

**PARKING LOT LOCATED AT  
5275 SUNSET DRIVE,  
CORAL GABLES, FLORIDA**

**PURCHASE AND SALE AGREEMENT**

**BETWEEN**

**RIVIERA PRESBYTERIAN CHURCH,  
a Florida not for profit corporation**

**AS SELLER**

**AND**

**CITY OF CORAL GABLES,  
a municipal corporation existing under  
the laws of the State of Florida**

**AS PURCHASER**

**February \_\_, 2020**

## **PURCHASE AND SALE AGREEMENT**

**THIS AGREEMENT** (this "Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2020 by and between the RIVIERA PRESBYTERIAN CHURCH, a Florida not for profit corporation (the "Seller"), and the CITY OF CORAL GABLES, a municipal corporation existing under the laws of the State of Florida (the "Purchaser").

### **RECITALS:**

**WHEREAS**, Seller is the current fee simple owner of certain real property located along Sunset Drive, Coral Gables, Florida, as more particularly described herein;

**WHEREAS**, Seller desires to sell the subject property to Purchaser and Purchaser desires to purchase the subject property from Seller, subject to the terms and provisions set forth herein.

### **AGREEMENT:**

**NOW THEREFORE**, in consideration of the mutual covenants and promises set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties to this Agreement, the parties hereto agree to the following terms and conditions:

1. **PURCHASE AND SALE.** Subject to the terms of this Agreement, Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller all of Seller's right, title and interest in and to the following property (collectively, the "Property"):

1.1 That certain parcel of real property occupying the western portion of folio number 03-4130-009-3240 and comprising a part of the property located at 5275 Sunset Drive, Coral Gables, Florida, as more particularly described in Exhibit "A" (the "Realty");

1.2 The Realty and all buildings, structures and other improvements situated on the Realty, if any (the "Improvements");

1.3 All fixtures, affixed to or situated on the Realty, and owned by Seller, if any, excluding any dumpster or similar item serving the Seller's adjacent property (the "Personalty");

1.4 All deposits, licenses, permits, contract rights, and approvals and authorizations issued by any governmental authority, pertaining solely to ownership and/or operation of the Realty, Improvements or Personalty, but excluding any of such items to the extent serving the Seller's adjacent property;

1.5 All intangible personal property now or hereafter owned by Seller and used in the ownership, use or operation of the Realty, Improvements or Personalty, including, without limitation, any and all utility contracts relating solely to the ownership, use and operation

of the Property, but excluding any of such items to the extent serving the Seller's adjacent property including, without limitation, the Management Agreement dated April 1, 1998, between Seller and Purchaser (the "Management Agreement"), as the same shall be amended pursuant to Section 11.2.4 (collectively, the "Intangible Property");

1.6 [Intentionally omitted];

1.7 All strips, gores, all minerals, oil, gas and other hydrocarbon substances on and under the Realty, as well as all development and air rights relating to the Realty, all easements, privileges, rights-of-way, riparian and other water rights, rights to lands underlying any adjacent streets or roads, and other tenements, hereditaments and appurtenances, if any, pertaining to or accruing to the benefit of the Realty and Improvements.

2. EFFECTIVE DATE. The date of this Agreement, for purposes of performance, shall be the date when the last one of Seller or Purchaser has signed this Agreement, as stated on the signature page (the "Effective Date").

3. CLOSING DATE. Subject to other provisions of this Agreement for extension or termination, closing on the transaction described in this Agreement (the "Closing") shall be held in Miami-Dade County, Florida by mail or electronic means on (i) the date which is thirty (30) days after (a) the expiration of the Investigation Period and (b) the satisfaction of all Conditions Precedent (as defined herein), including the City Commission Approval (as defined herein) (if such date is not a business day then upon the next ensuing business day), all of which Conditions Precedent shall have been satisfied within sixty (60) days after the end of the Investigation Period, or (ii) such other earlier date and time as Purchaser and Seller may mutually agree upon in writing (the "Closing Date").

4. DEPOSIT.

4.1 Within three (3) business days after the execution and delivery of this Agreement, Purchaser shall deposit with Holland & Knight LLP, as escrow agent (the "Escrow Agent"), the sum of SEVENTY-FIVE THOUSAND AND NO/100 Dollars (\$75,000.00), in good funds, either by certified bank or cashier's check or by federal wire transfer, the proceeds of which shall be held in trust as an earnest money deposit (the "Deposit") by Escrow Agent, and disbursed only in accordance with the terms of this Agreement.

5. PURCHASE PRICE.

5.1 The purchase price (the "Purchase Price") to be paid by Purchaser to Seller for the Property, subject to the costs and prorations provided for in this Agreement, is TWO MILLION TEN THOUSAND AND NO/100 DOLLARS (\$2,010,000.00).

