

**CONTRACT TO PURCHASE AND SELL REAL ESTATE
(Vacant Land)**

This CONTRACT TO PURCHASE AND SELL REAL ESTATE, referred to in this document as the "Contract", is made and entered into as of the dates set forth below and is effective as of the Effective Date, as provided in Paragraph 10.M., below, by and between:

Martin County, a political subdivision of the State of Florida, which Party is referred to in this Contract as "Buyer",

And

KL Waterside LLC, a Delaware limited liability company, which Party is referred to in the Contract as "Seller".

Buyer and Seller jointly are referred to in this document as the "Parties" and separately may be referred to as a "Party".

01. Contract to Purchase and Sell.

A. **Purchase and Sale.** Upon the terms and conditions set forth in this Contract and more particularly described on **Exhibit "A"** attached hereto (the "Additional Terms"), Seller hereby agrees to sell to Buyer and Buyer agrees to purchase from Seller:

1) **Real Property.** That certain parcel of vacant real estate located in Martin County, Florida and more particularly described on **Exhibit "B"** attached hereto (the "Real Property Legal Description"), and a part of PCN#13-39-40-000-003-00000-1, together with all easements, rights and uses now or hereafter belonging, all of which are collectively referred to in this Contract as the "Real Property". The exact parcel boundary and acreage will be agreed to by the Parties after the Effective Date as described in 06.B. below.

02. Purchase Price and Payment; Deposits; Consideration.

A. **Purchase Price.** The purchase price and consideration for the Real Property shall be the amount of one hundred twenty thousand and no/100 dollars (\$120,000.00) per acre (rounded to the nearest 1/1000 of an acre) and up to thirty (30) acres, which amount is referred to in this Contract as the "Purchase Price".

B. **Deposits.** There shall be a 10% deposit required for this Contract. The deposit will be delivered to Escrow Agent within three (3) days after Effective Date in the amount of three hundred and sixty thousand and no/100 dollars

(\$360,000.00), for thirty (30) acres, which amount shall be applied towards the Purchase Price at Closing and shall be referred to in this Contract as the "Deposit". The escrow agent for this transaction (the "Escrow Agent") shall be: Robert A. Burson, P.A., 900 SE Ocean Blvd, Stuart, FL 34994, telephone: 772-286-1616, email: bob@robertburson.com.

03. **Marketable Title; Title and Survey.** Seller shall convey marketable title to the Real Property by statutory warranty deed free of claims, liens, encroachments, and encumbrances of record or known to Seller; but, subject to real property and non-ad valorem taxes as provided in Paragraph 09.A. below, and subject to those covenants, restrictions and easements of record which have been accepted by Buyer, provided there exists at Closing any violations of the foregoing and provided that none of them prevents the use of the Real Property for governmental offices and related purposes, which use is referred to in this Contract as the "Buyer's Intended Use of the Property". Those title matters contained in Exhibit "C" attached hereto (the "Permitted Exceptions") shall be deemed to be accepted by Buyer.

A. Title.

- 1) **Title Insurance.** Buyer may, at Buyer's expense and within thirty (30) days after the start of the Investigation Period, obtain a title insurance commitment, referred to in this Contract as the "Commitment", applicable to the Real Property and to this Contract.
- 2) **Title Defects Based on Commitment.** If the Commitment reveals any matter(s) which render(s) title unmarketable then each such matter shall constitute a title defect and shall be subject to the provisions set forth in Paragraph 04. below. For the purposes of this Contract, any matter which materially prevents or hinders Buyer from using the Real Property for Buyer's Intended Use of the Real Property shall be considered as a matter which renders title unmarketable.
- 3) **Commitment Update.** At any time prior to the Closing, Buyer may have the Commitment updated to a more recent certification date. Buyer shall have the right to object to any new matter shown on the updated Commitment that in Buyer's reasonable opinion makes the title unmarketable, other than matters created by, through, or under Buyer. Buyer shall deliver written notice to Seller of any new title matters that make the title unmarketable and the provisions of Paragraph 04. below shall apply.

B. Survey.

- 1) **Survey Requirements.** Buyer shall, at Buyer's expense and within forty five (45) days after the Effective Date, have the Real Property surveyed by a professional land surveyor and mapper or engineer and receive from the

surveyor or engineer a drawing of the survey, which drawing is referred to in this Contract as the "Survey". The Survey shall:

- a) Be prepared in accordance with ALTA standards and certify the exact acreage of the Real Property to be used in calculating the Purchase Price;
 - b) Be certified to the Buyer, Seller, the title insurance company, the insurance agent, and any other person or entity designated by the Buyer;
 - c) Be sufficient for removal of the standard survey exception from the policy of title insurance to be issued pursuant to the Commitment; and
 - d) Be in a form and content acceptable to the Buyer and shall show all matters disclosed in the Commitment and which can be located on the Survey.
- 2) **Title Defects Based on Survey.** If the Survey reveals that there are encroachments on the Real Property from the property of another, then such encroachments shall constitute a title defect and shall be subject to the provisions set forth in Paragraph 04. below. Buyer shall have the right to notify Seller of any other Survey objections within the same time period and in the same manner as Buyer has to provide notice of title defects as set forth in Paragraph 04 below.
- 3) **Survey Update.** At any time prior to the Closing, buyer may have the Survey updated and re-certified in the manner provided above. Buyer shall have the right to object to any new matter shown on the updated survey that constitutes an encroachment or Survey objection as provided in Paragraph 03.B.2) above. Buyer shall deliver written notice to Seller of any new encroachments or survey objection and the provisions of Paragraph 04. below shall apply.

04. Title and Survey Defects.

A. **Title Acceptance or Notice of Defects.** Buyer shall, within forty-five (45) days after the start of the Investigation Period, deliver to Seller a written notice of title and Survey defects; provided, however, Buyer may not object to the Permitted Exceptions. Title and Survey shall be deemed accepted by Buyer if either:

- 1) Buyer fails to deliver to Seller a written notice of title and survey defects within the time specified; or

- 2) Buyer delivers a written notice of title and survey defects and Seller cures the defects within fifteen (15) days from receipt of the notice, which period is referred to in this Contract as the "Curative Period."

