

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2018-68**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A PURCHASE OF LAND FROM GARY MURPHY IN AN AMOUNT NOT TO EXCEED \$1,880,000; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of Marathon operates five wastewater treatment facilities; and

**WHEREAS**, a centralized sludge dewatering facility is needed to more efficiently carry out the required sludge dewatering process that is associated with the City's wastewater treatment;

**WHEREAS**, staff has recommended design and construction of a centralized sludge dewatering facility and the best location for it is adjacent to the Service Area 6 wastewater treatment facility; and

**WHEREAS**, the current land owner of such location is a willing seller and has agreed to a purchase price of \$1,880,000.; and

**WHEREAS**, City staff is recommending to City Council that it direct staff and the City Attorney to negotiate and finalize a purchase of land from Gary Murphy in an amount not to exceed \$1,880,000; and

**WHEREAS**, the purchase is reimbursable through grant agreement LP44041.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, that:**

**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** The City Council hereby directs staff to finalize and submit the Vacant Land Contract attached hereto as Exhibit A for the purchase of the land legally described on such Exhibit A, together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney.

**Section 3.** The City Council further directs staff and the City Attorney to negotiate and finalize the purchase of the land from Gary Murphy, with the purchase price in an amount not to exceed \$1,880,000.

**Section 4.** The Council further directs staff and the City Attorney to prepare such other documents and take such other actions as may be necessary to consummate the purchase.

**Section 5.** This resolution shall take effect immediately upon its adoption.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 10<sup>TH</sup> DAY OF JULY, 2018.**

**THE CITY OF MARATHON, FLORIDA**



**Michelle Coldiron, Mayor**

AYES: Bartus, Zieg, Senmartin, Cook, Coldiron  
NOES: None  
ABSENT: None  
ABSTAIN: None

**ATTEST:**



**Diane Clavier, City Clerk**

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**



**David Migt, City Attorney**

# Vacant Land Contract

1\* **1. Sale and Purchase:** GDM Acquisitions, LLC ("Seller")  
 2\* and City of Marathon ("Buyer")  
 3 (the "parties") agree to sell and buy on the terms and conditions specified below the property ("Property")  
 4 described as:  
 5\* Address: \_\_\_\_\_  
 6\* Legal Description: \_\_\_\_\_  
 7 East 110 Feet Lot 13, Lot 14, Lot 15, Block 12 and Lot 12, Lot 13, Block 13 of COCO PLUMB BEACH subdivision  
 8 recorded in Plat Book 4, Page 166, in Section 4, Township 66 South, Range 33 East, of the Public Records of  
 9 Monroe County, Florida.  
 10 \_\_\_\_\_  
 11\* SEC \_\_\_/TWP /\_\_\_/ RNG \_\_\_ of \_\_\_\_\_ County, Florida. Real Property ID No.: \_\_\_\_\_  
 12\* including all improvements existing on the Property and the following additional property: \_\_\_\_\_  
 13 \_\_\_\_\_

14\* **2. Purchase Price:** (U.S. currency).....\$ 1,880,000.00  
 15 All deposits will be made payable to "Escrow Agent" named below and held in escrow by:  
 16\* Escrow Agent's Name: Wolfe Stevens PLLC  
 17\* Escrow Agent's Contact Person: Lisa Ziels  
 18\* Escrow Agent's Address: 2955 Overseas Hwy Marathon FL 33050  
 19\* Escrow Agent's Phone: (305)743-9858  
 20\* Escrow Agent's Email: ziels@marathonlaw.com

