 2024, unless modified by other provisions of this Contract (hereinafter the "Closing" or "Closing Date").

**Warranties and Brokers:** The following warranties are made and shall survive closing:

- a. SELLER warrants that there are no parties in occupancy other than SELLER.

- b. SELLER warrants that the person signing this Contract on behalf of SELLER has all necessary authority to sign and bind SELLER. SELLER is a limited liability company duly organized, validly existing and in good standing under the laws of the state of its formation. The SELLER's performance under this Contract will not conflict with, or result in a breach of, any of the terms, conditions and provisions of its limited liability company operating agreement, or of any law, statute, rule, regulation, order, judgment, writ, injunction or decree of any court or governmental instrumentality, or any contract, agreement or instrument to which SELLER is a party or by which is bound.
- c. SELLER warrants that SELLER has not deposited any hazardous waste or other environmental contamination onto the property being acquired by the County during SELLER's ownership.
- d. SELLER warrants that he/she has no knowledge of any fact or restriction which would prevent use of the property for construction of light industrial uses in accordance with the restrictive covenants of the Spaceport Commerce Park.
- e. SELLER hereby represents and warrants to BUYER that SELLER has not engaged or dealt with any agent, broker or finder, in regard to this Agreement or to the sale and purchase of the property contemplated hereby. SELLER hereby acknowledges and covenants that SELLER is solely responsible for any and all commissions due arising out of or connected within the sale or transfer of the property.
- f. Each Party warrants that it is not a foreign person or foreign entity within the meaning of section 1445(f) of the Internal Revenue Code.
- g. SELLER warrants that the property to be conveyed hereunder shall be conveyed free of mortgages or other encumbrances, except those of matters of record, and any security interests in personal property.
- h. The provisions of this warranty section shall survive the Closing Date.

**Disclosure Obligations:** SELLER to disclose to BUYER any applicable leases, assignments, mortgages, liens, permits, binding development plans, or other agreements that are binding on the property. SELLER to disclose to BUYER any pre-development or development that has occurred on the property.

**Inspections:** The BUYER shall have sixty (60) days after the Brevard County Board of County Commissioners executes the contract within which to complete physical inspection and evaluation of the property for environmental, hazardous materials, suitability for development, access, drainage and subsurface conditions (hereinafter the "Inspection Period"). In the event a Phase I environmental assessment meeting ASTM standards is prepared and environmental issues objectionable to BUYER are detected, SELLER shall 1) take all steps necessary to remove BUYER'S objections prior to the expiration of the 60-day inspection period, if possible or 2) if acceptable to BUYER, SELLER shall allow an additional ninety (90) days to provide adequate time to conduct a Phase II assessment meeting ASTM standards. If the Phase I assessment reveals

contamination, this agreement may be terminated by BUYER and BUYER may decline to allow SELLER to clean up or to proceed to a Phase II assessment. Likewise, if the Phase II assessment reveals contamination objectionable to BUYER, BUYER may terminate this agreement. Alternatively, BUYER may grant SELLER an additional ninety (90) days to clean up the site after the Phase II assessment, but BUYER is not required to do so. SELLER shall allow the BUYER or its agents reasonable right of entry upon the property for inspection purposes. Before the expiration of the initial 60-day inspection period or the additional 90-day extension for a Phase II assessment, BUYER shall have the right to terminate this agreement with a full refund of any deposits, should the results of the inspection indicate the property cannot be used for its intended purpose or that mitigation of conditions would be required. If clean up after a Phase II assessment is attempted but unacceptable to BUYER, the BUYER shall have the right to termination of this Contract and receive a full refund of any deposits it has applied to the sale.

**Condemnation:** This property is not being acquired under threat of condemnation. If so, this agreement includes and settles all issues of full compensation for the property being acquired, including fees and costs.

SELLER shall comply with section 196.295, Florida Statutes.

SELLER hereby agrees to provide the necessary information and execute a beneficial interest and disclosure affidavit as required by section 286.23, Florida Statutes.

Special Clauses: None.

(Signature Page Follows)

F.4.

