

## **AGREEMENT FOR PURCHASE AND SALE**

THIS AGREEMENT FOR PURCHASE AND SALE ("Agreement") dated as of the "Effective Date" (as hereinafter defined) by and between David Paul Buser, whose address is 5187 Starfish Avenue, Naples, FL 34103 ("Seller") and The City of Naples, Florida, a Municipal corporation of the state of Florida whose address is 735 Eighth Street South, Naples, FL 34102, its successors and/or assigns ("Buyer").

### W I T N E S S E T H:

1. Sale and Purchase. Seller shall sell and Buyer shall purchase, subject to the terms and conditions herein, a tract of land more particularly described as all of Lot 89, Seagate Subdivision Unit One, as recorded in Plat Book 3, Page 85 of the Public Records of Collier County, Florida together with the following, sometimes hereinafter collectively referred to as the "Property".

(a) All title policies, surveys, plans, plats, soil tests, engineering studies, environmental studies, aerial photographs, and all other documents, studies, licenses, permits, zoning, authorizations, approvals and other intangible rights pertaining to the ownership and operation of the Property in Seller's possession, if any (collectively, the "Documents"); and

(b) All strips and gores of land adjacent to the Property, together with all easements, privileges, riparian and other water rights, lands underlying any adjacent streets or road, and any tenements, hereditaments and appurtenances pertaining to or accruing to the benefit of the Property, if any; and

(c) All improvements located on the Property and all personal property located at, on, upon, under or associated with the Property, if any; and

(d) All water, sewer and other utility services and contractual rights and other governmental approvals, development orders and permits, including, but not limited to, any prepaid impact credits, access, service, recreational or other fees of any kind pertaining to the Property, if any.

2. Purchase Price. The purchase price ("Purchase Price") to be paid by Buyer to Seller for the Property shall be Forty Thousand Dollars (\$40,000.00), subject to prorations and adjustments as provided in this Agreement. The Purchase Price shall be paid at Closing by wire transfer to such account as Seller shall direct pursuant to written wire instructions to be provided by Seller prior to Closing.

3. Survey. Seller shall provide Buyer with any surveys of the Property at or prior to Seller's execution of this Agreement and Buyer may, prior to the Inspection Completion Date or thereafter, obtain a current survey of the Property prepared by a registered surveyor (the "Survey") certified to Buyer and Commonwealth Title Insurance Company or other nationally recognized title insurance underwriter ("Title Company") selected by Buyer. The Survey shall be in form suitable to Buyer and Title Company and shall (a) locate all present and future easements, rights-of-way, one hundred (100)-year flood plain, roadways and encroachments on or abutting the Property, (b) contain an accurate description of the Property, (c) show the location of all title exceptions shown in the "Commitment" (as hereinafter defined), and (d) contain the certification of the surveyor.

4. Title. Prior to, or at the time Seller delivers an executed copy of this Agreement to Buyer, Seller shall provide Buyer with a copy of its existing owner's title insurance policy. Buyer shall have the right, at Buyer's sole cost and expense, to obtain an ALTA Owner's Title Commitment, together with copies of all instruments referred to therein covering the Property (the "Commitment"). At Closing, the Seller shall provide the Title Company sufficient documentation to enable the Title Company to delete the preprinted gap, mechanics lien and party-in-possession exceptions in the Commitment and issue to Buyer an ALTA Form B title insurance policy issued pursuant to the Commitment insuring that Buyer has good, marketable insurable fee simple title ("Owner's Title Policy") to the Property at Closing, subject only to (i) taxes for the year of Closing and all subsequent years (prorated as provided in this Agreement); (ii) zoning restrictions and prohibitions imposed by governmental authority; (iii) those matters of title shown on Exhibit A, attached hereto and made a part hereof (the "Permitted Exceptions"), and (iv) the "Conservation Use Condition" as provided herein.