- 21 (a) Initial deposit (\$0 if left blank) (Check if applicable)  
 22\*  accompanies offer  
 23\*  will be delivered to Escrow Agent within \_\_\_\_\_ days (3 days if left blank)  
 24\* after Effective Date ..... \$ \_\_\_\_\_  
 25 (b) Additional deposit will be delivered to Escrow Agent (Check if applicable)  
 26\*  within \_\_\_\_\_ days (10 days if left blank) after Effective Date  
 27\*  within \_\_\_\_\_ days (3 days if left blank) after expiration of Feasibility Study Period ..... \$ \_\_\_\_\_  
 28\* (c) Total Financing (see Paragraph 5) (express as a dollar amount or percentage)..... \$ \_\_\_\_\_  
 29\* (d) Other: ..... \$ \_\_\_\_\_  
 30 (e) Balance to close (not including Buyer's closing costs, prepaid items, and prorations)  
 31\* to be paid at closing by wire transfer or other Collected funds ..... \$ 1,880,000.00  
 32\* (f)  (Complete only if purchase price will be determined based on a per unit cost instead of a fixed price.) The  
 33\* unit used to determine the purchase price is  lot  acre  square foot  other (specify): \_\_\_\_\_  
 34\* prorating areas of less than a full unit. The purchase price will be \$ \_\_\_\_\_ per unit based on a  
 35 calculation of total area of the Property as certified to Seller and Buyer by a Florida licensed surveyor in  
 36 accordance with Paragraph 7(c). The following rights of way and other areas will be excluded from the  
 37\* calculation: \_\_\_\_\_

38 **3. Time for Acceptance; Effective Date:** Unless this offer is signed by Seller and Buyer and an executed copy  
 39\* delivered to all parties on or before July 17, 2018, this offer will be withdrawn and Buyer's deposit, if  
 40 any, will be returned. The time for acceptance of any counter offer will be 3 days after the date the counter offer is  
 41 delivered. **The "Effective Date" of this contract is the date on which the last one of the Seller and Buyer**  
 42 **has signed or initialed and delivered this offer or the final counter offer.**

43\* **4. Closing Date:** This transaction will close on September 1, 2018 ("Closing Date"), unless specifically  
 44 extended by other provisions of this contract. The Closing Date will prevail over all other time periods including,  
 45 but not limited to, Financing and Feasibility Study periods. However, if the Closing Date occurs on a Saturday,  
 46 Sunday, or national legal holiday, it will extend to 5:00 p.m. (where the Property is located) of the next business  
 47 day. In the event insurance underwriting is suspended on Closing Date and Buyer is unable to obtain property  
 48 insurance, Buyer may postpone closing for up to 5 days after the insurance underwriting suspension is lifted. If  
 49 this transaction does not close for any reason, Buyer will immediately return all Seller provided documents and  
 50 other items.

51 **5. Financing: (Check as applicable)**

52\* (a)  **Buyer** will pay cash for the Property with no financing contingency.

53\* (b)  This contract is contingent on **Buyer** qualifying for and obtaining the commitment(s) or approval(s)  
54\* specified below ("Financing") within \_\_\_\_\_ days after Effective Date (Closing Date or 30 days after Effective  
55\* Date, whichever occurs first, if left blank) ("Financing Period"). **Buyer** will apply for Financing within \_\_\_\_\_  
56\* days after Effective Date (5 days if left blank) and will timely provide any and all credit, employment, financial,  
57\* and other information required by the lender. If **Buyer**, after using diligence and good faith, cannot obtain the  
58\* Financing within the Financing Period, either party may terminate this contract and **Buyer's** deposit(s) will be  
59\* returned.

60\* (1)  **New Financing:** **Buyer** will secure a commitment for new third party financing for \$ \_\_\_\_\_  
61\* or \_\_\_\_\_% of the purchase price at (Check one)  a fixed rate not exceeding \_\_\_\_\_%  an  
62\* adjustable interest rate not exceeding \_\_\_\_\_% at origination (a fixed rate at the prevailing interest rate  
63\* based on **Buyer's** creditworthiness if neither choice is selected). **Buyer** will keep **Seller** and Broker fully  
64\* informed of the loan application status and progress and authorizes the lender or mortgage broker to  
65\* disclose all such information to **Seller** and Broker.

