

## AMENDMENT TO OPTION CONTRACT FOR PURCHASE AND SALE OF LAND

**THIS AMENDMENT TO OPTION CONTRACT FOR PURCHASE AND SALE OF LAND ("Amendment")** is entered into as of this 29 day of May, 2006, between the City of Gainesville, a municipal corporation of the State of Florida, hereinafter referred to as SELLER, and, Florida Food Service, Inc., hereinafter referred to as PURCHASER or BUYER, whose mailing address is PO Box 5247, Gainesville, FL 32627-5247.

### WITNESSETH

SELLER and BUYER are parties to that certain **OPTION CONTRACT FOR PURCHASE AND SALE OF LAND**, signed by SELLER on September 29, 2005 ("OPTION CONTRACT"), that grants to BUYER the exclusive right, during the term of the OPTION CONTRACT, to purchase that certain real property, the legal description of which is set forth in Exhibit "B" attached hereto ("Premises or Property" as that term is otherwise used in the OPTION CONTRACT).

SELLER and BUYER agree that the OPTION CONTRACT shall be amended as otherwise set forth below.

1. Exhibit "A" to the OPTION CONTRACT is deleted in its entirety and is replaced by the Purchase and Sale Agreement which is attached hereto as Exhibit "A."

2. Paragraph 9 of the OPTION CONTRACT is amended as follows:

The last sentence of Paragraph 9 is deleted in its entirety and is replaced with the following two sentences:

The results of groundwater sampling performed in connection with environmental due diligence activities performed on behalf of BUYER are set forth in the Phase II Environmental Site Assessment Report, prepared by FER, Inc., dated December 8, 2005. All of the reports referenced above are hereafter referred to as "Environmental Reports."

3. Paragraph 12 of the OPTION CONTRACT is deleted in its entirety and is replaced with the following new Paragraph 12:

#### 12. **Seller's Incremental Development Costs**

A. If, in connection with Buyer's proposed development of the Property, dewatering is required to be performed at the Property, SELLER shall reimburse BUYER for BUYER's reasonable costs of treatment and disposal, up to a maximum amount of \$50,000.00, of any groundwater collected during the operation of the dewatering system that may reasonably be presumed to contain contaminants at concentrations in excess of the contaminant cleanup target levels established in Chapter 62-777, Florida Administrative Code ("F.A.C."), or that may otherwise be required by any federal, state or local environmental regulatory authority, as a result of the Preexisting Environmental Conditions ("Groundwater Treatment/Disposal Costs").

B. BUYER shall notify SELLER of the need to incur Groundwater Treatment/Disposal Costs at least thirty (30) days prior to initiating the dewatering system described above.

C. SELLER shall have the option of contracting directly with the contractor or subcontractor selected by BUYER for the dewatering activities described above for the treatment and disposal of the groundwater collected during the operation of the dewatering system, in which case SELLER shall satisfy its obligation under this paragraph 12 by contracting with and paying said contractor or subcontractor directly for such services and assuring that said work is performed in accordance with a schedule set by BUYER.

D. In the event SELLER fails to enter into an agreement with BUYER 's contractor or subcontractor for the treatment and disposal of groundwater by the time that BUYER requires such work to be initiated, BUYER shall invoice SELLER, on a monthly basis, for the Groundwater Treatment/Disposal Costs incurred by BUYER. BUYER shall submit with the invoice a document justifying its calculation (the "Justification"). The Justification shall include (i) a detailed explanation of the costs incurred and (ii) certifications from BUYER 's contractor verifying the validity and accuracy of the invoice. Payment of the invoice shall be due within thirty (30) days of receipt.

E. BUYER shall have no responsibility for the abandonment of any monitoring wells installed by any other party in connection with the Preexisting Environmental Conditions.

**IN WITNESS WHEREOF**, the SELLER and BUYER have caused this Agreement to be duly executed by their authorized officers with their respective corporate seals affixed on the date first set forth above.

**SELLER:**

\_\_\_\_\_  
Russ Blackburn  
City Manager  
City of Gainesville

***APPROVED AS TO FORM AND LEGALITY***

\_\_\_\_\_  
Marion Radson  
City Attorney  
City of Gainesville

**WITNESSES:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

STATE OF FLORIDA  
COUNTY OF ALACHUA

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2006, by \_\_\_\_\_, the \_\_\_\_\_ of the City of Gainesville, Florida, a municipal corporation, who is personally known to me and duly sworn, acknowledged that as such officer, and pursuant to authority from said corporation, he executed the foregoing instrument for the uses and purposes set forth and contained in said instrument.