1 of 2

**IN WITNESS WHEREOF, the Parties have caused this instrument to be executed by their duly authorized representatives.**

**BUYER:**

**SELLER:**

**BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA**

**DARK STORM DEVELOPMENT LLC**

BY: \_\_\_\_\_  
RITA PRITCHETT, CHAIR  
As approved by the Board on: \_\_\_\_\_

BY: \_\_\_\_\_  
PRINT NAME: \_\_\_\_\_  
DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Rachel Sadoff, Clerk

Approved as to legal form and sufficiency:

\_\_\_\_\_  
County Attorney

## STANDARDS FOR REAL ESTATE TRANSACTIONS

**A. EVIDENCE OF TITLE:** (Applicable in the event Buyer opts to obtain a title commitment). A title insurance commitment issued by a Florida licensed title insurer agreeing to issue to Buyer, upon recording of the deed to Buyer, an owner's policy of title insurance in the amount of the purchase price insuring Buyer's title to the Real Property, subject only to liens, encumbrances, exceptions or qualifications set forth in this Contract and those which shall be discharged by Seller at or before closing. Seller shall convey marketable title subject only to liens, encumbrances, exceptions or qualifications specified in this Contract. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law. Buyer shall have 5 days from date of receiving evidence of title to examine it. If title is found defective, Buyer shall within 3 days thereafter, notify Seller in writing specifying defect(s). If the defect(s) render title unmarketable, Seller will have 30 days from receipt of notice to remove the defects, failing which Buyer shall, within five (5) days after expiration of the thirty (30) day period, deliver written notice to Seller either: (1) extending the time for a reasonable period not to exceed 120 days within which Seller shall use diligent effort to remove the defects; or (2) requesting a refund of deposit(s) paid which shall immediately be returned to Buyer. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted the title as it then is. Seller shall, if title is found unmarketable, use diligent effort to correct defect(s) in the title within the time provided therefor. If Seller is unable to remove the defects within the times allowed therefor, Buyer shall either waive the defects or receive a refund of deposit(s), thereby releasing Buyer and Seller from all further obligation under this Contract.

**B. SURVEY:** Buyer, at Buyer's expense, within the time allowed to deliver evidence of title and to examine same, may have the Real Property surveyed and certified by a registered Florida surveyor. If survey shows encroachment on Real Property or that improvements located on Real Property encroach on setback lines, easements, lands of others or violate any restrictions, Contract covenants or applicable governmental regulation, the same shall constitute a title defect.

**C. INGRESS AND EGRESS:** Seller warrants and represents that there is ingress and egress to the Real Property sufficient for its intended use as described in the Warranties section of the agreement.

**D. LIENS:** Seller shall furnish to Buyer at time of closing an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statement, claims of lien or potential lienors known to Seller and further attesting that there have been no improvements or repairs to the Property for 90 days immediately preceding date of closing. If Property has been improved or repaired within that time Seller shall deliver releases or waivers of construction liens executed by all general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers and materialmen and further affirming that all charges for improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been paid or will be paid at closing of this Contract.



**E. TIME PERIOD: Time is of the essence in this Contract.**

**F. DOCUMENTS FOR CLOSING:** Seller shall furnish a warranty deed, bill of sale, construction lien affidavit, owner's possession affidavit, assignments of leases, tenant and mortgagee estoppel letters and corrective instruments. Buyer shall furnish closing statement.

**G. EXPENSES:** Documentary stamps on the deed, if required, and recording of corrective instruments shall be paid by Buyer. Buyer will pay for the cost of recording the deed.

**H. PRORATIONS; CREDITS:** Taxes, assessments, rent, interest, insurance and other expenses and revenue of Property shall be prorated through day before closing. Buyer shall have the option of taking over any existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at closing shall be increased or decreased as may be required by prorations. Prorations will be made through day prior to occupancy if occupancy occurs before closing. Advance rent and security deposits will be credited to Buyer and escrow deposits held by mortgagee will be credited to Seller. Taxes shall be prorated based on the current year's tax with due allowance made for maximum allowable discount, homestead and other exemptions. If closing occurs at a date when the current year's millage is not fixed and current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If current year's assessment is not available, then taxes will be prorated on the prior year's tax. If there are completed improvements on the Real Property by January 1st of year of closing, which improvements were not in existence on January 1st of the prior year, then taxes shall be prorated based upon the prior year's millage and at an equitable assessment to be agreed upon between the parties, failing which, request will be made to the County Property Appraiser for an informal assessment taking into consideration available exemptions. Any tax proration based on an estimate shall, at request of either Buyer or Seller, be subsequently readjusted upon receipt of tax bill on condition that a statement to that effect is in the closing statement.