B. Cure of Title and Survey Defects. If Buyer timely delivers notice of title and Survey defects to Seller, then upon receipt of the notice from Buyer, Seller shall use Seller's reasonable efforts to cure the defects within the Curative Period and any monetary items such as mortgage may be satisfied at the Closing; and if the Buyer fails to terminate this Contract during the Investigation Period as provided in Paragraph 06.E below, Seller then shall have no obligation to cure any title or survey matters. If the title and Survey defects are not cured within the Curative Period, then Buyer shall have fifteen (15) days from the end of the Curative Period to elect, by written notice to Seller, to:

- 1) Terminate this Contract, whereupon Buyer shall receive a return of the Deposit;

or

- 2) Accept title and survey subject to the existing title and survey defects with no adjustment in the Purchase Price.

05. Representations of the Seller; Indemnification. Seller makes and acknowledges that each of the following representations and warranties are material, have been relied on by the Buyer and shall survive the Closing for 1 year:

- A. Seller represents and warrants to Buyer that, as of the Effective Date, and as of the Closing Date, Seller owns the Real Property and has the legal capacity and authority to convey the Real Property in accordance with this Contract.
- B. Seller represents and warrants to Buyer that the person signing this Contract on behalf of Seller has full power and authority to enter into and perform this Contract in accordance with its terms on behalf of Seller, and that the execution and delivery of this Contract and the performance by Seller of its obligations hereunder have been duly authorized by such action as may be required; and no further action or approval is required in order to constitute this Contract as a binding and enforceable obligation of Seller.
- C. Seller represents and warrants that if Seller has received written notice of any uncured violation of any zoning, safety, environmental, health or other codes, laws, ordinances or regulations pertaining to the Real Property, then Seller shall notify Buyer of such violation within five (5) days after the Effective Date; and, if Seller receives written notice of any such violation after the Effective Date and before the Closing Date, then Seller shall notify Buyer of such violation by the earliest of five (5) days after learning of the violation or the Closing Date.

- D. Seller represents and warrants that Seller has not received written notice from any governmental authority of any information or fact which, in Seller's reasonable opinion, would materially or adversely affect the Real Property or the buyer's intended Use of the Real Property which has not been disclosed to the Buyer in writing. Except as otherwise disclosed to Buyer in writing, Seller has no knowledge of and has received no written notice from any governmental agency having jurisdiction that the Real Property is affected by the presence and/or harmful effects of any asbestos, petroleum products, or other toxic or hazardous substances as defined by applicable federal, state, or local laws affecting the Real Property.
- E. Seller represents and warrants that, except as otherwise specifically provided in this Contract, title to the Real Property shall be conveyed free and clear of any lease, lease renewal, option, agreement to sell, encumbrance, or any other agreement or rights of others which extend beyond the Closing Date.
- F. Seller represents and warrants that the Real Property has both legal and practical ingress and egress but only once the right-of-way for SW Waterside Way from SW Kanner Highway is provided at Closing and Buyer is responsible for the construction of such practical ingress and egress post Closing. This provision shall survive the Closing for 1 year.
- G. Seller represents and warrants that Seller has no knowledge of and has received no written notice that there is any action, suit or proceeding pending or threatened against or affecting the Real Property or any portion thereof or relating to or arising out of the ownership or operation of the Real Property, in any court or before or by any federal, state, county or municipal department, commission, board, bureau or agency or other governmental authority.
- H. The Seller agrees to indemnify, defend and hold harmless the Buyer, its successors and assigns, from and against all liabilities, costs and expenses (including reasonable attorney's fees), arising out of any breach by the Seller of any representations or warranties in connection with this transaction which are discovered by Buyer after Closing and of which Buyer had no knowledge at Closing. Such indemnity shall automatically terminate and be of no further effect on the date that is one (1) year after Closing except as to any claim filed by Buyer within such one (1) year period. Notwithstanding the foregoing, Seller's total maximum liability pursuant to this provision shall be the sum of Three Hundred Sixty Thousand Dollars (\$360,000.00).

06. Delivery of Due Diligence Materials and Investigation Period.

- A. **Delivery of Due Diligence Materials.** Within five (5) days after the Effective Date, Seller shall deliver to Buyer all of the following existing items which are

specifically related to the Real Property and which are in the Seller's possession or control:

- 1) Survey drawings;
- 2) Environmental studies;
- 3) Copies of any contracts that survive the Closing; and
- 4) Title insurance policies

B. Investigation Period. The time period which commences on the date the Parties agree by mutual writing upon the exact parcel boundary and acreage and which expires at 5:00 p.m. on the sixtieth (60th) day thereafter is referred to in this Contract as the "Investigation Period". Notwithstanding the foregoing, the Parties agree that in no event shall the Investigation Period expire prior to the date that is ninety (90) days after the Effective Date. Buyer and Seller shall work together, reasonably and in good faith, to agree upon the exact parcel boundary and acreage of the Real Property by the date that is sixty (60) days after the Effective Date. If the parties have not agreed in writing upon the exact parcel boundary and acreage of the Property by the date that is sixty (60) days after the Effective Date, then this Contract shall automatically terminate and be of no further force and effect and the Deposit shall be returned to the Buyer.

C. Property Inspections. During the Investigation Period, Buyer and its agents, contractors and consultants shall have the right to enter the Real Property to conduct tests and inspect and investigate all aspects of the Real Property and to determine if the Real Property is suitable to Buyer for Buyer's Intended Use of the Real Property. Seller shall, upon reasonable notice to Seller, provide to Buyer and its designees access to the Real Property to allow Buyer to investigate all aspects of the Real Property. Buyer shall be prohibited from conducting any invasive testing, borings, drillings or samplings on or at the Real Property without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned, or delayed.