\_\_\_\_\_  
NOTARY PUBLIC  
Print Name: \_\_\_\_\_  
Notary Public, State of Florida, Commission No.  
My Commission expires on: \_\_\_\_\_

**CONCURRED BY:**

\_\_\_\_\_  
Name  
Chairman of the Board  
Gainesville-Alachua County Regional Airport Authority

\_\_\_\_\_  
Name  
Secretary/Treasurer  
Gainesville-Alachua County Regional Airport Authority

**BUYER:**

\_\_\_\_\_  
BY:

**WITNESSES:**

\_\_\_\_\_  
Name  
\_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ALACHUA

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2006, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification, and duly sworn, acknowledged that he executed the foregoing instrument for the uses and purposes set forth and contained in said instrument.

\_\_\_\_\_  
NOTARY PUBLIC

Print Name: \_\_\_\_\_  
Notary Public, State of Florida, Commission No. \_\_\_\_\_  
My Commission expires on: \_\_\_\_\_

Exhibit "A"

CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY

THIS AGREEMENT is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2006, between the City of Gainesville, a municipal corporation of the State of Florida, hereinafter referred to as SELLER, and, Florida Food Service, Inc., hereinafter referred to as PURCHASER or BUYER, whose mailing address is PO Box 5247, Gainesville, FL 32627-5247.

WITNESSETH

SUBJECT TO the terms, covenants, and conditions contained in this Agreement, SELLER agrees to sell to PURCHASER, and PURCHASER agrees to purchase from SELLER, the following described property (collectively, the "Premises"):

Legal Description: Exhibit "B"

1. PURCHASE AND SALES PRICE: The purchase price for the Premises (the "Purchase Price") shall be the sum of \$76,342.50, subject to prorations and adjustments described in this Agreement. (Purchase Price is based on \$21,750.00 per acre for 3.51 acres for a total of \$ 76,342.50 ). The Purchase Price shall be payable as follows:

PURCHASE PRICE AND FINANCING: \$ 76,342.50
Payable by PURCHASER in U.S. Currency as follows:
(a) Deposit received on \_\_\_\_\_, 2005, by \_\_\_\_\_ for Escrow Agent. \$ 10,000.00
(b) Total Financing..... \$ \_\_\_\_\_
(c) Other Funds Paid Prior to Closing..... \$ \_\_\_\_\_
(d) Balance to Close (not including PURCHASER'S closing cost, adjustments, credits, set offs and ..... Prorations as provided in this agreement)..... \$ \_\_\_\_\_
(e) \_\_\_\_\_ \$ 66,342.50
TOTAL PURCHASE AND SALES PRICE \$ 76,342.50

After exercising the option, SELLER shall deliver to Alachua County Abstract Company ("Escrow Agent"), in cash or by cashier's check or wire transfer, the sum of TEN THOUSAND and 00/100 U.S. Dollars (\$10,000.00), the proceeds of which shall be held by Escrow Agent as an earnest money deposit (the "Deposit"). If the transaction contemplated by this Agreement closes, the Deposit and all interest earned on the Deposit shall be paid to the SELLER, subject to all adjustments, credits, setoffs, and prorations as provided in this agreement, along with PURCHASER'S balance due at closing. If the transaction contemplated by this Agreement does not close, Escrow Agent shall disburse both the Deposit and the interest earned on the Deposit to the party entitled to the Deposit as provided for in this Agreement.

2. CLOSING DATE: This Agreement will be closed and the deed and possession delivered on or before SIXTY (60) DAYS AFTER EXERCISING THE OPTION, unless extended per the terms of this Agreement. This Agreement is contingent on the PURCHASER obtaining a firm commitment letter from an institutional lender within 10 days from the date of execution of this Agreement, for a loan to purchase the Premises. Said loan commitment letter shall include the lender's agreement to fund the loan on or before the Closing Date subject only to such conditions as are customarily required by commercial banks or savings and loan associations in the county where the Premises is located. PURCHASER shall use reasonable diligence to

obtain a loan commitment. If PURCHASER, after using reasonable diligence fails to satisfy such loan conditions on or before the Closing Date or the lender fails or refuses to close on or before the Closing Date without fault on PURCHASER'S part, PURCHASER may elect to terminate this Agreement by giving notice to SELLER within one business day before the Closing Date. In the event PURCHASER elects to terminate this Agreement pursuant to this Section, the Deposit shall be returned to PURCHASER, whereupon both parties shall be released from all further obligations under this Agreement, except for the obligations under this Agreement that expressly survive termination of this Agreement.