66\* (2)  **Seller Financing:** **Buyer** will execute a  first  second purchase money note and mortgage to  
67\* **Seller** in the amount of \$ \_\_\_\_\_, bearing annual interest at \_\_\_\_\_% and payable as  
68\* follows: \_\_\_\_\_

69\* The mortgage, note, and any security agreement will be in a form acceptable to **Seller** and will follow  
70\* forms generally accepted in the county where the Property is located; will provide for a late payment fee  
71\* and acceleration at the mortgagee's option if **Buyer** defaults; will give **Buyer** the right to prepay without  
72\* penalty all or part of the principal at any time(s) with interest only to date of payment; will be due on  
73\* conveyance or sale; will provide for release of contiguous parcels, if applicable; and will require **Buyer** to  
74\* keep liability insurance on the Property, with **Seller** as additional named insured. **Buyer** authorizes **Seller**  
75\* to obtain credit, employment, and other necessary information to determine creditworthiness for the  
76\* financing. **Seller** will, within 10 days after Effective Date, give **Buyer** written notice of whether or not  
77\* **Seller** will make the loan.

78\* (3)  **Mortgage Assumption:** **Buyer** will take title subject to and assume and pay existing first mortgage to

79\* \_\_\_\_\_  
80\* LN# \_\_\_\_\_ in the approximate amount of \$ \_\_\_\_\_ currently payable at  
81\* \$ \_\_\_\_\_ per month, including principal, interest,  taxes and insurance, and having a  
82\*  fixed  other (describe) \_\_\_\_\_  
83\* interest rate of \_\_\_\_\_% which  will  will not escalate upon assumption. Any variance in the  
84\* mortgage will be adjusted in the balance due at closing with no adjustment to purchase price. **Buyer** will  
85\* purchase **Seller's** escrow account dollar for dollar. If the interest rate upon transfer exceeds \_\_\_\_\_% or  
86\* the assumption/transfer fee exceeds \$ \_\_\_\_\_, either party may elect to pay the excess,  
87\* failing which this contract will terminate; and **Buyer's** deposit(s) will be returned. If the lender disapproves  
88\* **Buyer**, this contract will terminate; and **Buyer's** deposit(s) will be returned.

89\* 6. **Assignability: (Check one)** **Buyer**  may assign and thereby be released from any further liability under this  
90\* contract,  may assign but not be released from liability under this contract, or  may not assign this contract.

91\* 7. **Title:** **Seller** has the legal capacity to and will convey marketable title to the Property by  statutory warranty  
92\* deed  special warranty deed  other (specify) \_\_\_\_\_, free of liens, easements,  
93\* and encumbrances of record or known to **Seller**, but subject to property taxes for the year of closing; covenants,  
94\* restrictions, and public utility easements of record; existing zoning and governmental regulations; and (list any  
95\* other matters to which title will be subject) \_\_\_\_\_,  
96\* provided there exists at closing no violation of the foregoing.

97\* (a) **Title Evidence:** The party who pays for the owner's title insurance policy will select the closing agent and  
98\* pay for the title search, including tax and lien search if performed, and all other fees charged by closing agent.  
99\* **Seller** will deliver to **Buyer**, at

100\* (Check one)  **Seller's**  **Buyer's** expense and

101\* (Check one)  within \_\_\_\_\_ days after Effective Date  at least 20 days before Closing Date,

102\* (Check one)

103\* (1)  a title insurance commitment by a Florida  licensed title insurer setting forth those matters to be  
104\* discharged by **Seller** at or before closing and, upon **Buyer** recording the deed, an owner's policy in the  
105\* amount of the purchase price for fee simple title subject only to the exceptions stated above. If **Buyer** is  
106\* paying for the owner's title insurance policy and **Seller** has an owner's policy, **Seller** will deliver a copy to  
107\* **Buyer** within 15 days after Effective Date.

Buyer (\_\_\_\_) (\_\_\_\_) and Seller (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is 2 of 7 pages.