Buyer represents to Seller that it is a member of the Treasure Coast Risk Management Program (TRICO) who is a qualified self-insurer in the State of Florida and granted immunity under Florida Statute 768.28 (as it now is written as it may be amended by the legislature at future dates). Liability is limited to \$200,000 per claimant, \$300,000 per claim or occurrence for negligent acts of the county. Buyer is unable to list Seller as an additional insured due to the operation of F.S. 768.28 affecting sovereign immunity. Specifically, entities that are not themselves governmental entities cannot avail themselves the protections afforded through Florida law governing sovereign immunity. This self-insurance program is predicated upon the concept of sovereign immunity

among its insureds. Therefore, entities that do not qualify for protection under this statute are not eligible to be an additional insured.

D. Termination of the Contract During Investigation Period.

01. During the Investigation Period Buyer shall have the sole, absolute, complete, and unconditional right for any reason whatsoever, and without cause or obligation to state a cause, to terminate this Contract by delivering written notice of such termination to the Seller prior to the expiration of the Investigation Period. Such notice is referred to in this Contract as the "Termination Notice". In the event Buyer delivers the Termination Notice as provided herein, this Contract shall automatically terminate and Escrow Agent shall return the Deposit to Buyer whereupon this Contract shall be of no further force or effect except with respect to those matters that expressly survive termination hereof.

If a Termination Notice is delivered, then the provisions of Paragraph 10.R., below shall apply.

E. Acceptance of the Real Property. If Buyer fails to provide the Termination Notice within the time required in Paragraph 06. E, then Buyer shall have waived its right to terminate this Contract pursuant to Paragraph 06.D. and at Closing Seller shall deliver the Real Property to Buyer and Buyer shall accept the Real Property in its "As-is" condition. SELLER DOES HEREBY DISCLAIM ANY AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS THAT MAY BE DUE FROM SELLER TO BUYER WITH RESPECT TO THE PROPERTY CONTAINED THEREIN AND INCLUDED IN THIS SALE. EXCEPT AS SPECIFICALLY PROVIDED OTHERWISE IN THIS CONTRACT, BUYER EXPRESSLY RELEASES AND RELIEVES SELLER FROM ANY LIABILITY, WARRANTY, OR OBLIGATION RELATING TO THE CONDITION OF THE PROPERTY, SPECIFICALLY INCLUDING: LATENT AND PATENT CONDITIONS; ZONING REQUIREMENTS; THE PRESENCE OR RELEASE OF HAZARDOUS OR TOXIC WASTES, SUBSTANCE AND MATERIALS ON OR FROM THE PROPERTY OR ANY ADJOINING PROPERTY; SUBSOIL CONDITIONS; STORMWATER DRAINAGE CONDITIONS; THE EXISTENCE OR CONDITION OF UTILITIES, IF ANY, AT THE PROPERTY; AND ANY AND ALL OTHER MATTERS RELATING TO THE PHYSICAL CONDITION OF THE PROPERTY. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE CLOSING.

07. **Default.** If either Party fails, neglects or refuses to perform their obligations under this Contract (except for reasons permitted or authorized by this Contract), Buyer and Seller acknowledge and agree that such failure, neglect or refusal is a default under this Contract and that the economic consequences of default by either Party, considered at the time of contract formation, are speculative and uncertain. In the event of default, if such default is not cured by the defaulting Party within 7 days

after written notice to the defaulting Party from the non-defaulting Party, then the non-defaulting Party may terminate this Contract. Buyer and Seller agree that upon default of this Contract by a Party, the following shall apply:

- A. **Seller's Failure to Close.** If Seller defaults by failing, neglecting or refusing to perform Seller's obligations under this Contract, and fails to cure such default, then the Buyer shall be entitled to: (i) terminate this Contract by written notice delivered to the Seller at or prior to the Closing Date, whereupon Buyer shall receive a return of the Deposit and reimbursement from Seller for out of pocket costs incurred in connection with its due diligence investigation of the Real Property not to exceed Twenty-Five Thousand Dollars (\$25,000); (ii) obtain specific performance of the terms and conditions hereof; or (iii) waive the Seller's default and proceed to consummate the transaction with the Seller as contemplated herein, without reduction in the Purchase Price. Buyer is limited to the remedies above, and except as otherwise expressly provided herein, under no circumstances shall Buyer be entitled to sue for damages.

- B. **Buyer's Failure to Close.** If Buyer defaults by failing, neglecting or refusing to perform Buyer's obligations under this Contract, and fails to cure such default, then Seller shall be entitled, as its sole remedy hereunder, to terminate this Contract and receive the Deposit as consideration for the execution of this Contract and Buyer shall deliver to Seller the results of its investigation performed pursuant to Paragraph 6, together with any other documents prepared by or on behalf of Buyer pursuant to this Contract, as liquidated damages, and neither the Seller nor any other person or party shall have any claim for specific performance, damages or otherwise against the Buyer.

08. **Closing.** The closing of the transaction contemplated herein, which is referred to in this Contract as the "Closing", shall take place on such date that is one hundred twenty (120) days after the Effective Date, unless extended or shortened by mutual written agreement of the Parties or by the terms of this Contract. The date on which the Closing occurs is referred to in this Contract as the "Closing Date". The Closing shall be held at the Martin County, Florida office of the closing Agent at an agreed upon time by the Parties and the Closing Agent; provided, however, the Closing may be conducted by a "mail away" Closing and neither Buyer or Seller need to attend the Closing in person. On or before the Closing Date:

- A. Seller shall execute and deliver, or shall have previously executed and delivered, to the Closing Agent each of the following prepared by the Closing Agent:
 - 1) A statutory form warranty deed conveying marketable title to the Real Property, free and clear of all liens and encumbrances, in the condition required by Paragraph 03. Above.