**3. CONVEYANCE:** The SELLER agrees to convey title to the Premises, to the PURCHASER by Warranty Deed, free and clear of all liens and encumbrances except: prorated taxes and assessments, per this agreement; restrictions and easements of record, if any; zoning regulations and ordinances of the municipality and county in which the premises lie; and Declaration of Protective Covenants and Restrictions.

PURCHASER agrees to abide by the terms, provisions and conditions of the "Second Amended and Restated Declaration of Protective Covenants and Restrictions for the Airport Industrial Park: Unit I, Unit II, and Unit III", a copy of which is attached in Exhibits thereto and recorded in the Public Records of Alachua County, Florida, Book 2605, Page 526. This covenant shall survive the closing and conveyance of the Premises to the PURCHASER.

**4. PRORATION OF TAXES:** At closing, all ad valorem real estate taxes shall be prorated between SELLER and PURCHASER as of the date of closing. If and as applicable, SELLER shall pay all delinquent taxes, penalties and interest, and all special assessments now a lien incurred as of the date of closing, both current and reassessed and whether due or to become due. SELLER shall pay or credit on the purchase price all real estate taxes for years prior to the closing, and a portion of such taxes for the year of closing, prorated through the date of closing. The proration of undetermined taxes shall be based on 365 days in a year and on the last available tax rate and valuation. The amounts so computed and adjusted to reflect the prorations shall be final.

**5. TITLE INSURANCE/TITLE AND ENCUMBRANCE CERTIFICATE:** SELLER shall obtain at SELLER'S expense an ALTA Owner's Title Insurance Binder Form A Policy insuring title from a recognized title insurance company or abstract company doing business in this area.

**6. EXAMINATION OF TITLE:** The PURCHASER or his Attorney shall have 10 days from receipt of the binder described in paragraph 5 within which to examine the title information acquired and to signify its willingness to accept the title, whereupon the transaction shall be concluded by the closing date as stated in paragraph 2. If the title is unmarketable or uninsurable, the SELLER shall have 30 days or a reasonable period of time within which to cure the designated defects in the title that render same unmarketable or uninsurable in the opinion of the PURCHASER or his said Agent, and the SELLER hereby agrees to use reasonable diligence in curing said defects, and upon the defects being cured and notice of that fact being given to the PURCHASER or his said Agent, this transaction shall be closed within 5 days of delivery of said notice or the closing date stated herein, whichever is later. Upon SELLER'S failure or inability to correct the unmarketability of the title within the time limit or a reasonable period of time, at the option of the PURCHASER, the SELLER shall deliver the title in its existing condition, otherwise the SELLER, holding the deposit shall return same to the PURCHASER upon demand therefore, and all rights and liabilities on the part of the PURCHASER arising hereunder shall terminate. Provided, however, that in the event of disagreement between the SELLER and PURCHASER as to the marketability of the title, the SELLER may offer a binder from a reputable and solvent title insurance company in this area, agreeing to insure said title against all exceptions other than those mentioned in this agreement and the standard printed exception, which binder shall be paid for by the SELLER.

**7. SURVEY AND ENVIRONMENTAL REPORT:**

A. SURVEY: The PURCHASER shall have 30 days from the date of execution of this Contract to have the property surveyed at its expense. If the survey shows any encroachments upon or shortages in the land

herein described or that the improvements located on the land herein described encroach on the land of others, a copy of such survey shall be furnished to the other party and the SELLER shall have the time to cure such defect as the Contract allows to cure defects of title. Failure to so eliminate such encroachments shall be regarded as a default by the SELLER.

#### B. ENVIRONMENTAL REPORT:

(1) Within 30 days of the execution date of this Contract, the PURCHASER may cause a Phase I or Phase II environmental study to be conducted on the premises by a qualified engineer. If the Phase I or Phase II environmental study conducted on the premises by a qualified engineer indicates the presence of "environmental contamination," as defined below, from a source other than the Preexisting Environmental Conditions as described in subsection (3) of this paragraph, or if the Phase I or Phase II environmental study indicates the presence of Preexisting Environmental Conditions as described in subsection (3) of this paragraph at levels that are unacceptable to the PURCHASER, the PURCHASER shall have the option to rescind this agreement within said 30 day period.