- 108\* (2)  an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an  
109 existing firm. However, if such an abstract is not available to **Seller**, then a prior owner's title policy  
110 acceptable to the proposed insurer as a base for reissuance of coverage may be used. The prior policy  
111 will include copies of all policy exceptions and an update in a format acceptable to **Buyer** from the policy  
112 effective date and certified to **Buyer** or **Buyer's** closing agent together with copies of all documents  
113 recited in the prior policy and in the update. If such an abstract or prior policy is not available to **Seller**,  
114 then (1) above will be the title evidence.
- 115\* (b) **Title Examination:** After receipt of the title evidence, **Buyer** will, within 10 days (10 days if left blank)  
116 but no later than Closing Date, deliver written notice to **Seller** of title defects. Title will be deemed acceptable  
117 to **Buyer** if (i) **Buyer** fails to deliver proper notice of defects or (ii) **Buyer** delivers proper written notice and  
118\* **Seller** cures the defects within 60 days (30 days if left blank) ("Cure Period") after receipt of the notice. If  
119 the defects are cured within the Cure Period, closing will occur within 10 days after receipt by **Buyer** of notice  
120 of such cure. **Seller** may elect not to cure defects if **Seller** reasonably believes any defect cannot be cured  
121 within the Cure Period. If the defects are not cured within the Cure Period, **Buyer** will have 10 days after  
122 receipt of notice of **Seller's** inability to cure the defects to elect whether to terminate this contract or accept  
123 title subject to existing defects and close the transaction without reduction in purchase price.
- 124 (c) **Survey:** **Buyer** may, at **Buyer's** expense, have the Property surveyed and must deliver written notice to  
125 **Seller**, within 5 days after receiving survey but not later than 5 days before Closing Date, of any  
126 encroachments on the Property, encroachments by the Property's improvements on other lands, or deed  
127 restriction or zoning violations. Any such encroachment or violation will be treated in the same manner as a  
128 title defect and **Seller's** and **Buyer's** obligations will be determined in accordance with Paragraph 7(b).  
129
- (d) **Ingress and Egress:** **Seller** warrants that the Property presently has ingress and egress.

130 8. **Property Condition:** **Seller** will deliver the Property to **Buyer** at closing in its present "as is" condition, with  
131 conditions resulting from **Buyer's** Inspections and casualty damage, if any, excepted. **Seller** will not engage in or  
132 permit any activity that would materially alter the Property's condition without the **Buyer's** prior written consent.

133 (a) **Inspections: (Check (1) or (2))**

- 134\* (1)  **Feasibility Study:** **Buyer** will, at **Buyer's** expense and within 30 days (30 days if left blank)  
135 ("Feasibility Study Period") after Effective Date and in **Buyer's** sole and absolute discretion, determine  
136 whether the Property is suitable for **Buyer's** intended use. During the Feasibility Study Period, **Buyer**  
137 may conduct a Phase 1 environmental assessment and any other tests, analyses, surveys, and  
138 investigations ("Inspections") that **Buyer** deems necessary to determine to **Buyer's** satisfaction the  
139 Property's engineering, architectural, and environmental properties; zoning and zoning restrictions;  
140 subdivision statutes; soil and grade; availability of access to public roads, water, and other utilities;  
141 consistency with local, state, and regional growth management plans; availability of permits, government  
142 approvals, and licenses; and other inspections that **Buyer** deems appropriate. If the Property must be  
143 rezoned, **Buyer** will obtain the rezoning from the appropriate government agencies. **Seller** will sign all  
144 documents **Buyer** is required to file in connection with development or rezoning approvals. **Seller** gives  
145 **Buyer**, its agents, contractors, and assigns, the right to enter the Property at any time during the  
146 Feasibility Study Period for the purpose of conducting Inspections, provided, however, that **Buyer**, its  
147 agents, contractors, and assigns enter the Property and conduct Inspections at their own risk. **Buyer** will  
148 indemnify and hold **Seller** harmless from losses, damages, costs, claims, and expenses of any nature,  
149 including attorneys' fees, expenses, and liability incurred in application for rezoning or related  
150 proceedings, and from liability to any person, arising from the conduct of any and all Inspections or any  
151 work authorized by **Buyer**. **Buyer** will not engage in any activity that could result in a construction lien  
152 being filed against the Property without **Seller's** prior written consent. If this transaction does not close,  
153 **Buyer** will, at **Buyer's** expense, (i) repair all damages to the Property resulting from the Inspections and  
154 return the Property to the condition it was in before conducting the Inspections and (ii) release to **Seller**  
155 all reports and other work generated as a result of the Inspections.

156 Before expiration of the Feasibility Study Period, **Buyer** must deliver written notice to **Seller** of **Buyer's**  
157 determination of whether or not the Property is acceptable. **Buyer's** failure to comply with this notice  
158 requirement will constitute acceptance of the Property as suitable for **Buyer's** intended use in its "as is"  
159 condition. If the Property is unacceptable to **Buyer** and written notice of this fact is timely delivered to  
160 **Seller**, this contract will be deemed terminated, and **Buyer's** deposit(s) will be returned.

