

ITEM #66

ADDITIONAL MATERIAL

Regular Meeting

JUNE 11, 2019

SUBMITTED AT THE REQUEST OF

PUBLIC WORKS DEPARTMENT

Item 66 on the Agenda for the June 11, 2019, Commission Meeting

Please note that the referenced agreement has been finalized and the motion statement has accordingly been revised as follows:

Currently reads:

A. MOTION TO DISCUSS staff's analysis of property located at 2050 Spectrum Boulevard in Fort Lauderdale for potential use by the Supervisor of Elections Office; and provide any required direction to County staff consistent with the agenda item's summary. **(Commission District 9)**

B. MOTION TO TERMINATE Purchase and Sale Agreement between Spectrum Investors, LLC and Broward County for property located at 2050 Spectrum Boulevard in Fort Lauderdale. **(Commission District 9)**

Should read:

MOTION TO APPROVE Second Amendment to the Purchase and Sale Agreement between Spectrum Investors, LLC, and Broward County to extend the time periods related to title cure deadline, the inspection period, the inspection termination date and the closing deadline and allow the County to select an alternate underwriter, if needed; rescind the termination of the Agreement dated May 23, 2019; and authorize the County Administrator to execute same. **(Commission District 9)**

**SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT BETWEEN
SPECTRUM INVESTORS, LLC AND BROWARD COUNTY**

This Second Amendment to Purchase and Sale Agreement ("Second Amendment") between Spectrum Investors, LLC, a Florida limited liability company ("Seller"), whose address is 1063 Hillsboro Mile, Unit 909, Hillsboro Beach, Florida 33062, and Broward County, a political subdivision of the State of Florida ("Purchaser"), whose address is 115 South Andrews Avenue, Fort Lauderdale, Florida 33301, is entered into and effective as of the date this Second Amendment is fully executed by the Parties. The Seller and the Purchaser are hereinafter referred to collectively as the "Parties," and are individually referred to as a "Party."

RECITALS

A. The Seller and the Purchaser entered into a Purchase and Sale Agreement, effective on March 7, 2019 ("Effective Date"), and as amended by the First Amendment dated May 7, 2019 (collectively, the "Agreement"), whereby the Seller agreed to sell to the Purchaser, and the Purchaser agreed to purchase from the Seller, that certain real property located at 2050 Spectrum Boulevard, Fort Lauderdale, Florida ("Property").

B. On April 8, 2019, the Purchaser provided the Seller with written notice of its objections to the title commitment and survey obtained for the Property ("Title Objections") pursuant to Section 3.2 of the Agreement ("Title Objections Notice"). One of the Purchaser's Title Objections related to an asphalt parking area ("Parking Area") over and across an eighty-foot (80') canal easement in favor of Broward County ("Easement").

C. In response, on May 14, 2019, the Seller provided the Purchaser with written notice of whether the Seller would cure or remove the objections identified in the Title Objections Notice ("Response Notice"). This Response Notice advised that the Seller would amend the Perpetual Maintenance Agreement, as recorded on September 30, 1988, in Official Records Book 15830, Page 765, as corrected by Amendment recorded on October 7, 1988, in Official Records Book 15852, Page 570, of the Public Records of Broward County, Florida ("PMA"), in order to resolve the Purchaser's concerns regarding (i) the Parking Area encroaching on, over, and across the Easement and (ii) the Association's outdated maintenance obligations of such Easement pursuant to the PMA (the "Outstanding Objection"). The Seller's Response Notice also included a copy of the Amended and Restated PMA that was prepared by the Purchaser ("Approved PMA"), and recognized that the Outstanding Objection would be resolved by the execution of this Approved PMA.

D. Pursuant to Section 3.3(b) of the Agreement, the Seller was required to cure or remove all of the Purchaser's title objections by 5:00 P.M. (Eastern Time) on May 20, 2019. On May 21, 2019, the Seller provided the Purchaser with written notice stating that it has not obtained a fully executed Approved PMA and that it requests additional time to cure or remove the Outstanding Objection. The Purchaser determined that this notice amounted to a Failure to Cure Notice, as defined and required under

Section 3.3(b) of the Agreement, since the Seller has been unable to timely cure the Outstanding Objection by providing the Purchaser with a fully executed Approved PMA.

E. As a result, on May 23, 2019, the Purchaser timely terminated the Agreement pursuant to Section 3.3(b)(ii) of the Agreement.

F. The Purchaser is willing to rescind its termination of the Agreement in exchange for this Second Amendment, which would provide the Purchaser with additional time to examine its Outstanding Objection and extend the time period for the Seller to cure or remove the Outstanding Objection.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECOND AMENDMENT

1. Unless otherwise defined in this Second Amendment, the capitalized terms in this Second Amendment have the respective meanings ascribed to them in the Agreement and the definitions of those terms in the Agreement are incorporated by reference into this Second Amendment. If there is a conflict or inconsistency between any term, statement, requirement, or provision of the Agreement, and any provision of this Second Amendment, the provisions of this Second Amendment shall prevail and be given effect.

2. The recitals set forth above are true, accurate, and fully incorporated in the Second Amendment by this reference.

3. The second sentence of Section 3.1 of the Agreement is hereby amended to read as follows (words to be added are underlined, and words to be deleted are stricken through):

~~No later than five (5) business days~~ Promptly after the Effective Date, the Purchaser shall, at the Purchaser's expense, obtain and deliver to the Seller an ALTA marketability title insurance commitment (the "Title Commitment") in an amount equal to the Purchase Price, issued through ~~an underwriter selected by the Purchaser First American Title Insurance Company~~ ("Underwriter") and its agent, Buyer's Title, Inc. ("Title Agent"), with hard copies of all documents containing the exceptions.