*"ENVIRONMENTAL CONTAMINATION" is defined as follows: The presence in soils, groundwater or surface water on the Property of any contaminant, as that term is defined in Chapter 62-780.200(10), Florida Administrative Code ("F.A.C."), at a concentration in excess of the contaminant cleanup target levels established in Chapter 62-777, F.A.C.*

(2) The City is unwilling to assume responsibility for contracting directly for a Phase I or Phase II environmental study of the premises, as the PURCHASER is more capable of determining what scope of work will be necessary to meet its needs. The PURCHASER shall confer with the Alachua County Environmental Protection Department as to the required scope of work. The Phase I or Phase II environmental study shall be undertaken by the PURCHASER on its own initiative and shall be done at the PURCHASER'S own expense.

#### (3) Seller's Representations

A. Contamination assessment activities have been performed at the Gainesville Job Corps Center, 5301 NE 40<sup>th</sup> Terrace, Gainesville, Florida ("Job Corps Site"), located immediately north of the Property. The results of contamination assessment activities performed to date are contained in the following reports: Contamination Assessment Report, Gainesville Job Corps Center, dated March 29, 1994, prepared by GeoSolutions, Inc.; Preliminary Contamination Assessment Report for Gainesville Job Corps Center Former Filter Basins, dated 1996, prepared by Environmental Science and Engineering, Inc.; Contamination Assessment Report for Gainesville Job Corps Center Former Filter Basins, dated 1998, prepared by QST Environmental, Inc. ("QST"); Draft Contamination Assessment Report Addendum for the Former Filter Basins, Gainesville Job Corps Center, dated 1999, prepared by QST; and Draft Final Contamination Assessment Report Addendum for the Former Filter Basins, Gainesville Job Corps Center, dated April 2001, prepared by Dynamic Technology Systems, Inc. In addition, three (3) monitor wells have been installed on the Property, designated Lot 12 TMW2, Lot 12 TMW3, and Lot 12 TMW5. The results of groundwater samples collected from these three (3) monitor wells are included in the following report: ENVIRONMENTAL SUMMARY FOR THE CITY OF GAINESVILLE AIRPORT INDUSTRIAL PARK, prepared by Jones, Edmunds & Associates, Inc., 730 NE Waldo Road, Gainesville, FL 32641. The results of groundwater sampling performed in connection with environmental due diligence activities previously performed on behalf of BUYER are set forth in the Phase II Environmental Site Assessment Report, prepared by FER, Inc., dated December 8, 2005 ("FER Phase II ESA"). All of the reports referenced above are hereafter referred to as "Environmental Reports."

B. The Environmental Reports describe soil and/or groundwater impacts ("Preexisting Environmental Conditions") that may be present on the Property as a result of the release of Hazardous Substances on the Job Corps Site or the migration of Hazardous Substances from the Job Corps Site. As used herein, "Hazardous Substances" means any contaminants, pollutants, hazardous or toxic substances as those terms may be defined in any federal, state or local law, rule, regulation or ordinance, including asbestos, polychlorinated biphenyls, and petroleum (including crude oil or any fraction thereof).

C. Upon request, Seller shall provide Buyer with copies of the Environmental Reports, excepting only the FER Phase II ESA.

D. Seller makes no representation or warranty as to the accuracy of any of the information provided in the Environmental Reports.

(4) Buyer's Representations

A. Buyer shall, upon request by Seller at any time following the Closing, execute a Declaration of Restrictive Covenant for the Property, to be recorded in the Public Records of Alachua County, Florida, that prohibits: (a) the use of groundwater on the Property for any purpose; (b) drilling for water conducted on the Property; and (c) installation of any wells on the Property, all without the express written consent of the Florida Department of Environmental Protection. The Declaration of Restrictive Covenant shall run with the land and shall be binding upon any person or entity acquiring title to the Property following the Closing.

B. Buyer shall not engage in any activity on the Property that has the effect of exacerbating the Preexisting Environmental Conditions.