**I. SPECIAL ASSESSMENT LIENS:** Certified, confirmed and ratified special assessment liens as of date of closing (not as of Effective Date) are to be paid by Seller. Pending liens as of date of closing shall be assumed by Buyer. If the improvement has been substantially completed as of Effective Date, any pending lien shall be considered certified, confirmed or ratified and Seller shall, at closing, be charged an amount equal to the last estimate of assessment for the improvement by the public body.

**J. PROCEEDS OF SALE; CLOSING PROCEDURE:** The deed shall be recorded upon clearance of funds. If abstract of title has been furnished, evidence of title shall be continued at Buyer's expense to show title in Buyer, without any encumbrances or change which would render Seller's title unmarketable from the date of the last evidence. Proceeds of the sale shall be held in escrow by Seller's attorney or by another mutually acceptable escrow agent for a period of not more than five (5) days after closing date. If Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 5-day period, notify Seller in writing of the defect and Seller shall have 30 days from date of receipt of such notification to cure the defect. If Seller fails to timely cure the defect, all deposit(s) and closing funds shall, upon written demand by Buyer and within five (5) days after demand, be returned to Buyer and, simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and reconvey the Property to Seller by special warranty deed and bill of sale. If Buyer fails to make timely demand for refund, Buyer

shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale. The escrow and closing procedure required by this Standard shall be waived if title agent insures adverse matters pursuant to Section 627.7841, Florida Statutes (1993), as amended.

**K. FAILURE OF PERFORMANCE:** If Buyer fails to perform this Contract within the time specified, including payment of all deposit(s), the deposit(s) paid by Buyer and deposit(s) agreed to be paid, may be retained by or for the account of Seller as agreed upon liquidated damages, consideration for the execution of this Contract and in full settlement of any claims; whereupon, Buyer and Seller shall be relieved of all obligations under this Contract; or Seller, at Seller's option, may proceed in equity to enforce Seller's rights under this Contract. If for any reason other than failure of Seller to make Seller's title marketable after diligent effort, Seller fails, neglects or refuses to perform this Contract, the Buyer may seek specific performance or elect to receive the return of Buyer's deposit(s) without thereby waiving any action for damages resulting from Seller's breach.

**L. APPLICABLE LAW AND VENUE.** This Contract shall be construed in accordance with the laws of the State of Florida and venue for resolution of all disputes, whether by mediation or litigation, shall lie in Brevard County, Florida. In the event of any litigation arising out of this contract, each Party shall bear its own attorney's fees and costs. **THE PARTIES AGREE TO WAIVE TRIAL BY JURY AND ANY TRIAL SHALL BE NON-JURY.**

**M. CONVEYANCE:** Seller shall convey title to the Real Property by statutory warranty, trustee's, personal representative's or guardian's deed, as appropriate to the status of Seller. Personal Property shall, at request of Buyer, be transferred by an absolute bill of sale with warranty of title, subject only to such matters as may be otherwise provided for herein.

**N. OTHER AGREEMENTS:** No prior or present agreements or representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

**O. WARRANTY:** Seller warrants that there are no facts known to Seller materially affecting the value of the Property which are not readily observable by Buyer or which have not been disclosed.

**PROPERTY TAX DISCLOSURE SUMMARY:** BUYER SHOULD NOT RELY ON SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.

Reviewed for legal form and content:

\_\_\_\_\_(Assistant) County Attorney

\_\_\_\_\_  
Seller's Initials

**EXHIBIT "A"**

Survey & Legal Description

(on the following page)