- 161\* (2)  **No Feasibility Study:** **Buyer** is satisfied that the Property is suitable for **Buyer's** purposes, including  
162 being satisfied that either public sewerage and water are available to the Property or the Property will be  
163 approved for the installation of a well and/or private sewerage disposal system and that existing zoning

Buyer (\_\_\_\_) (\_\_\_\_) and Seller (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is 3 of 7 pages.

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- 164 and other pertinent regulations and restrictions, such as subdivision or deed restrictions, concurrency,  
 165 growth management, and environmental conditions, are acceptable to **Buyer**. This contract is not  
 166 contingent on **Buyer** conducting any further investigations.
- 167 **(b) Government Regulations:** Changes in government regulations and levels of service which affect **Buyer's**  
 168 intended use of the Property will not be grounds for terminating this contract if the Feasibility Study Period has  
 169 expired or if Paragraph 8(a)(2) is selected.
- 170 **(c) Flood Zone:** **Buyer** is advised to verify by survey, with the lender, and with appropriate government  
 171 agencies which flood zone the Property is in, whether flood insurance is required, and what restrictions apply  
 172 to improving the Property and rebuilding in the event of casualty.
- 173 **(d) Coastal Construction Control Line ("CCCL"):** If any part of the Property lies seaward of the CCCL as  
 174 defined in Section 161.053, Florida Statutes, **Seller** will provide **Buyer** with an affidavit or survey as required  
 175 by law delineating the line's location on the Property, unless **Buyer** waives this requirement in writing. The  
 176 Property being purchased may be subject to coastal erosion and to federal, state, or local regulations that  
 177 govern coastal property, including delineation of the CCCL, rigid coastal protection structures, beach  
 178 nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida  
 179 Department of Environmental Protection, including whether there are significant erosion conditions associated  
 180 with the shore line of the Property being purchased.
- 181\*  **Buyer** waives the right to receive a CCCL affidavit or survey.

- 182 **9. Closing Procedure; Costs:** Closing will take place in the county where the Property is located and may be  
 183 conducted by mail or electronic means. If title insurance insures **Buyer** for title defects arising between the title  
 184 binder effective date and recording of **Buyer's** deed, closing agent will disburse at closing the net sale proceeds  
 185 to **Seller** (in local cashier's check if **Seller** requests in writing at least 5 days before closing) and brokerage fees to  
 186 Broker as per Paragraph 19. In addition to other expenses provided in this contract, **Seller** and **Buyer** will pay the  
 187 costs indicated below.
- 188 **(a) Seller Costs:**  
 189 Taxes on deed  
 190 Recording fees for documents needed to cure title  
 191 Title evidence (if applicable under Paragraph 7)  
 192\* Other: \_\_\_\_\_
- 193 **(b) Buyer Costs:**  
 194 Taxes and recording fees on notes and mortgages  
 195 Recording fees on the deed and financing statements  
 196 Loan expenses  
 197 Title evidence (if applicable under Paragraph 7)  
 198 Lender's title policy at the simultaneous issue rate  
 199 Inspections  
 200 Survey  
 201 Insurance  
 202\* Other: \_\_\_\_\_
- 203 **(c) Prorations:** The following items will be made current and prorated as of the day before Closing Date: real  
 204 estate taxes (including special benefit tax liens imposed by a CDD), interest, bonds, assessments, leases,  
 205 and other Property expenses and revenues. If taxes and assessments for the current year cannot be  
 206 determined, the previous year's rates will be used with adjustment for any exemptions.
- 207 **(d) Special Assessment by Public Body:** Regarding special assessments imposed by a public body, **Seller**  
 208 will pay (i) the full amount of liens that are certified, confirmed, and ratified before closing and (ii) the amount  
 209 of the last estimate of the assessment if an improvement is substantially completed as of Effective Date but  
 210 has not resulted in a lien before closing; and **Buyer** will pay all other amounts. If special assessments may be  
 211\* paid in installments,  **Seller**  **Buyer** (**Buyer** if left blank) will pay installments due after closing. If **Seller** is  
 212 checked, **Seller** will pay the assessment in full before or at the time of closing. Public body does not include a  
 213 Homeowners' or Condominium Association.
- 214 **(e) PROPERTY TAX DISCLOSURE SUMMARY: BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT**  
 215 **PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT BUYER MAY BE OBLIGATED TO**  
 216 **PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY**  
 217 **IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN**  
 218 **HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT**  
 219 **THE COUNTY PROPERTY APPRAISER'S OFFICE FOR FURTHER INFORMATION.**