Within thirty (30) days following the Effective Date, Buyer shall notify Seller of any title or survey defect with respect to the Property other than the Permitted Exceptions ("Review Date"). In the event Buyer shall timely and properly object to matters set forth in the Commitment or Survey (collectively the "Title Evidence"), Seller shall have the right but not the obligation to attempt to cure such matter objected to by Buyer on or before thirty (30) days following the Review Date ("Title Cure Date"); provided, however, Seller shall be required to (i) cause any lien or encumbrance encumbering the Property to be released of record on or before Closing; (ii) provide documentation in form reasonably required by the Title Company to delete the preprinted exceptions with regard to gap, party in possession, and mechanics' liens; (iii) cure any title matters created by or through Seller after the Effective Date of this Agreement; (iv) provide the Title Company with a corporate resolution, and shareholder action if required, authorizing the transaction contemplated by this Agreement and certificates of good standing issued by the Secretary of State of Florida; (v) provide the documents Seller agrees to provide pursuant to this Agreement; and (vi) pay all taxes and assessments for

tax years prior to the year of such Closing and to prorate any taxes and assessments for the year of such Closing, provided that any certified assessment liens shall be satisfied by Seller as of such Closing ("Agreed Cure Matters"). In the event that prior to the Title Cure Date Seller has not corrected such title defect or has not agreed in writing to cure such matter on or before the Closing Date, then Buyer shall have, at Buyer's option, the right to terminate this Agreement on a date which is the later to occur of ten (10) "Business Days" (as hereinafter defined) after the Title Cure Date or ten (10) Business Days after Seller shall advise Buyer as to whether or not Seller will cure the title defects which were timely objected to by Buyer ("Title Response Date") whereupon this Agreement shall terminate and the parties shall be released of all further obligations each to the other under this Agreement, except for those obligations that survive termination. In the event Buyer does not elect such right of termination prior to the end of the Title Response Date, then Buyer shall accept title to the Property without diminution of any of the consideration payable under this Agreement and such matter(s) pertaining to title to the Property as of the Title Cure Date shall be deemed a Permitted Exception other than the Agreed Cure Matters. In the event Buyer does not object to matters set forth in the Title Evidence prior to the Review Date, then all such matters shown in the Title Evidence (other than the Agreed Cure Matters) shall be Permitted Exceptions. Notwithstanding the foregoing, the Seller shall provide the Agreed Cure Matters on or before Closing and in the event that the Seller shall fail to provide any Agreed Cure Matters on or before the Closing Date, then Seller shall be in default under this Agreement.

5. Deed. At Closing, Seller shall convey marketable fee simple title to the Property to Buyer by executing and recording a General Warranty Deed in a form acceptable to Buyer free and clear of all liens and encumbrances, except the Permitted Exceptions and the Conservation Use Condition, with all documentary, surtax and other transfer taxes affixed (the "Deed"). Seller agrees that from and after the Effective Date, Seller shall not enter into any other agreement or take any action concerning the Property (other than as contemplated by this Agreement) which would negatively affect the Property, unless consented to by Buyer or such agreement is terminable and shall be terminated by Seller on or before the Closing.

6. Inspection. If on or before forty five (45) days following the Effective Date, unless otherwise extended pursuant to Paragraph 9 below (the "Inspection Completion Date"), Buyer determines, in its sole and absolute discretion, that Buyer does not desire to purchase the Property, Buyer shall have the right to terminate this Agreement by providing written notice to Seller on or before 5:00 p.m. on the Inspection Completion Date. In the event that such written notice of termination is delivered on or before the expiration of the Inspection Completion Date, upon the occurrence of such event this Agreement shall be deemed terminated and the parties shall be released of all further obligations each to the other under this Agreement, except for those intended to survive such

termination. In the event Buyer fails to terminate this Agreement pursuant to this Paragraph 6 in writing on or before the expiration of the Inspection Completion Date, Buyer shall be deemed to have accepted the Property.