- 2) An affidavit, in a form acceptable to the Buyer, certifying that Seller is not a non-resident alien or a foreign entity, such that Seller and such interest holders are not subject to tax under the Foreign Investment and Real Property Tax Act of 1980, as amended, and the Regulations applicable thereto, referred to in this Paragraph as the "Act." If Seller is subject to tax under the Act, then Seller shall comply with all provisions of the Act.
 - 3) A Seller's Closing Affidavit in the form as required by the Closing Agent to allow for the deletion of the standard title exceptions on the title insurance policy;
 - 4) A Settlement Statement (closing statement);
 - 5) Such other affidavits, documents, or instruments as may reasonably be required or requested by the Closing Agent to close this transaction in a manner which allows for the issuance of a title insurance policy insuring marketable title in the condition as required by Paragraph 03. above.
 - 6) Intentionally omitted.
 - 7) Intentionally omitted.
 - 8) Authorization letter from Seller to Lender to allow Closing Agent to obtain loan payoff estoppel letters.
 - 9) Such documentation as may be required to satisfy the Closing requirements of the underwriter of the Commitment.
 - 10) Assignments of any applicable permits and licenses.
 - 11) Any corrective instruments or other documents reasonably necessary to effectuate the transaction.
- B. If Seller is obligated to discharge any encumbrances at or prior to Closing and fails to do so, Buyer may use a portion of the Purchase Price funds to satisfy the encumbrances. Seller shall properly close or cause to be properly closed any code enforcement actions affecting the Real Property on or prior to Closing. Buyer acknowledges that there may be open permits on the Real Property at Closing and Seller shall have no obligation to close out such permits and same shall not delay the Closing.
- C. Buyer shall have timely complied with the requirements of Florida Statutes 286.23 to give Seller notice of Seller's obligations to provide the Beneficial Interest Disclosure in the form set out as **Exhibit "D"** attached hereto (the "Beneficial Interest Disclosure").

Seller shall have timely, (before entering into this Contract), provided to Buyer a completed and executed Beneficial Interest Disclosure required by Florida Statutes 286.23.

(The Parties by entering into this Contract acknowledge that before entering into this Contract, both Parties have fully complied with all of the provisions of Florida Statutes Section 286.23.)

- D. Buyer shall execute and deliver, or shall have previously, executed and delivered to the Closing Agent:
- 1) A Buyer's Closing Affidavit as required by the Closing Agent to allow for the deletion of the standard title exceptions on the title insurance policy.
 - 2) A Settlement Statement (closing statement).
 - 3) Such other affidavits, documents, or instruments as may reasonably be required or requested by the Closing Agent to close this transaction in a manner which allows for the issuance of a title insurance policy insuring marketable title in the condition as required by Paragraph 03. above.
- E. Buyer shall deliver, or shall have previously delivered, to the Closing Agent the funds representing the Purchase Price adjusted as provided in this Contract, in the form of a wire transfer.
- F. The Closing Agent shall cause the Commitment to be re-certified and updated to a more current date, to allow for the issuance of a policy of title insurance pursuant to the Commitment, without standard exceptions.
- G. The Closing Agent shall disburse the Seller's net proceeds to Seller.

09. Prorations & Expenses.

- A. **Real Estate Taxes and Special Assessments.** All taxes and special assessments which are a lien upon the Real Property on or prior to the Closing Date (except current taxes which are not yet due and payable) shall be paid by the Seller. If the Closing Date occurs during the time interval commencing on November 2 and ending on December 31, Seller shall pay all current real estate taxes and special assessments levied against the Real Property, prorated based on the "due date" of such taxes established by the taxing authority having jurisdiction over the Property. If the Closing Date occurs between January 1 and November 1, the Seller shall, in accordance with Florida Statutes section 196.295, pay an amount equal to the current real estate taxes and assessments, prorated to the Closing Date. All security deposits shall be paid or credited to Buyer. All rents and other revenues,

operating expenses, utility charges and other sums due shall be paid or retained, as the case may be, by Seller to the extent attributable to the period on or before the Closing Date and shall be paid or retained by Buyer to the extent attributable to the period on or after the Closing Date.

B. Documentary Stamps on the Deed of Conveyance. Pursuant to Florida Statutes Section 201.01, Buyer is exempt from paying documentary stamps and transfer taxes in connection with the conveyance of the Property. Seller, as a non-exempt Party, shall pay for the costs of the documentary stamps and transfer taxes payable in connection with the conveyance of the Property to the Buyer.

C. Miscellaneous Costs.

- 1) Buyer shall pay the following costs:
 - a) All inspection, survey, and title insurance related costs;
 - b) All costs of the Escrow Agent;
 - c) The settlement or closing fee of the Closing Agent;
 - d) Cost of recordation of the warranty deed; and
 - e) Buyer's attorney fees.

- 2) Seller shall pay the following costs:
 - a) Any costs of clearing title defects;
 - b) Any costs associated with curing any code enforcement actions affecting the Real Property;
 - c) Documentary stamp tax on the deed of conveyance;
 - d) The cost to satisfy any mortgages or liens encumbering the Real Property;
 - e) Property Taxes; and
 - f) Seller's attorney fees.

10. Miscellaneous.

A. Controlling Law. This Contract shall be construed and enforced in accordance with the laws of the State of Florida. Venue shall be in Martin County for all state court matters, and in the Southern District of Florida for all federal court matters.

B. Condemnation. Seller represents and warrants that Seller has received no notice that any governmental authority intends to commence or has commenced proceedings for the taking of any portion of the Real Property by the exercise of any power of condemnation or eminent domain.

Buyer shall have the absolute right, at Buyer's sole discretion, to terminate this Contract without liability by notifying Seller in writing within thirty (30) days following the date Buyer receives notice of such condemnation or taking.

Alternatively, Buyer will have the option of purchasing what is left of the Property at the agreed upon Purchase Price and Seller will transfer to Buyer at Closing the proceeds of any award, or Seller's claim to any award payable for the condemnation or taking. Seller will cooperate with and assist Buyer in collecting any such award.

- C. **Brokers.** Buyer represents and warrants to Seller that Buyer has not been provided professional services in this transaction by any sales broker/agent.