- 220 (f) **Foreign Investment in Real Property Tax Act ("FIRPTA"):** If **Seller** is a "foreign person" as defined by  
221 FIRPTA, **Seller** and **Buyer** will comply with FIRPTA, which may require **Seller** to provide additional cash at  
222 closing.
- 223 (g) **1031 Exchange:** If either **Seller** or **Buyer** wish to enter into a like-kind exchange (either simultaneously with  
224 closing or after) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party will  
225 cooperate in all reasonable respects to effectuate the Exchange including executing documents, provided,  
226 however, that the cooperating party will incur no liability or cost related to the Exchange and that the closing  
227 will not be contingent upon, extended, or delayed by the Exchange.
- 228 **10. Computation of Time:** Calendar days will be used when computing time periods, except time periods of 5 days  
229 or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal  
230 holidays specified in 5 U.S.C. 6103(a). Any time period ending on a Saturday, Sunday, or national legal holiday  
231 will extend until 5:00 p.m. (where the Property is located) of the next business day. **Time is of the essence in**  
232 **this contract.**
- 233 **11. Risk of Loss; Eminent Domain:** If any portion of the Property is materially damaged by casualty before closing  
234 or **Seller** negotiates with a governmental authority to transfer all or part of the Property in lieu of eminent domain  
235 proceedings or an eminent domain proceeding is initiated, **Seller** will promptly inform **Buyer**. Either party may  
236 terminate this contract by written notice to the other within 10 days after **Buyer's** receipt of **Seller's** notification,  
237 and **Buyer's** deposit(s) will be returned, failing which **Buyer** will close in accordance with this contract and  
238 receive all payments made by the governmental authority or insurance company, if any.
- 239 **12. Force Majeure:** **Seller** or **Buyer** will not be required to perform any obligation under this contract or be liable to  
240 each other for damages so long as the performance or non-performance of the obligation is delayed, caused, or  
241 prevented by an act of God or force majeure. An "act of God or "force majeure" is defined as hurricanes,  
242 earthquakes, floods, fire, unusual transportation delays, wars, insurrections, and any other cause not reasonably  
243 within the control of **Seller** or **Buyer** and which by the exercise of due diligence the non-performing party is  
244 unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended for  
245 the period that the act of God or force majeure is in place. However, in the event that such act of God or force  
246 majeure event continues beyond 30 days, either party may terminate this contract by delivering written notice to  
247 the other; and **Buyer's** deposit(s) will be returned.
- 248 **13. Notices:** All notices will be in writing and delivered to the parties and Broker by mail, personal delivery, or  
249 electronic means. **Buyer's failure to timely deliver written notice to Seller, when such notice is required by**  
250 **this contract, regarding any contingency will render that contingency null and void, and this contract will**  
251 **be construed as if the contingency did not exist. Any notice, document, or item delivered to or received**  
252 **by an attorney or licensee (including a transactions broker) representing a party will be as effective as if**  
253 **delivered to or received by that party.**
- 254 **14. Complete Agreement; Persons Bound:** This contract is the entire agreement between **Seller** and **Buyer**.  
255 **Except for brokerage agreements, no prior or present agreements will bind Seller, Buyer, or Broker**  
256 **unless incorporated into this contract.** Modifications of this contract will not be binding unless in writing, signed  
257 or initialed, and delivered by the party to be bound. Electronic signatures will be acceptable and binding. This  
258 contract, signatures, initials, documents referenced in this contract, counterparts, and written modifications  
259 communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be  
260 binding. Handwritten or typewritten terms inserted in or attached to this contract prevail over preprinted terms. If  
261 any provision of this contract is or becomes invalid or unenforceable, all remaining provisions will continue to be  
262 fully effective. **Seller** and **Buyer** will use diligence and good faith in performing all obligations under this contract.  
263 This contract will not be recorded in any public record. The terms "**Seller**," "**Buyer**," and "**Broker**" may be singular  
264 or plural. This contract is binding on the heirs, administrators, executors, personal representatives, and assigns, if  
265 permitted, of **Seller**, **Buyer**, and Broker.
- 266 **15. Default and Dispute Resolution:** This contract will be construed under Florida law. This Paragraph will survive  
267 closing or termination of this contract.
- 268 (a) **Seller Default:** If **Seller** fails, neglects, or refuses to perform **Seller's** obligations under this contract, **Buyer**  
269 may elect to receive a return of **Buyer's** deposit(s) without thereby waiving any action for damages resulting  
270 from **Seller's** breach and may seek to recover such damages or seek specific performance. **Seller** will also  
271 be liable for the full amount of the brokerage fee.