At Buyer's sole expense, Buyer, its agents, employees, consultants, representatives and other designees shall have access to the Property at all times subsequent to the Effective Date and prior to any termination of this Agreement with full right to: (a) inspect the Property; and (b) to conduct reasonable tests thereon including, but not limited to, Environmental Reports and soil borings and hazardous waste studies, and to make such other examinations with respect thereto as Buyer, its counsel, licensed engineers, surveyors or other representative may deem reasonably necessary. Buyer agrees that it shall not unreasonably interfere with Seller in connection with the tests and inspections to be performed by Buyer. Any tests, examinations or inspections of the Property by Buyer and all costs and expenses in connection with Buyer's inspection in connection with the Property (or any part thereof) shall be at the sole cost of Buyer and shall be performed in a manner not to unreasonably interfere with Seller's use of the Property and shall not violate any law or regulation of any governmental authority.

Upon completion of such inspection, examination or test, Buyer shall restore any permanent damage to the Property caused by Buyer to substantially its condition existing as of the Effective Date. Buyer shall not permit any liens to be placed against any portion of the Property, arising from any action of Buyer and if any liens are placed on any portion of the Property, Buyer shall promptly remove such lien by payment or bonding same in a manner so that same is no longer a lien on any portion of the Property. Buyer hereby agrees that prior to the Closing, neither Buyer nor any of its counsel, engineers, surveyors or other representatives shall have the right to place any liens against such Property and that the Buyer shall notify all persons providing services, labor or material on behalf of the Buyer that such party shall look solely to the Buyer and that until Buyer shall acquire such Property, such Property shall not be subject to any lien as the result of the Buyer's failure to pay for any such services, labor and/or material. Buyer and its employees, agents and contractors shall enter on the Property at their own risk, and Seller shall not be liable in any way for any damage or act suffered by such parties.

Buyer hereby indemnifies and holds Seller forever harmless from and against any and all loss, damage, judgments, claims and threats of claims, including all reasonable attorneys' fees and court costs through all trial and appellate levels, in connection with any injury to persons or property from Buyer's inspections of the Property or in connection with any liens or claims of lien against the Property or any part thereof arising out of Buyer's inspections or tests of the Property contemplated by this Agreement; provided, however, the Buyer shall not be required to remove any hazardous waste which it discovers upon any of the

Property in connection with its due diligence, provided that the Buyer did not cause such hazardous waste to be located upon such Property.

Within five (5) days of the Effective Date, the Seller shall provide to Buyer all Documents. During the term of this Agreement, the Buyer shall have the right to contact such governmental and quasi-governmental authorities as Buyer may desire in connection with its due diligence. Seller will make copies or provide originals of all materials and files in its possession or its consultants' files pertaining to the Property. In the event this Agreement is terminated by Buyer pursuant to the terms and provisions of this Agreement, Buyer shall, within ten (10) days of such termination, return the documents obtained from Seller to Seller and provide Seller with a copy of any reports, tests, other studies obtained by Buyer relative to its investigation of the Property without representation or warranty as to the completeness or accuracy of such information.

The provisions of this Paragraph shall survive any termination of this Agreement.

7. Seller's Representations and Warranties. Seller covenants, represents and warrants to Buyer as follows, to wit:

(a) Seller has the power and authority to own and convey the Property, and Seller's performance of Seller's obligations under this Agreement do not require the consent of any other person. This Agreement and all documents executed by Seller which are to be delivered to Buyer are, or at the time of the Closing will be, duly authorized, executed, and delivered by Seller and do not, and at the time of the Closing will not, violate any provisions of any material agreement or judicial order to which Seller is a party or to which Seller or the Property is subject. The Seller shall provide the Title Company with the documents as the Title Company may request to evidence that Seller is duly authorized to enter into this Agreement and consummate the transaction contemplated hereunder and has all necessary power and/or other authority to enter into and consummate this Agreement.

(b) This Agreement has been duly and validly executed and delivered by Seller and this Agreement constitutes the valid and legally binding obligation of Seller, enforceable against Seller in accordance with its terms.

(c) Seller is a "United States person" within the meaning of the Internal Revenue Code of 1986, as amended.