(5) Environmental Indemnity

A. Seller shall indemnify, defend and hold harmless Buyer from and against any and all liabilities claims, demands, damages, penalties, forfeitures, suits, costs, expenses and all other obligations which Buyer may hereafter incur, become responsible for or pay out in connection with the Preexisting Environmental Conditions solely by virtue of Buyer's status as owner of the Property ("Claim"); provided, however, Seller shall have no obligation to indemnify or hold harmless Buyer against any Claim related to or arising out of environmental impacts on the Property as a result of sources other than the Preexisting Environmental Conditions, or to the extent caused by or resulting from the negligence or willful misconduct of Buyer, or its agents, employees or invitees, or to the extent that action of Buyer, its agents, employees, or invitees have exacerbated Preexisting Environmental Conditions.

B. Buyer shall notify Seller of any Claim within ten (10) business days after Buyer receives actual notice thereof. Buyer shall cooperate with Seller in any reasonable manner that Seller shall request in the defense of any Claim.

C. Seller shall have the right to assume and take over the defense of any Claim and engage attorneys to represent Seller and Buyer; provided, however, if Buyer desires separate counsel, Buyer may engage such counsel at its own cost and expense and Seller shall cause Seller's counsel to cooperate with Buyer's counsel in its defense of any Claim.

D. The environmental indemnity provided for in this Agreement shall not be enforceable by Buyer in the event that Seller has requested that Buyer execute and record the Declaration of Restrictive Covenant provided in Buyer's Representations above and Buyer has failed to so execute and record the Declaration of Restrictive Covenant.

(6) Seller's Incremental Development Costs

A. If, in connection with Buyer's proposed development of the Property, dewatering is required to be performed at the Property, Seller shall reimburse Buyer for Buyer's reasonable costs of treatment and disposal, up to a maximum amount of \$50,000.00, of any groundwater collected during the operation of the dewatering system that may reasonably be presumed to contain contaminants at concentrations in excess of the contaminant cleanup target levels established in Chapter 62-777, F.A.C., or that may otherwise be required by any federal, state or local environmental regulatory authority, as a result of the Preexisting Environmental Conditions ("Groundwater Treatment/Disposal Costs").

B. Buyer shall notify Seller of the need to incur Groundwater Treatment/Disposal Costs at least thirty (30) days prior to initiating the dewatering system described above.

C. Seller shall have the option of contracting directly with the contractor or subcontractor selected by Buyer for the dewatering activities described above for the treatment and disposal of the groundwater collected during the operation of the dewatering system, in which case Seller shall satisfy its obligation under this paragraph 7(B)(6) by contracting with and paying said contractor or subcontractor directly for such services and assuring that said work is performed in accordance with a schedule set by Buyer.

D. In the event Seller fails to enter into an agreement with Buyer's contractor or subcontractor for the treatment and disposal of groundwater by the time that Buyer requires such work to be initiated, Buyer shall invoice Seller, on a monthly basis, for the Groundwater Treatment/Disposal Costs incurred by Buyer. Buyer shall submit with the invoice a document justifying its calculation (the "Justification"). The Justification shall include (i) a detailed explanation of the costs incurred and (ii) certifications from Buyer's contractor verifying the validity and accuracy of the invoice. Payment of the invoice shall be due within thirty (30) days of receipt.

E. Buyer shall have no responsibility for the abandonment of any monitoring wells installed by any other party in connection with the Preexisting Environmental Conditions.

## **8. WARRANTIES AND COVENANTS OF SELLER:**

A. **LITIGATION:** SELLER covenants and warrants that, to the best of its knowledge, other than as disclosed herein, there are no suits, actions, or proceedings pending, whether involving governmental authority or private party, to which SELLER is a party and relating to the ownership or operation of the Premises, nor has SELLER any knowledge of any contemplated actions; and SELLER agrees to give PURCHASER prompt notice of any suits instituted between the date hereof and the closing date.

B. **SELLER'S OWNERSHIP:** SELLER warrants and covenants that SELLER has title to the exclusion of all other persons or entities to the fee simple interest in the Premises, and the same shall be conveyed by SELLER to PURCHASER at the closing; that SELLER has an unrestricted right to so transfer, subject to approval, if required, by the Gainesville-Alachua County Regional Airport Authority; that there are no agreements, leases or understandings affecting the Premises or improvements thereon other than those that have been or will be disclosed by provisions of this agreement.