6. TITLE EVIDENCE: Purchaser shall, at Purchaser's expense, obtain an ALTA marketability title insurance commitment (the "Commitment"), with fee owner's title policy premium to be paid by Purchaser at Closing, issued by a national title insurer ("Title Insurer"). The Commitment shall show Seller to be vested with good, marketable and insurable fee simple title to the Realty, insurable in an amount equal to the Purchase Price in accordance with the standards adopted from time to time by The Florida Bar, at standard rates, free and clear of all

liens, encumbrances, leases, tenancies, covenants, conditions, restrictions, rights-of-way, easements, and other matters affecting title, except the following (the "Permitted Exceptions"):

6.1 Ad valorem real estate taxes for 2020 and subsequent years;

6.2 Existing zoning ordinances and governmental regulations; and

6.3 those matters shown on the Commitment or the Survey that either are not objected to in writing within the periods provided in Section 8 below, or if objected to in writing by Purchaser, are those which Seller has elected not to remove or cure, or has been unable to remove or cure, and subject to which Purchaser has elected or is deemed to have elected to accept the conveyance of the Property.

## 7. SURVEY.

7.1 Purchaser may order, at Purchaser's expense, a survey (the "Survey") of the Realty and Improvements.

7.2 If the Survey shall reflect any encroachments, overlaps, unrecorded easements or similar rights in third parties, or any other matters deemed adverse by Purchaser, in Purchaser's sole and absolute discretion, then the same shall be deemed "Title Defects" as set forth in Section 8.

## 8. TITLE DEFECTS.

8.1 If Purchaser finds title to be defective, as determined by Purchaser in its sole discretion, which defects may include, but shall not be limited to, encroachments, unrecorded easements, adverse title matters, liens, violations, open or expired permits or outstanding code violations, other than any such matters in favor of or caused by Purchaser (collectively, the "Title Defects"), Purchaser shall, prior to the expiration of the Investigation Period, notify Seller in writing specifying the Title Defects ("Title Objection Notice").

8.2 Seller may advise Purchaser in writing ("Seller's Cure Notice") within ten (10) days after Purchaser delivers any Title Objection Notice, which of the Title Defects specified in the applicable Title Objection Notice Seller is willing to cure (the "Seller's Cure Items"). If Seller delivers a Seller's Cure Notice, and identifies any Seller's Cure Items, Seller shall use its good faith reasonable efforts to cure or remove the Seller's Cure Items prior to Closing; provided, however, if Seller fails to effect such cure or removal by Closing, then Seller shall not have any liability for such failure and Purchaser shall have the options set forth in Sections 8.2.1 and 8.2.2 below with respect to any such Title Defects that Seller has not cured or removed. A failure to deliver any Seller's Cure Notice within such ten (10) day period shall be deemed an election not to cure any of the Title Defects set forth in the applicable Title Objection Notice. Notwithstanding the forgoing, Seller shall use commercially reasonable efforts to cause to be released from the Property any mortgages executed by Seller, any liens granted by Seller, and any judgments against Seller encumbering the Realty, excluding any judgments arising from Purchaser's acts or omissions. Seller shall have no obligation to cure any lien, judgment or other encumbrance created by, or in favor of, the City of Coral Gables or any of its departments or

agencies. In the event that any Seller's Cure Notice does not include each and every Title Defect specified in the applicable Title Objection Notice, Purchaser shall have the option to:

8.2.1 Close and accept the title "as is," without reduction in the Purchase Price and without claim against Seller for such Title Defects (except for any mortgage, lien or judgment that Seller is required to release pursuant to the penultimate sentence of Section 8.2 above, for which Escrow Agent shall be entitled to use purchase money proceeds to obtain such release at Closing); or

8.2.2 Cancel this Agreement, in which event, Escrow Agent shall return the Deposit, together with any and all interest earned on it, to Purchaser; upon such return of the Deposit, both parties shall be released from all further obligations under this Agreement (other than any indemnification obligations and other obligations contained elsewhere in this Agreement that expressly survive the termination or cancellation of this Agreement).

8.3 Prior to Closing, Purchaser shall be entitled to update the Commitment and, in the event Purchaser finds any Title Defects, as determined by Purchaser in its sole discretion, Purchaser shall promptly notify Seller in writing specifying the Title Defect(s). Seller will have thirty (30) days from receipt of notice within which to elect, at Seller's option, to remove the Title Defect(s), failing which Purchaser shall have the options provided in Sections 8.2.1 and 8.2.2 above in respect of such Title Defects revealed by such update of the Commitment.

8.4 Except as required by the penultimate sentence of Section 8.2 above, Seller shall have no obligation, and no liability for any failure, to cure or remove any Title Defects or other title or survey matters affecting the Property.