(d) To the best of Seller's actual knowledge, without independent investigation, there is no "Hazardous Material" (as hereinafter defined) on, under or about the Property. Seller further warrants and represents that during the time in which Seller owned the Property, neither Seller nor, to the best of Seller's

knowledge, any third party has used, generated, manufactured, produced, stored, or disposed of on, under, or about the Property or transported to or from the Property any Hazardous Materials. To Seller's knowledge, there is no proceeding or inquiry by any governmental authority with respect to the presence of Hazardous Materials on the Property or the migration of Hazardous Materials from or to the Property. To Seller's knowledge, there are no and have not been any storage tanks located in or under the Property. The term "Hazardous Material" means, but is not limited to, any substance, material, or waste which is toxic, ignitable, reactive, or corrosive; which is or can be injurious to the health, safety, or welfare of the public or environment, and which is or becomes regulated by any local or state governmental authority or the United States Government which term includes, without limitation, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," "restricted hazardous waste," "hazardous substance," "pollutant or contaminant," or "hazardous material," by any local or state law, (ii) oil and petroleum products and their by-products, (iii) asbestos or asbestos-containing materials, (iv) designated as a "hazardous substance" pursuant to the Federal Water Pollution Control Act, (v) defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, or (vi) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act. Seller has disclosed to Buyer in writing all information in Seller's possession or control which relates to the environmental condition of the Property. Prior to the Inspection Completion Date and any time during the term of this Agreement, Buyer shall have the right to make such studies and investigations as it deems appropriate to evaluate the Property and risks from any environmental or hazardous material and chemicals standpoint. To the extent the environmental studies show any hazardous materials affecting the Property or any violation of any governmental requirement pertaining to hazardous materials then either (i) Seller shall agree in writing to remediate any Hazardous Material on the Property in accordance with all applicable legal requirements prior to Closing, as such Closing Date may be extended by mutual written agreement of Seller and Buyer for such period of time as Seller and Buyer shall agree upon in writing, or (ii) the Buyer shall have the right to terminate this Agreement upon written notice to Seller on or prior to the Closing Date, whereupon this Agreement shall terminate and the parties released of all further obligations each to the other under this Agreement.

(e) There are no parties in possession of any portion of the Property other than Seller.

(f) Seller is the owner of fee simple title to the Property, subject only to the Permitted Exceptions.

(g) There are no actions, litigations, suits, special assessments, proceedings or investigations pending or to the best of Seller's knowledge, threatened affecting the Seller or the Property in law or in equity before any

governmental department, commission, board, agency or instrumentality or any private individual or entity which involve the possibility of a judgment, liability or change in zoning against the Property.

(h) Between the Effective Date and Closing, the Seller will continue to operate and maintain the Property in its usual and customary manner and shall not take any action which would change in any material respect the existing condition of the Property except as contemplated by this Agreement.

(i) No commitments have been made to any governmental authority, utility company, school board, church or other religious body or any homeowner's association or other organization, group or individual relating to the Property which would impose an obligation on Buyer, its successors and assigns, to make any contribution or dedication of money or land or to construct, install or maintain any improvement of a public or private nature on the Property.

(j) The Property and its operation and use is presently in compliance with all applicable governmental requirements, including, but not limited to, zoning and land use.

(k) There have not been filed by or against Seller, a petition in bankruptcy or insolvency proceedings or for reorganization or for the appointment of a receiver or trustee, nor have any such entities made an assignment for the benefit of creditors or filed a petition for an arrangement or entered into an arrangement with creditors or admitted in writing the inability to pay its debts as they become due.

(l) There are no condemnation, environmental, zoning, or other land use regulation proceedings instituted which could detrimentally affect the use or operation of the Property or the value of the Property, nor has Seller received notice of any special assessment proceedings affecting the Property. To the extent Seller receives any notice of any such actions or matters, the Seller shall promptly notify Buyer in writing specifying in reasonable detail the nature of such matter(s).

(m) As of the date hereof and as Closing, there are no contracts or agreements pertaining to the Property or that will affect the Property or the Buyer other than the Permitted Exceptions. The Seller has not and shall not commit or obligate itself in any manner whatsoever to sell the Property to any party other than Buyer.