C. **COMPLIANCE WITH LAW:** SELLER warrants and covenants that, to the best of its knowledge, there are no violations of federal, state, or local law, regulations or ordinances affecting the Premises and SELLER covenants to cure any and all such violations, if such are found to exist, prior to closing.

D. **ZONING:** SELLER warrants and covenants that the Premises are presently zoned Industrial 2 (I-2). SELLER further warrants and covenants that it has no knowledge or information of any existing or anticipated federal, state, or county, municipal or other orders or actions which might adversely affect PURCHASER'S construction or proposed use, as applicable.

E. **CONDEMNATION:** SELLER warrants and covenants that it has not received any written or official notice or otherwise been notified or have any knowledge of any condemnation proceedings against the whole or any part of the Premises.

**9. POSSESSION OF THE PREMISES:** Possession of the Premises shall be delivered to PURCHASER at the time of closing.

## **10. RISK OF LOSS:**

Damage or Destruction to Premises: Risk of loss to the Premises, the subject matter of this Agreement, from fire or other casualty shall be borne by SELLER until closing. If the premises is substantially damaged or destroyed by fire or other casualty prior to the closing of this transaction, the PURCHASER may: (1.) Elect to proceed with the transaction, in which event the PURCHASER shall be entitled to all insurance money, if any, payable to the SELLER under any and all policies of insurance covering property so damaged or destroyed; or (2.) Elect to rescind this agreement in which event all parties hereto shall be released from all liability hereunder and total consideration (including interest) paid by Purchase shall be forthwith returned.

If the PURCHASER elects to rescind this Agreement, PURCHASER shall notify SELLER in writing within 30 days after the PURCHASER has received written notice of such damage or destruction.

**11. EMINENT DOMAIN:** If, prior to the closing date, all or any part of the Premises shall be taken by any governmental authority under its power of eminent domain, PURCHASER shall notify SELLER in writing not later than 5 business days following such taking that PURCHASER will either:

(1.) Take possession of the Premises on the closing date without any abatement or adjustments on the purchase price in which event SELLER shall assign its right to the condemnation award before the closing date; or

(2.) To cancel this Agreement and in that event, any consideration or down payment, however held shall be refunded to PURCHASER and this Agreement shall be void and neither party shall have any further loss, cost, damage, and right or remedy against the other.

**12. SELLER'S DOCUMENTS AT CLOSING:** The SELLER shall deliver to the PURCHASER at the closing, the following documents: (1.) Warranty Deed, conveying the Premises, executed and acknowledged as required by law, and with all documentary and revenue stamps (if any) in the proper amounts affixed thereto, at the SELLER'S expense, and (2.) No Lien Affidavit.

**13. SPECIAL CONDITIONS:**

- Zoning: The parties acknowledge that the Premises are presently zoned Industrial 2 (I-2). It is an essential condition to the purchase of the Premises that this zoning for the Premises be suitable for the PURCHASER'S proposed development and use of the Premises, and that the governmental permits necessary for said development and use be secured by the PURCHASER with no guarantee given by the SELLER.
- Nothing contained in this Agreement, or execution of the same, shall be deemed to either grant to or secure for PURCHASER any development rights, nor constitute approval of any structures or facilities PURCHASER intends to construct on the Premises. PURCHASER, at its own cost and expense, shall secure any necessary rights under applicable federal, state, county and municipal zoning, environmental, and land-use laws, regulations, and ordinances to develop and use the Premises. In the event that: (1.) A final determination disapproving or otherwise preventing PURCHASER from securing the Use Rights; or (2.) The Premises are suitably zoned for PURCHASER'S intended development and use and prior to the closing there is any change in the zoning of the Premises whereby the Premises cannot reasonably be used for said intended purposes; or (3) The Use Rights are secured and prior to the closing there is any change in the Use Rights whereby the premises cannot reasonably be used for PURCHASER'S intended development and use; then and in any such event the PURCHASER shall have the option to rescind the Agreement without further liability or obligation and receive the return of all deposits and any other sums paid to the date of such rescission. PURCHASER agrees to abide by all federal, state, and local laws, rules regulations and ordinances with regard to the development of this land, including but not limited to Federal regulations regarding height restrictions.
- OTHER REQUIREMENTS: It is further understood and agreed that PURCHASER shall have the right to rescind this Agreement within 30 days of the date of execution of this contract, for any of the reasons set forth in the following provisions:
  - (1) SOIL LOAD REQUIREMENTS: The soil is determined by PURCHASER to be unsuitable for the support and construction of a facility within the PURCHASER'S project specifications and parameters.
  - (2) UTILITIES: PURCHASER is unable to obtain legally binding commitments satisfactory to PURCHASER from the appropriate private entities and city, county, state or other governmental authorities for the procurement of and access to natural gas, electricity, water, sewer and other utility services necessary for the present and future requirements for the construction and operation of PURCHASER'S use.
  - (3) EASEMENTS: Any drainage, utility or other easements adversely affecting the lay out and construction or PURCHASER'S proposed use.