4. Section 3.3(b) of the Agreement is hereby deleted in its entirety and replaced with the following:

If the Response Notice states that the Seller will cure or remove the Title Objections, then the Seller shall have up to 5:00 P.M. (Eastern Time) on July 1, 2019 ("Title Cure Deadline") to completely cure or remove the Title Objections to the Purchaser's satisfaction. In such event, the Seller shall use diligent efforts to cure or remove the Title Objections in accordance with

this Section 3.3(b). If the Seller fails to timely cure or remove the Title Objections in accordance with this Section 3.3(b), the Purchaser (acting through its Broward County Administrator) shall deliver, no later than five (5) business days after the expiration of the Title Cure Deadline, a written notice to the Seller that elects to:

- (i) waive the Title Objections without any adjustment in the Purchase Price or other terms of this Agreement;
- (ii) extend the Title Cure Deadline to provide the Seller with additional time to cure or remove the Title Objections in accordance with this Section 3.3(b), and extend all other deadlines and time periods of this Agreement on a day-by-day basis equivalent to the time extended for the Title Cure Deadline; or
- (iii) terminate this Agreement, whereupon the Escrow Agent shall return the Deposit to the Purchaser (if such Deposit has already been delivered by the Purchaser, as provided in Section 2.2(a)), and the Parties shall be released of all further obligations under this Agreement, except for those obligations that expressly survive the termination of this Agreement.

5. The first sentence of Section 7.1 of the Agreement is hereby amended to read as follows (words to be added are underlined, and words to be deleted are stricken through):

For a period commencing on the Effective Date and expiring at 5:00 P.M. (Eastern Time) on September 13 ~~July 4~~, 2019 (the "Inspection Period"), the Purchaser may enter the Property, in accordance with this Section 7, to determine (in its sole discretion) if it will proceed with the acquisition of the Property or if it will exercise its termination right under Section 7.5.

6. The first sentence of Section 7.5 of the Agreement is hereby amended to read as follows (words to be added are underlined, and words to be deleted are stricken through):

If for any reason, or no reason, the Purchaser, in its sole discretion, decides it does not wish to acquire the Property, then the Purchaser may, acting through its Broward County Administrator, terminate this Agreement upon delivering a written notice of termination to the Seller by no later than 5:00 P.M. (Eastern Time) on September 13 ~~July 4~~, 2019, unless extended pursuant to the provisions of this Agreement (the "Inspection Termination Date").



7. The first sentence of Section 9.2(b) of the Agreement is hereby amended to read as follows (words to be added are underlined, and words to be deleted are stricken through):

Notwithstanding the foregoing provisions of Section 9.2(a), the Closing must occur no later than October 19, 2020 ~~seventeen (17) months after the Effective Date~~ ("Closing Deadline").

8. This Second Amendment is hereby incorporated into the Agreement, and all of the terms and conditions contained in the Second Amendment shall be binding on the Parties.

9. Except as expressly modified in this Second Amendment, all terms and conditions contained in the Agreement shall remain unchanged and in full force and effect.

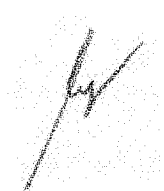
10. The Agreement, as modified by this Second Amendment, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter hereof that are not contained in the Agreement as modified hereby. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

11. Multiple originals of this Second Amendment may be executed by the Parties, each of which, bearing original signatures, shall have the force and effect of an original document.

12. This Second Amendment has been jointly prepared by the Parties, and shall not be construed more strictly against either Party.

13. Each individual executing this Second Amendment represents and warrants that he or she is, on the date of execution, duly authorized by all necessary and appropriate action to execute this Second Amendment on behalf of such Party and does so with full legal authority.

(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

A handwritten signature in black ink, appearing to be a stylized 'J' or 'K' followed by a flourish, located in the bottom right corner of the page.

IN WITNESS WHEREOF, the Parties have made and executed this First Amendment: SPECTRUM INVESTORS, LLC, signing by and through its duly authorized representative, and BROWARD COUNTY, signing by and through its County Administrator, authorized to execute same by Board action on June 11, 2019 (Agenda Item No. ____).

SELLER

SPECTRUM INVESTORS, LLC, a Florida limited liability company

By: [Signature]
Print Name: SITELORD E GROSS
Title: COO/MANAGER

5th day of JUNE, 2019

WITNESSES:

[Signature]
Signature of Witness 1

Shannae Spenter
Print Name of Witness 1

[Signature]
Signature of Witness 2

Jaenee Browne
Print Name of Witness 2

**SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT BETWEEN
SPECTRUM INVESTORS, LLC AND BROWARD COUNTY.**

PURCHASER

WITNESSES:

BROWARD COUNTY, by and through
its County Administrator

Signature of Witness 1

By: _____
Bertha Henry

Print Name of Witness 1

_____ day of _____, 20____

Signature of Witness 2

Print Name of Witness 2

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: _____ (Date)
Irma Qureshi
Assistant County Attorney

By: _____ (Date)
Maite Azcoitia
Deputy County Attorney

IQ
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06/03/2019
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