All information, representations and warranties of Seller to Buyer as described in this Agreement and as provided by Seller to Buyer pursuant to the provisions of this Agreement are true, correct and complete as of the Effective Date and shall be true, correct and complete as of the Closing Date. The warranties of

Seller pursuant to this Paragraph 7 shall be true and correct as of the Closing and shall survive the Closing.

8. Buyer's Representations and Warranties. Buyer covenants, represents and warrants unto Seller as follows, to wit:

(a) Buyer is a Florida municipal corporation and has all necessary power and authority to enter into this Agreement and perform all of the obligations to be performed by the Buyer hereunder.

(b) This Agreement has been duly and validly executed and delivered by Buyer, and this Agreement constitutes the valid and legal and binding obligation of Buyer, enforceable against Buyer in accordance with its terms.

The warranties of Buyer set forth in this Paragraph 8 shall be true and correct as of the Closing and shall survive Closing.

9. Conservation Use Condition. Buyer shall use the Property only for conservation uses ("Conservation Use"). For purposes of this Agreement, Conservation Use shall mean activities consistent with the management, conservation, and protection of the Property's natural resources and watershed values; its biodiversity, wildlife and wetland habitat, and other natural features; and its ability to provide passive outdoor recreation across the boat ramp at the western end of the parcel. This condition shall be enforceable by Seller or its assigns only by mandatory or prohibitive injunction or other appropriate equitable writ, and shall not be enforceable by action at law and/or for damages. A violation of the condition by Buyer or its assigns shall not cause a reversion of title. Notwithstanding the foregoing, the Buyer will, by appropriate instrument, grant a license to property owners of Seagate Subdivision to permit such owners to use the ramp for the launching and recovery of their vessels, with such limitations as shall appear appropriate to the Buyer to ensure that such usage is consistent with the Conservation Use purpose described herein.

10. Closing Date.

(a) The Closing of title for the Property shall take place at the offices of the title agent for the Title Company or such other location as Buyer may reasonably designate upon five (5) Business Days' advance notice to Seller, (or as mutually agreed by the parties) commencing at 10:00 a.m. on such date, which shall in no event be more than 10 Business Days after the Inspection Completion Date ("Closing Date").

(b) At Closing, the Title Company shall update the Commitment as to the Property to as current a date as reasonable, and Seller shall provide the



documents reasonably necessary to permit the Title Company to endorse its Commitment as to the Property to agree to issue its Owners Policy, subject only to the Permitted Exceptions.

11. Closing Costs and Documents.

(a) On or before Closing, Seller shall pay for the following Closing costs in connection with this transaction: (i) the cost of documentary stamps, surtax or other transfer taxes required in connection with the conveyance of the Property; (ii) the cost associated with obtaining, preparing and recording any correcting instruments in connection with title to the Property; (iii) the cost to perform the obligations of Seller as set forth in this Agreement, if any; (iv) the payment of its attorneys' fees, if any.

(b) On or before Closing, the Buyer shall pay (i) the cost to record the Deed; (ii) the costs and expenses incurred by Buyer in connection with the Commitment and Owner's Policy; and (iii) the Buyer shall pay its own attorneys' fees.

(c) At Closing, the Seller shall execute and deliver to Buyer: (i) the Deed subject only to the Permitted Exceptions and the Conservation Use Condition; (ii) assignments/bill of sale transferring to Buyer the permits, approvals, Documents and other personal property, if any, free and clear of all liens, claims and encumbrances; and (iii) a closing affidavit and other title documentation as may be reasonably required by the Title Company to issue its Owner's Policy subject only to the Permitted Exceptions.

(d) At Closing, Buyer shall deliver the Purchase Price and all other consideration and documents contemplated by this Agreement to be provided by Buyer.

(e) At Closing, both Buyer and Seller shall execute a closing statement in customary form.