Seller represents and warrants to Buyer that Seller has not been provided professional services in this transaction by any sales broker/agent. If any third party makes a claim arising out of Seller's actions or responsibilities as it relates to the payment of commissions due any persons or entities for real estate brokerage services in respect of this Contract, then Seller agrees to hold Buyer harmless, and agrees to indemnify Buyer, regarding any and all such claims.

- D. **Entire Agreement.** This Contract constitutes the entire agreement between the Parties with respect to this transaction and supersedes all prior agreements, written or oral, between Seller and Buyer relating to the subject matter hereof. Any modification or amendment to this Contract shall be effective only if in writing and executed by each of the Parties.

- E. **Representation.** Both Parties hereto represent and agree that they are each represented by their own legal counsel.

- F. **Assignment.** Neither Buyer nor Seller may assign its rights and obligations under this Contract without prior written consent of the other Party, except that Buyer may assign this Contract on or before the Closing Date to another Municipal, State or Federal governmental entity. Notwithstanding the foregoing, Seller may assign this Contract in connection with the transfer of the Real Property so long as such transferee accepts all obligations of Seller under this Contract and such assignee has the same beneficial ownership as Seller.

- G. **Notices.** Notices and other communications under this Contract shall in writing and be deemed to have been duly given if sent by a Party or by their attorney in any of the following manners:

- 1) **Personal Delivery.** If personally delivered, to any of the following individuals:

Seller: The Seller, or either of the Seller's contact persons named on this Contract.

Buyer: The Martin County Real Property Manager; or any attorney staff member of the Office of the County Attorney for Martin County, Florida.

Notice personally delivered shall be deemed as delivered on the date of actual delivery.

- 2) **US Postal Service, Overnight Delivery Service and/or E-mail.** If mailed through the US Postal Service by certified mail, return receipt requested, or by overnight courier (e.g., FedEx) addressed to the other Party, for whom intended:

If to Seller: KL Waterside LLC
105 NE 1st Street
Delray Beach, FL 33444
e-mail: jharvey@kolter.com

With copy to: Gunster, Yoakley & Stewart, P.A.
Attn: Tyrone T. Bongard, Esq.
777 S. Flagler Drive, Suite 500
West Palm Beach, FL 33401
e-mail: tbongard@gunster.com

If to Buyer: Martin County Real Property Manager
2401 SE Monterey Road
Stuart, FL 34996
e-mail: Real_Property@martin.fl.us

Either Party may change its notice information by giving written notice of such change to the other Party as provided in this Paragraph 10.G

- H. **Binding Effect.** The terms hereof shall be binding upon and shall inure to the benefit of the Parties hereto and their applicable successors and assigns.
- I. **Construction.** This Contract shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that both the Buyer and the Seller have contributed substantially and materially to the preparation and review of this Contract.
- J. **Attorney's Fees and Costs.** In any claim or controversy arising out of or relating to this Contract, each Party shall bear its own attorney's fees, costs and expenses.
- K. **Closing Agent.** Buyer shall select a title agent, who may be an attorney who represents the Buyer in this transaction, to issue the Commitment and final title insurance policy and such title agent shall serve as the escrow agent and as the closing agent. Such title/escrow/closing agent is referred to in this Contract

as the "Closing Agent." The Closing Agent shall receive the funds required to be paid under this Contract and other items required to be delivered under this Contract to the Closing Agent, and subject to clearance, disburse them in accordance with the terms of this Contract. Closing Agent will deposit all funds received in a non-interest bearing account. If Closing Agent receives conflicting demands or has a good faith doubt as to Closing Agent's duties or liabilities under this Contract, Closing Agent may:

- 1) hold the subject matter in escrow until the Parties mutually agree to its disbursement or until issuance of a court order determining the Parties' rights regarding the escrow; or
- 2) deposit the subject matter of the escrow with the clerk of court having jurisdiction over the dispute, and upon notifying the Parties of such action, Closing Agent shall be released from all liability except for the duty to account for items previously delivered out of escrow.

L. Conditional Approval By Martin County Administrator; Acceptance By Seller; Submission to BOCC For Final Approval.

- 1) This Contract shall first be conditionally executed by the Martin County Administrator, the Deputy Martin County Administrator, or any other authorized person on behalf of Buyer (the "County Administrator"). The condition shall be the acceptance by Seller and subsequent approval by the Board of County Commissioners of Martin County, FL, referred to in this Contract as the "BOCC." This Contract as conditionally signed by Buyer or as conditionally signed by Buyer and Seller, is referred to in this Contract as the "Conditional Contract."
- 2) Seller shall have 10 days after the date of delivery of the Conditional Contract to Seller in which to accept, execute and deliver the original of the Conditional Contract to the Martin County Real Property Manager or to any attorney staff member of the office of the Martin County Attorney, both located at 2401 SE Monterey Road, Stuart, FL 34996. If not delivered by Seller to Buyer within such time period, Buyer may at any time thereafter revoke the offer.
- 3) As soon as administratively possible after receipt of the Conditional Contract signed by Seller, the Conditional Contract shall be submitted to the BOCC for consideration and for approval or rejection.

M. Effective Date of this Contract. The "Effective Date" of this Contract shall be the date on which the last of the County Administrator and the Seller have signed the Conditional Contract. If the BOCC subsequently rejects the Conditional Contract, then the Conditional Contract shall thereupon be terminated, and the provisions as stated below shall apply.

N. Disclosures.

1) Radon Disclosure. 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 public health department. Pursuant to § 404.056(5), Florida Statutes.

2) Energy Notification. Buyer acknowledges receipt of the information and brochure required by Florida Statute § 553.996.

O. Risk of Loss. If, after the Effective Date and before Closing, any part of the Real Property is damaged by fire or other casualty, Seller will bear the risk of loss and Buyer may terminate this Contract without liability.

Alternatively, Buyer will have the option of purchasing the Real Property at the agreed upon Purchase Price and Seller will credit the deductible, if any and transfer to Buyer at Closing any insurance proceeds, or Seller's claim to any insurance proceeds payable for the damage. Seller will cooperate with and assist Buyer in collecting any such proceeds. Seller shall not settle any insurance claim for damage caused by casualty without the consent of Buyer.