Buyer (\_\_\_\_) (\_\_\_\_) and Seller (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is 5 of 7 pages.

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272 (b) **Buyer Default:** If **Buyer** fails, neglects, or refuses to perform **Buyer's** obligations under this contract,  
273 including payment of deposit(s), within the time(s) specified, **Seller** may elect to recover and retain the  
274 deposit(s), paid and agreed to be paid, for the account of **Seller** as agreed upon liquidated damages,  
275 consideration for execution of this contract, and in full settlement of any claims, whereupon **Seller** and **Buyer**  
276 will be relieved from all further obligations under this contract; or **Seller**, at **Seller's** option, may proceed in  
277 equity to enforce **Seller's** rights under this contract.

278 **16. Attorney's Fees; Costs:** In any litigation permitted by this Contract, the prevailing party shall be entitled to  
279 recover from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting  
280 the litigation. This Paragraph 16 shall survive Closing or termination of this Contract.

281 **17. Escrow Agent; Closing Agent:** **Seller** and **Buyer** authorize Escrow Agent and closing agent (collectively  
282 "Agent") to receive, deposit, and hold funds and other items in escrow and, subject to Collection, disburse them  
283 upon proper authorization and in accordance with Florida law and the terms of this contract, including disbursing  
284 brokerage fees. "Collection" or "Collected" means any checks tendered or received have become actually and  
285 finally collected and deposited in the account of Agent. The parties agree that Agent will not be liable to any  
286 person for misdelivery of escrowed items to **Seller** or **Buyer**, unless the misdelivery is due to Agent's willful  
287 breach of this contract or gross negligence. If Agent interpleads the subject matter of the escrow, Agent will pay  
288 the filing fees and costs from the deposit and will recover reasonable attorneys' fees and costs to be paid from the  
289 escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party.

290 **18. Professional Advice; Broker Liability:** Broker advises **Seller** and **Buyer** to verify all facts and representations  
291 that are important to them and to consult an appropriate professional for legal advice (for example, interpreting  
292 this contract, determining the effect of laws on the Property and this transaction, status of title, foreign investor  
293 reporting requirements, the effect of property lying partially or totally seaward of the CCCL, etc.) and for tax,  
294 property condition, environmental, and other specialized advice. **Buyer** acknowledges that Broker does not reside  
295 in the Property and that all representations (oral, written, or otherwise) by Broker are based on **Seller**  
296 representations or public records. **Buyer agrees to rely solely on Seller, professional inspectors, and**  
297 **government agencies for verification of the Property condition and facts that materially affect Property**  
298 **value.** **Seller** and **Buyer** respectively will pay all costs and expenses, including reasonable attorneys' fees at all  
299 levels, incurred by Broker and Broker's officers, directors, agents, and employees in connection with or arising  
300 from **Seller's** or **Buyer's** misstatement or failure to perform contractual obligations. **Seller** and **Buyer** hold  
301 harmless and release Broker and Broker's officers, directors, agents, and employees from all liability for loss or  
302 damage based on (i) **Seller's** or **Buyer's** misstatement or failure to perform contractual obligations; (ii) the use or  
303 display of listing data by third parties, including, but not limited to, photographs, images, graphics, video  
304 recordings, virtual tours, drawings, written descriptions, and remarks related to the Property; (iii) Broker's  
305 performance, at **Seller's** or **Buyer's** request, of any task beyond the scope of services regulated by Chapter 475,  
306 Florida Statutes, as amended, including Broker's referral, recommendation, or retention of any vendor; (iv)  
307 products or services provided by any vendor; and (v) expenses incurred by any vendor. **Seller** and **Buyer** each  
308 assume full responsibility for selecting and compensating their respective vendors. This Paragraph will not relieve  
309 Broker of statutory obligations. For purposes of this Paragraph, Broker will be treated as a party to this contract.  
310 This Paragraph will survive closing.