(f) At Closing, the parties recognize that all taxes, improvement liens, assessments, and any and all other income and expenses pertaining to the Property shall be prorated as of the Closing Date; provided, however, Seller shall satisfy (i) any certified assessments liens existing as of such Closing; and (ii) any other liens or encumbrances applicable to the Property existing as of the Closing. To the extent the taxes are not known as of the Closing, then such taxes shall be prorated as of the prior year's tax and re-prorated upon receipt of the actual tax bill. To the extent any other expenses are not known as Closing, then such expenses shall be prorated based on an estimate and re-prorated at such time as the parties determine the actual amount of such expenses. Any prorations based on an estimate shall be re-prorated upon receipt of the actual information for such

income or expense. The provisions of this Paragraph 12(f) shall survive the Closing.

12. Brokerage. The parties hereto each represent to the other that there are no brokers that are or were instrumental in the negotiation and/or consummation of this transaction. Seller and Buyer hereby indemnify and hold each other harmless from and against any cost, fees, damages, claims and liabilities, including, but not limited to, reasonable attorneys' and paralegals' fees arising out of any claim or demand or threats of claim made (i) as a result of a breach of the representation or covenants set forth in this Paragraph, or (ii) by any broker or salesmen claiming by reason of its relationship with the offending party or its representatives, employees or agents, whether incurred by settlement and whether or not litigation results in all trial, arbitration and appellate levels. The provisions of this Paragraph shall survive Closing or earlier termination of this Agreement.

13. Default.

(a) If Buyer shall default in any of the terms, covenants and/or provisions of this Agreement on the part of Buyer to be performed, then Seller shall have the right to terminate this Agreement and the parties shall be released of all further obligations, each to the other under this Agreement.

(b) If Seller shall default in any of the terms, covenants and/or provisions of this Agreement on the part of Seller to perform, Buyer may (i) seek an action for specific performance, or (ii) elect, in writing, to terminate this Agreement, whereupon this Agreement shall terminate and the parties shall be released of all further obligations each to the other hereto except as are intended to survive termination of this Agreement.

(c) Prior to Seller and Buyer exercising their respective remedies set forth above, the other party shall provide the defaulting party with notice and fifteen (15) days opportunity to cure prior to enforcing its remedies set forth in this Agreement.

(d) The parties further agree that in the event it becomes necessary for either party to litigate in order to enforce its rights under the terms of this Agreement, then, and in that event, the prevailing party shall be entitled to recover reasonable attorneys' fees and the costs of such litigation, including appellate and post-judgment litigation.

14. Notices. Any notice required or permitted to be given by the terms of this Agreement or under any applicable law by either party shall be in writing and shall be hand delivered, sent by certified mail, postage prepaid, return receipt requested, Federal Express (or other recognized courier service) or via facsimile

with confirmation. Such written notice shall be addressed to the parties as set forth in the below unless the address or fax number is changed by the party by like notice given to the other parties. Notice shall be in writing, mailed certified mail, return receipt requested, postage prepaid and shall be deemed delivered three (3) days after mailing, upon hand delivery to the address indicated, next business day if Federal Express or other overnight courier or when sent by facsimile when received as evidenced by confirmation if during a Business Day prior to 5:00 p.m. otherwise on the next Business Day. Notices sent by legal counsel for either Buyer or Seller shall constitute the notice of the party for which such legal counsel is acting.

If to Seller:           David Paul Buser  
                                  5187 Starfish Avenue,  
                                  Naples, Florida 34103  
                                  Attention: David Buser  
                                  Telephone: (239) 571-0520

If to Buyer:            William Moss  
                                  City Manager  
                                  735 Eighth Street South  
                                  Naples, Florida 34102  
                                  Telephone: (239) 213-1030  
                                  Facsimile: (239) 213-1033

With copy to:         Donald A. Pickworth, P.A.  
                                  Newgate Tower – Suite 502  
                                  5150 North Tamiami Trail  
                                  Naples, Florida 34103  
                                  Telephone: (239) 263-8060  
                                  Facsimile: (239) 598-1161

15. Casualty or Condemnation. Should any governmental entity having the power of condemnation initiate eminent domain proceedings prior to the time of Closing, to condemn any material portion of the Property or there is a casualty as to all or any portion of the Property and such casualty is not repaired by Seller (at its expense) prior to Closing, then Buyer, at its sole option, may elect: (i) to purchase the Property without diminution in the Purchase Price and, on the Closing Date, Seller shall assign (without recourse or warranty) to Buyer any condemnation proceeds payable to Seller with respect to the Property and shall assign to Buyer all insurance proceeds payable with respect to the Property, if any; or (ii) Buyer shall have the right to elect to terminate this Agreement whereupon this Agreement shall terminate and both parties shall thereafter be released from all further obligations hereunder.