P. Force Majeure. Neither Party shall be required to perform any obligation under this Contract or be responsible to the other for damages if the performance is delayed, caused or prevented by force majeure. If force majeure becomes applicable, then any affected times provided in the Contract shall be extended until the event causing the force majeure has ended.

Q. Contract Not Recordable. This Contract shall not be recorded in the Official Records of any County.

R. Termination of The Conditional Contract or of This Contract. If the Conditional Contract or if this Contract is terminated for any reason, then:

1) Buyer shall:

- a) repair or replace any damage caused by Buyer in connection with the activities listed in Paragraph 06.C. above, and
- b) return to Seller the items provided by Seller to Buyer pursuant to Paragraph 06.A above, and
- c) pay to Seller any amount that may be owed by Buyer to Seller as a result of Buyer's default under Paragraph 07. above.

- 2) Seller shall pay to Buyer any amount that may be owed by Seller to Buyer as a result of Seller's default under Paragraph 07 above and thereupon, Buyer and Seller shall have no further obligation to each other under the Conditional Contract or under this Contract;
- 3) All rights of the Parties under the Conditional Contract and under this Contract shall be terminated; and this Contract and the conditional Contract shall be of no further force and effect.

S. Execution and Delivery. Handwritten items. Unenforceable Portions of This Contract. Signatures, initials, documents referenced in this Contract, counterparts and written modifications communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be binding. Handwritten or typewritten terms more particularly described on **Exhibit A**, to this Contract prevail over preprinted terms. If any provision of this Contract is or becomes invalid or unenforceable, all remaining provisions will continue to be fully effective.

T. Time. Time is of the essence in connection with this Contract and each provision hereof for which a time period is provided. If any period under this Contract falls on a Saturday, Sunday or legal holiday in the State of Florida, such period shall extend to 5:00pm on the first business day thereafter.

U. WAIVER OF TRIAL BY JURY. SELLER AND BUYER, TO THE EXTENT THEY MAY LEGALLY DO SO, EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, CAUSE OF ACTION, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS CONTRACT, OR IN ANY WAY CONNECTED WITH, OR RELATED TO, OR INCIDENTAL TO, THE DEALINGS OF THE PARTIES WITH RESPECT TO THIS CONTRACT OR THE TRANSACTIONS RELATED TO THIS CONTRACT, IN EACH CASE WHETHER NOW EXISTING OR SUBSEQUENTLY ARISING, AND IRRESPECTIVE OF WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE EXTENT THEY MAY LEGALLY DO SO, SELLER AND BUYER AGREE THAT ANY CLAIM, DEMAND, ACTION, CAUSE OF ACTION, OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 10.U. WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE OTHER PARTY OR PARTIES TO WAIVER OF ITS OR THEIR RIGHT TO TRIAL BY JURY.

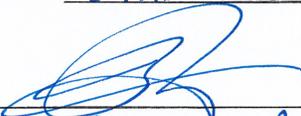
[Signature pages follow]

IN WITNESS WHEREOF, the Parties have executed this Contract as of the dates stated below.

WITNESSES:



Print name: DAVID LOPEZ



Print name: BURTON T. LOPASSO

SELLER:

KL WATERSIDE LLC,
a Delaware limited liability company

BY: 

Print name: JAMES P. HARVEY
Its: AUTHORIZED SIGNATORY

This contract shall be conditionally executed by the Martin County Administrator, the Deputy Martin County Administrator, or any other authorized person on behalf of the Buyer as directed by the Martin County Board of County Commissioners at their Oct. 15, 2021 meeting, DEPT-4 item.

BUYER:

Martin County, a political subdivision of the State of Florida



By: Taryn Kryzda, County Administrator or designee

Dated: 11/29/2022

Approved As To Form and Legal Sufficiency for County Administrator Approval:



By: Sarah Woods, County Attorney

ATTEST:

BUYER:

MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS

CAROLYN TIMMANN, CLERK OF THE CIRCUIT COURT AND COMPTROLLER

DOUG SMITH, CHAIRMAN

APPROVED AS TO FORM & LEGAL SUFFICIENCY:

SARAH W. WOODS, COUNTY ATTORNEY

Dated: _____

JOINDER BY ESCROW AGENT

The Escrow Agent joins in the execution of this instrument for the purpose of agreeing to hold the Deposit pursuant to the terms hereof.