311 **19. Commercial Real Estate Sales Commission Lien Act:** If the Property is commercial real estate as defined by  
312 Section 475.701, Florida Statutes, the following disclosure will apply: The Florida Commercial Real Estate Sales  
313 Commission Lien Act provides that when a broker has earned a commission by performing licensed services  
314 under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the  
315 broker's commission. The broker's lien rights under the act cannot be waived before the commission is earned.

316 **20. Brokers:** The brokers named below are collectively referred to as "Broker." **Instruction to closing agent:**  
317 **Seller** and **Buyer** direct closing agent to disburse at closing the full amount of the brokerage fees as specified in  
318 separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the  
319 extent Broker has retained such fees from the escrowed funds. This Paragraph will not be used to modify any  
320 MLS or other offer of compensation made by **Seller** or **Seller's** Broker to **Buyer's** Broker.

321\* (a) N/A (Seller's Broker)  
322\* will be compensated by  **Seller**  **Buyer**  both parties pursuant to  a listing agreement  other  
323\* (specify): \_\_\_\_\_

324\* (b) N/A (Buyer's Broker)  
325\* will be compensated by  **Seller**  **Buyer**  both parties  **Seller's** Broker pursuant to  a MLS offer of  
326\* compensation  other (specify): \_\_\_\_\_

Buyer (\_\_\_\_) (\_\_\_\_) and Seller (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is 6 of 7 pages.

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327\* **21. Additional Terms:** \_\_\_\_\_  
 328 This contract is contingent on the approval of City Council  
 329 Seller will have 60 days to remove all personal property, his and others, from the property after closing. Should  
 330 Seller fail to remove any property the buyer may have the property removed at the sellers expense.  
 331 Buyer will deed over property (attached as exhibit A) to the Seller.  
 332 \_\_\_\_\_  
 333 \_\_\_\_\_  
 334 \_\_\_\_\_  
 335 \_\_\_\_\_  
 336 \_\_\_\_\_  
 337 \_\_\_\_\_  
 338 \_\_\_\_\_  
 339 \_\_\_\_\_  
 340 \_\_\_\_\_  
 341 \_\_\_\_\_  
 342 \_\_\_\_\_

343 **COUNTER-OFFER/REJECTION**

- 344\*  Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and  
 345 deliver a copy of the acceptance to Seller).  
 346\*  Seller rejects Buyer's offer

347 **This is intended to be a legally binding contract. If not fully understood, seek the advice of an attorney before**  
 348 **signing.**

349\* **Buyer:** \_\_\_\_\_ **Date:** \_\_\_\_\_

350\* Print name: City of Marathon

351\* **Buyer:** \_\_\_\_\_ **Date:** \_\_\_\_\_

352\* Print name: \_\_\_\_\_

353 **Buyer's address for purpose of notice:**

354\* Address: \_\_\_\_\_

355\* Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

356\* **Seller:** \_\_\_\_\_ **Date:** \_\_\_\_\_

357\* Print name: GDM Acquisitions, LLC

358\* **Seller:** \_\_\_\_\_ **Date:** \_\_\_\_\_

359\* Print name: \_\_\_\_\_

360 **Seller's address for purpose of notice:**

361\* Address: \_\_\_\_\_

362\* Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

363\* **Effective Date:** \_\_\_\_\_ **(The date on which the last party signed or initialed and delivered the**  
 364 **final offer or counter offer.)**

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