In the event PURCHASER should rescind this Agreement for any reasons set forth above, then PURCHASER shall, without any further liability or obligation, receive a return of all deposits and any sums paid to date of such rescission.

- FEDERAL OBSTRUCTION STANDARDS: The property described herein lies within an Airport Height Notification Zone. Therefore, all structures on the property must conform to the federal obstruction standards for civil airports contained in Title 14 of the Code of Federal Regulations, Part 77.
- PLATTING: The Premises is currently unplatted land. It is understood between SELLER and PURCHASER that SELLER will prepare and record a plat of the Premises prior to closing. SELLER



**17. CLOSING DATE:** Closing of the purchase and sale of the Premises (the "Closing") shall occur at Alachua County Abstract Company in Gainesville, Florida on or before SIXTY (60) DAYS AFTER EXERCISING OF THE OPTION (the "Closing Date"), as stated in paragraph 2, unless extended in writing by the parties.

**18. DEFAULT:** If PURCHASER fails to perform this Contract within the time hereinabove specified, time being of the essence of this Contract, the SELLER shall have the right and option upon 5 days written notice to the PURCHASER to terminate this Contract, and the SELLER shall be relieved of all obligations under this contract.

**19. ENTIRE AGREEMENT:** This Agreement and Exhibits thereto, constitute the entire understanding between the parties hereto with respect to the subject matter hereof and cannot be changed, modified, amended, terminated or any provision hereof waived except by an instrument in writing signed by the parties hereto.

**20. CAPTIONS:** The parties mutually agree that the headings and captions contained in this Agreement are inserted for convenience of reference only and are not to be deemed part of or to be used in construing this Agreement.

**21. COUNTERPARTS:** This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**22. GOVERNING LAW:** The Laws of the State of Florida shall govern this agreement and exclusive venue is in Alachua County, Florida.

**23. ASSIGNABILITY:** Neither party shall assign its rights under this Agreement.

**24. APPROVALS:** This Agreement is contingent upon approval by the Gainesville City Commission and the concurrence of the Gainesville-Alachua County Regional Airport Authority.

**25-A. IMPROVEMENTS:** This Purchase and Sale Agreement will be closed and the deed and possession delivered to PURCHASER on or before Closing Date, unless extended per the terms of the Agreement. Consistent with Section 12.01 of the Declaration of Protective Covenants and Restrictions for the Airport Industrial Park: Unit II in the City of Gainesville, Alachua County, Florida, dated January 13, 2003 and as a term and condition of this agreement, PURCHASER agrees to construct and complete a: PAVED LOT FOR THE OFF-STREET PARKING OF MOTOR VEHICLES AND AN ACCESS DRIVEWAY, AS ACCESSORY USE TO THE WAREHOUSE EXPANSION ON PURCHASER'S ADJACENT PROPERTY AND FOR NO OTHER PURPOSE OR USE, within two years following the date of closing. Completion shall be defined as issuance of a Certificate of Occupancy.

**25-B. REVERTER:** In the event PURCHASER does not complete the : PAVED LOT FOR THE OFF-STREET PARKING OF MOTOR VEHICLES AND AN ACCESS DRIVEWAY, AS ACCESSORY USE TO THE WAREHOUSE EXPANSION ON PURCHASER'S ADJACENT PROPERTY AND FOR NO OTHER PURPOSE OR USE, on the Premises, with completion defined as issuance of a Certificate of Occupancy, within two years following the date of closing of this Agreement, consistent with the deed restrictions on this property as contained in §12.01 of the Declaration of Protective Covenants and Restrictions for the Airport Industrial Park: Unit II in the City of Gainesville, Alachua County, Florida, dated January 13, 2003 the Premises and any improvements thereon will revert back to the City and the City will return to PURCHASER any money paid to City by PURCHASER (pursuant to Paragraph 1), less liquidated damages, within 30 days of reverter. Since damages sustained by the City for loss of use of the property will be difficult to ascertain in the event the property reverts to the City, PURCHASER agrees to pay the City \$ 5,000.00 in liquidated damages in the event the property reverts to the City.