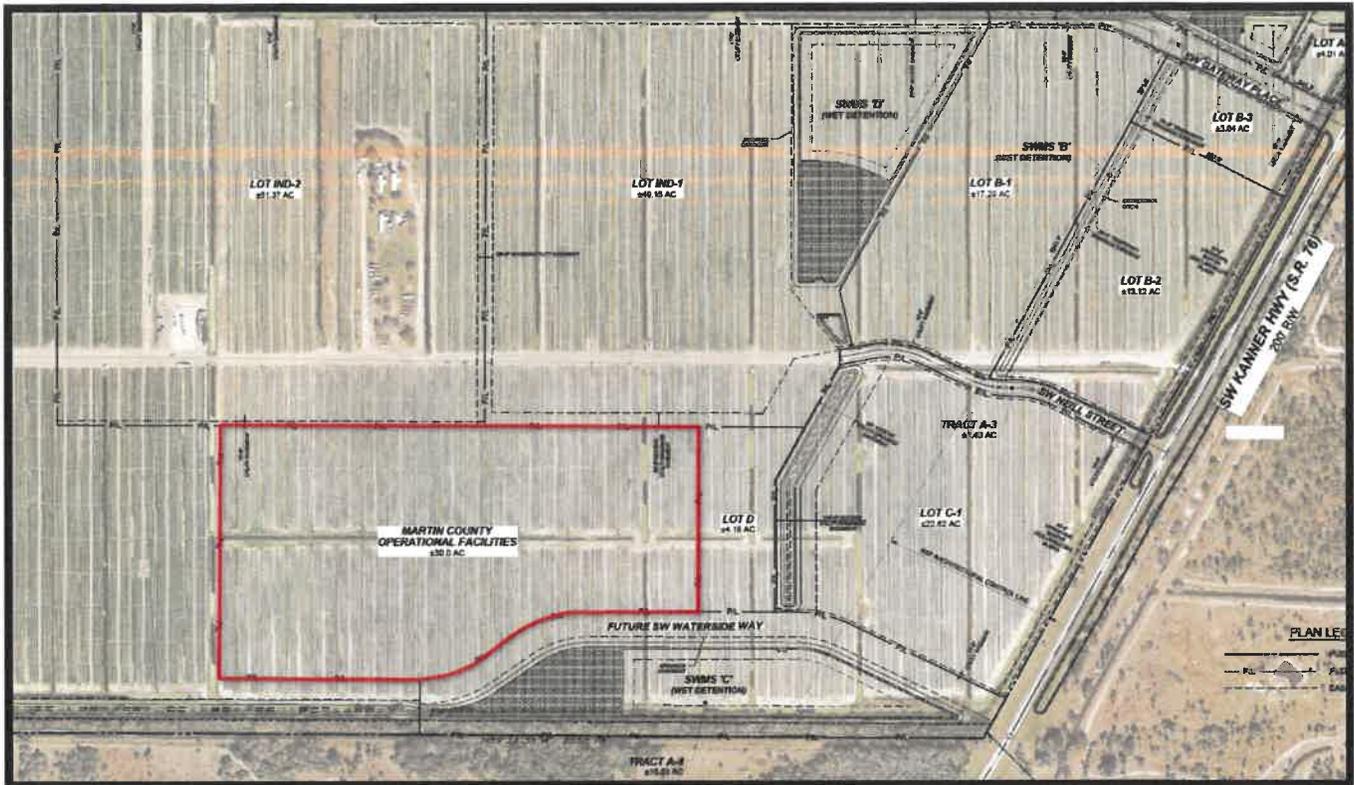
ROBERT A. BURSON, P.A.

By: Robert A. Burson

Name: ROBERT A. BURSON

Title: president

Exhibit "A" Additional Terms



(NOTE: EXACT PROPERTY BOUNDARY TO BE DETERMINED AFTER EFFECTIVE DATE)

1. During the Investigation Period, the County and KL Waterside shall reasonably agree on a Conceptual Site Plan for the Real Property and a Typical Section for a 2-lane access road along the south property line. The Real Property will be limited to three proposed driveways along the access road. The access road will also provide access points to Lot C-1 and Lot D. The legal description of the Real Property, the Conceptual Site Plan and the Typical Section will be attached as Exhibits "B", "E" and "F", respectively, to the Contract via an addendum and approval of the Board of County Commissioners prior to Closing.
2. KL Waterside will reserve a minimum 80-foot wide road right-of-way (SW Waterside Way) as identified on the South Florida Gateway PUD Plat Infrastructure Final Site Plan (PUD Infrastructure Site Plan) and deed such right-of-way to the County at the Closing if not already in place prior to Closing. The County will accept the maintenance responsibility for the right-of-way from the western driveway of the Real Property to SW Kanner Highway.
3. Promptly after Closing, the County will, at its sole cost and expense, commence design and permitting of the initial 2-lane access road in the reserved SW Waterside Way right-of-way from the western driveway of the Real Property to SW Kanner Highway including turn lanes necessary to accommodate the traffic anticipated from the County's operations at SW Kanner Highway. The stormwater runoff from SW Waterside Way will be treated and attenuated within the Stormwater Tract A-5 as identified on the PUD Infrastructure Site Plan.
4. The County will commence construction of SW Waterside Way and the intersection improvements within nine (9) months of Closing and will complete construction of SW Waterside Way and the intersection improvements within nine (9) months of commencement. The County agrees that any delay in completion of the 2-lane access road or intersection improvements will not prevent the issuance of a Certificate of Occupancy for buildings on Lot C-1 or Lot D.
5. Subject to Florida Department of Transportation (FDOT) warrants and permits, the County will, at its sole cost and expense, design, permit and construct, a traffic signal that accounts for future turn lanes.
6. In the event SW Waterside Way is extended west of the western driveway to serve future development, KL Waterside will design, permit, and construct, at its expense, the extension and any additional lanes on the 2-

Exhibit "A"

Additional Terms

lane road that are deemed necessary to safely separate County vehicles from vehicles generated by the future development. The extent of the additional lanes will be determined during the approval of any future Master or Final Site Plan.