In the event Buyer shall fail to elect the provisions of Paragraph 15 (i) or (ii) within thirty (30) days of notification to Buyer of such condemnation or casualty, then Buyer shall be deemed to have elected not to terminate this Agreement.

16. Further Assurances. Each party will promptly execute and deliver any and all written further assurances that are necessary, convenient, or desirable to evidence, complete or perfect (or any combination thereof) the transactions contemplated by this Agreement, so long as no further assurance operates to impose any new or additional substantial liability upon any party. The parties will so perform all other acts that are reasonably necessary, convenient, or desirable for any such purpose, so long as no substantial new or additional liabilities are incurred.

17. Assignability. This Agreement may not be assigned by Buyer without the prior written consent of Seller.

18. No Recording. Except in connection with a lis pendens, Buyer shall not record this Agreement or any memorandum of its terms without Seller's prior written consent.

19. Time is of the Essence. For purposes herein, the parties agree that time shall be of the essence of this Agreement.

20. Captions and Paragraph Headings. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provision hereof.

21. No Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

22. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Agreement. Facsimile transmission or other copies of execution pages of this Agreement or any amendments of this Agreement or notices pursuant this Agreement shall constitute original execution documents for purposes of this Agreement or any such amendment or notice.

23. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns.

24. Governing Law. This Agreement shall be construed and interpreted according to the laws of the State of Florida and venue with respect to any litigation shall be exclusively in Collier County, Florida.

25. Gender. All terms and words used in this Agreement regardless of the number and gender in which used, shall be deemed to include any other gender or number as the context or the use thereof may require.

26. Entire Agreement and Modification. This Agreement contains and sets forth the entire understanding between Seller and Buyer, and it shall not be changed, modified or amended except by an instrument in writing and executed by the party against whom the enforcement of any such change, modification or amendment is sought.

27. Relationship. Nothing contained in this Agreement shall constitute or be construed to be or create a partnership, joint venture or any other relationship between Seller and Buyer other than the relationship of a buyer and seller of real property as set forth in this Agreement.

28. Joint Preparation. The preparation of this Agreement has been a joint effort of the parties and the resulting documents shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

29. Severability. If any provisions of this Agreement are held to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected or impaired and each remaining provision shall remain in full force and effect. In the event that any term or provision of this Agreement is determined by appropriate judicial authorities to be illegal void or otherwise invalid, said provision shall be given its nearest legal meaning or be construed as deleted as such authority determines and the remainder of this Agreement shall be construed to be in full force and effect.

30. Business Day. The term "Business Day" shall mean Monday through Friday, other than days which are state or national holidays in the United States of America and/or the State of Florida. In the event that the Closing Date, Title Cure Date, Inspection Completion Date, or other date for performance shall end on a day which is not a Business Day, or during any Moratorium, then such date for performance or requirement to pay a Deposit shall be extended until the next Business Day thereafter occurring.

31. Effective Date. The term "Effective Date" as used herein shall be the date following the delivery of this Agreement executed by Seller and on which the Buyer, through its authorized officer, signs this Agreement, after having been authorized to sign by the City Council of Buyer at a duly noticed, called and held meeting and delivers a fully-executed copy of same to the Seller.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year below.

WITNESSES:

Angela Tompkins  
Printed Name: ANGELA TOMPKINS  
Linda Amador  
Printed Name: Linda Amador

SELLER:

David Paul Buser  
: David Paul Buser  
David Paul Buser

Dated: 11/28/07

BUYER:

The City of Naples, Florida, a municipal Corporation of the State of Florida

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
  
\_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT A**

**PERMITTED EXCEPTIONS**