**25-C. LIMITATION ON CONVEYANCE:** In furtherance of the obligations and restrictions on the Premises, PURCHASER may not convey said property within ten years of date of closing, without prior written consent of the City.

**25-D. TERMS TO SURVIVE CLOSING:** All Representations and Warranties, and the provisions of this Paragraph 25, shall survive the sale and closing of this property.

**26. TIME FOR ACCEPTANCE:** If this Contract is not executed by the SELLER on or before TEN DAYS AFTER THE EXERCISE OF THE OPTION and by BUYER on or before THE DATE OF EXERCISE OF THE OPTION, the Contract shall be null and void. The date of the Contract for purposes of performance shall be regarded as the date of execution by the SELLER.

**IN WITNESS WHEREOF**, the SELLER and PURCHASER have caused this Agreement to be duly executed by their authorized officers with their respective corporate seals affixed on the date first set forth above.

**SELLER:**

\_\_\_\_\_  
Russ Blackburn  
City Manager  
City of Gainesville

\_\_\_\_\_  
Date

STATE OF FLORIDA  
COUNTY OF ALACHUA

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2006, by \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and whom did not take an oath.

\_\_\_\_\_  
NOTARY PUBLIC  
\_\_\_\_\_  
(Notary Public print name)  
My Commission expires on: \_\_\_\_\_

**WITNESSES:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

*APPROVED AS TO FORM AND LEGALITY*

\_\_\_\_\_  
Marion Radson  
City Attorney  
City of Gainesville

\_\_\_\_\_  
Date

**CONCURRED BY:**

\_\_\_\_\_  
Name  
Chairman of the Board  
Gainesville-Alachua County Regional Airport Authority

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name  
Secretary/Treasurer  
Gainesville-Alachua County Regional Airport Authority

\_\_\_\_\_  
Date

**PURCHASER:**

\_\_\_\_\_  
BY:  
Title  
Company

\_\_\_\_\_  
Date

\_\_\_\_\_  
BY:  
Title  
Company

\_\_\_\_\_  
Date

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

PERSONALLY appeared before me \_\_\_\_\_ who being duly sworn, says that (s) he saw the corporate seal of \_\_\_\_\_ affixed to the foregoing instrument and that (s) he also saw \_\_\_\_\_ (Assistant) Secretary of said corporation sign and attest the same and that (s) he with \_\_\_\_\_ witnessed the execution and delivery thereof as the act and deed of the said corporation.

\_\_\_\_\_  
NOTARY PUBLIC  
\_\_\_\_\_  
(Notary Public print name)  
My Commission expires on: \_\_\_\_\_

WITNESSES:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

This form Document No. ECOD-01 is a legal instrument approved by the City Attorney. Any deviations from its intended use should be authorized by the City Attorney.

Exhibit "B"

**1) Survey of AIP Unplatted Lot is in progress per Purchaser.**

2) Unrecorded legal description subscribed in the absence of a legal description 9-01-05 as follows:

**Commence at the Northwest corner of Section 24, Township 9 South, Range 20 East; thence run North 89°18'20" East along the North line of said Section 24, a distance of 89.36 feet to the POINT OF BEGINNING and the Northeast corner of Lot 12 as per the plat of Airport Industrial Park Unit II plat recorded in plat Book "T", page 37 of the Public Records of Alachua County, Florida; thence leaving said North line of said Section 22, run South 10°36'54" West along the East lines of Lots 12 and 13 of said Airport Industrial Park Unit II plat, a distance of 765.88 feet to the Northwest corner of Lot 14 of said plat; thence run North 89°18'20" East along the North line of said Lot 14 a distance of 200.0 feet to a point; thence leaving the North line of Lot 14 of said plat, run North 10°36'54' East and parallel East line of Lots 12 & 13 to a point on the North line of Section 22; thence run South 89°18'20" West to the POINT OF BEGINNING, containing 153,000.0 square feet or 3.51 acres, more or less.**