7. Within 60 days of Closing, the County staff will ask, and KL Waterside will support, the Board of County Commissioners to initiate amendments to the Comprehensive Growth Management Plan to: remove the criteria of developing the Real Property as a Planned Unit Development; to change the future land use designation from Industrial to General Institutional; and to remove the net inbound AM peak hour trips generated by the County's use of the Real Property from the limited 950 trips. The County agrees to process a request to rezone the Real Property from LI to PS2 concurrently with the Comprehensive Growth Management Plan amendments.
8. The County will design, permit, and construct, at its expense, the Real Property's on-site infrastructure in one or more phases.
9. The County agrees to treat and attenuate stormwater runoff within the Real Property prior to discharge into the stormwater management system constructed in conjunction with the PUD Infrastructure Site Plan or into the existing FDOT Perpetual Drainage Easement.
10. The County agrees to buffer the Real Property from SW Waterside Way with a 6-foot tall solid wall on top of a 3-foot tall berm and with landscaping in accordance with the Type 3 landscape buffer requirements set forth in Section 4.663.B.6.c., Land Development Regulations, Martin County, Florida (2014).
11. KL Waterside will dedicate an easement to the County, via plat or recorded easement, for access, utilities, and drainage as identified on the PUD Infrastructure Site Plan (Easement). The final location of the easement will be determined in the Conceptual Site Plan during the Investigation Period.
12. KL Waterside will design, permit, and construct, at its expense, the extension of the County water distribution and wastewater collection (Utility) systems to serve the buildout of the PUD Infrastructure Site Plan. The Utility systems shall accommodate the buildout of the Real Property and future development to the west and allow for future connection(s) in the Easement to the Real Property by the County.
13. KL Waterside will commence construction of the Utility systems within 9 months of its approval of the PUD Infrastructure Final Site Plan and will complete construction of the Utility systems within 9 months of commencement.
14. The County will design, permit, and construct, at its expense, the extension of the Utility systems from the connection in the Easement south of SW Neill Street to serve the buildout of the Real Property. The Utility systems shall accommodate the buildout of the future development to the west with a watermain not to exceed 8 inches in diameter and provide future connections for future development in the SW Waterside Way right-of-way at the western driveway.
15. The County will commence construction of Utility systems within 9 months of KL Waterside's completion of its Utility system extension and connection to the Real Property or the approval of the Real Property's Final Site Plan, whichever comes later, the County and will complete construction of the Utility systems within 9 months of commencement.
16. 70 net inbound AM peak hour trips will be generated by the Real Property; these will be included in the limit of 950 net inbound AM peak hour trips for the tract of real property designated as Industrial on the Future Land Use Map as described in Ordinance No. 1153. No additional trips will be consumed without the expressed written consent of KL Waterside. The foregoing restriction on inbound AM peak hour trips, along with the County's obligation to: (a) construct the 2-lane access road, (b) construct the intersection improvements, (c) treat and attenuate stormwater runoff within the Real Property, (d) buffer the Real Property, and (e) extend the Utility systems to the western edge of the property, shall each be incorporated into a declaration to be recorded against the Real Property (the "Declaration") at Closing. The Declaration will provide for an automatic release of the Declaration from the Real Property upon the issuance of the first Certificate of Occupancy for a County building on the Real Property.
17. If the (i) Conceptual Site Plan for the Real Property, (ii) Typical Section for a 2-lane access road, and (iii) form of Declaration, are not each agreed to in writing by Buyer and Seller during the Investigation Period, then either Buyer or Seller shall have the right to terminate the Contract up until the date that each of the foregoing items (i) thru (iii) are agreed to in writing by Buyer and Seller.

Exhibit "B"
Real Property
Legal Description

A part of PCN#13-39-40-000-003-00000-1, together with all easements, rights and uses now or hereafter belonging, all of which are collectively referred to in this Contract as the "Real Property".

The exact parcel boundary and acreage will be agreed to by the Parties after the Effective Date.

Exhibit "C"
Permitted Exceptions

1. Resolutions recorded in Official Records Book 1423, page 650 and Official Records Book 1503, Page 2610, of the Public Records of Martin County, Florida, said Resolutions create a Municipal Service Benefit Unit that imposes taxes on the subject property.
2. Resolution Number 10-8.8 recorded in Official Records Book 2473, Page 712, of the Public Records of Martin County, Florida.
3. Resolution No. 21-1.14 recorded in Official Records Book 3208, Page 2502, of the Public Records of Martin County, Florida.
4. Outfall Ditch Easement(s) in favor of the State of Florida, as recorded in Deed Book 10, Page 461 and Deed Book 10, Page 383, of the Public Records of Martin County, Florida.

EXHIBIT "D"

BENEFICIAL INTEREST AND DISCLOSURE AFFIDAVIT

To: County Administrator, Martin County Florida

BEFORE ME, the undersigned authority, duly authorized to take acknowledgments and administer oaths, personally appeared the undersigned person, referred to in this Affidavit as "Affiant" on the date set forth below, who, first being duly sworn, deposes and says under penalties of perjury:

AS TO ALL PROPERTY CONVEYED TO MARTIN COUNTY

01. That the real property described on the attached **Exhibit 1** is held in whole or in part in a representative capacity by the following person or entity (except as exempted below, list any person or entity that is a partnership, limited partnership, corporation, trust, or otherwise that holds title for others who have a beneficial interest in the real property)

Name of disclosing entity	Address of disclosing entity
KL Waterside LLC, a Delaware limited liability company	105 NE 1st Street Delray Beach, FL 33444

02. The following are exempt from the above disclosure requirement:

A. Any entity registered with the Federal Securities Exchange Commission or registered pursuant to Florida Statutes Chapter 517, if the interest in the entity is for sale to the general public.

B. If the real property is held by a nonpublic entity, then disclosure of persons or entities holding less than 5 percent of the beneficial interest in the disclosing entity.

03. That, except as exempt above, the following is a list of every "person" (as defined in Section 1.01(3), Florida Statutes) holding any beneficial interest in the disclosing entity:

Names of holders of beneficial interest in the disclosing entity	Address of holders of beneficial interest in the disclosing entity
SIP Waterside Member LLC	c/o Stonehill Capital Management LLC 320 Park Ave., 30th Floor New York, NY 10022
KL Waterside Funding LLC	c/o The Kolter Group LLC 105 NE 1st Street Delray Beach, FL 33445
Robert Julien	c/o The Kolter Group LLC 105 NE 1st Street Delray Beach, FL 33445

(If more space is needed attach separate sheet)

(If more space is needed attach separate sheet)

This affidavit is given in compliance with the provisions of Sections 286.23, Florida Statutes.

FURTHER AFFIANT SAYETH NOT.

AFFIANT

[Handwritten Signature]

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was sworn to, affirmed and subscribed before me this 27 day of January 2022, by William Johnson, as manager of Ketter Group LLC, as the manager of KL Waterside Funding LLC member of KL Waterside LLC, a Delaware limited liability company existing under the laws of the State of Florida, on behalf of the corporation by means of physical presence or () online notarization. He/she is personally known to me or has produced produced _____ as identification.

Notary Public, State of Florida

Print Name: Allison Babiak

My Commission Expires: 7/22/25

(Notary Seal)

[Handwritten Signature]



Exhibit "E"
Conceptual Site Plan

*****See Exhibit "A"**

Exhibit "F"
Typical Section of 2-lane Access Road

*****See Exhibit "A"**