## 9. INVESTIGATION PERIOD.

9.1 If Purchaser is dissatisfied, for any reason and in Purchaser's exclusive judgment, with the result of Purchaser's investigations, then Purchaser may cancel this Agreement by notifying Seller of such cancellation on or before 5:00 p.m. on the sixtieth (60th) day (assuming it is a business day, otherwise on the next ensuing business day) following the Effective Date (the "Investigation Period"), whereupon Escrow Agent, shall return the Deposit to Purchaser and both parties shall be released from all further obligations under this Agreement except for any indemnification or other obligations that expressly survive cancellation or termination.

9.2 [Intentionally omitted.]

9.3 During the Investigation Period, Purchaser shall have a non-exclusive license to conduct, at Purchaser's expense and subject to the other provisions of this Section 9, whatever investigations, analyses and studies of the Property that Purchaser reasonably may deem appropriate to satisfy Purchaser with regard to:

9.3.1 the physical condition of the Property and any improvements located thereon, including structural, electrical, plumbing and other mechanical systems;

9.3.2 the physical condition of all fixtures and other items of property referred to in Subsection 1.3 above;

9.3.3 the permitted uses of and improvements to the Property under applicable building and zoning ordinances and the present compliance or non-compliance with the same;

9.3.4 the environmental condition of the Property, including, subject to Section 9.4 below, performing any environmental and/or soil tests that Purchaser deems necessary or desirable; and

9.3.5 subject to Section 9.4 below, evidence of any hazardous waste or similar materials in, on, under or about the Property.

9.4 During the Inspection Period, Purchaser, its agents, and employees shall have a non-exclusive license to enter upon the Property for the purpose of making inspections at Purchaser's sole risk, cost and expense, and without unreasonable interference with the operation of the Property or the rights of any tenants or licensees. No destructive testing shall be permitted. All of such entries upon the Property shall be at reasonable times, during normal business hours on weekdays, and after at least one business days' prior notice to Seller or Seller's agent, and Seller or Seller's agent shall have the right to accompany Purchaser during any activities performed by Purchaser on the Property.

9.5 The inspections under this Section 9 may include environmental and soil inspections of the Property, including, without limitation, Phase I and Phase II environmental site assessments of the Property; provided, however, before Purchaser initiates any Phase II environmental site assessment, Seller shall have the right to approve the consultant or contractor who will perform such assessment and the scope of work and methodology for such assessment, and Purchaser shall be liable for any release, increase, spreading or other exacerbation of any existing hazardous substances or conditions resulting from the performance of Purchaser's Phase II assessment. Purchaser's obligations under this Section 9.5 shall survive Closing or the termination of this Agreement.

9.6 Upon Purchaser's waiver of or failure to duly exercise its right to terminate described in this Section 9, Purchaser shall have accepted the Property "as is", with no representations or warranties regarding the Property, other than any which may be specifically stated in this Agreement. Following the expiration of the Investigation Period, Purchaser agrees to accept the Property on an "AS IS" and "WHERE IS" basis, with all faults and any and all latent and patent defects, and without any representation or warranty, all of which Seller hereby disclaims, except as may be specifically stated in this Agreement.

9.7 If any inquiry, examination, or analysis made by Purchaser (or the results of them) should reflect that any of the representations and warranties made by Seller in this Agreement are untrue in any material respect, and if Purchaser nonetheless elects to proceed to Closing, then Seller shall not have any liability for any such untrue representation or warranty.

9.8 In the event of any damage to the Property or other property of Seller caused by Purchaser or its agents or contractors, Purchaser shall return the Property to its

condition existing prior to any tests and inspections performed by Purchaser, ordinary wear and tear excepted. Prior to such time as Purchaser or any of its representatives enter the Property, and continuing until Closing, Purchaser shall (i) maintain in effect policies of general liability insurance which insure Purchaser with liability insurance limits of not less than \$6,000,000 combined single limit for personal injury and property damage and name Seller as an additional insured, and (ii) provide Seller with certificates of insurance evidencing that Purchaser has obtained the aforementioned policies of insurance. Purchaser shall cause any liens that may be filed against the Property by any of its contractors, consultants or agents to be paid, bonded off or otherwise discharged within thirty (30) days after learning of same. Purchaser's obligations under this Section 9.8 shall survive Closing or the termination of this Agreement.

## 10. REPRESENTATIONS, WARRANTIES AND COVENANTS.

10.1 Seller's Representations and Warranties. Seller hereby makes the following representations and warranties to Purchaser as of the Effective Date, which representations and warranties shall be deemed to have been made again as of the Closing:

10.1.1 Authority. Seller is a not for profit corporation, duly organized, validly existing and in good standing under the laws of the State of Florida. This Agreement (i) is and at the time of Closing will be duly authorized, executed and delivered by Seller, (ii) is and at the time of Closing will be legal, valid and binding obligations of Seller, and (iii) does not and at the time of Closing will not violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject. All documents executed by Seller which are to be delivered to Purchaser at Closing (i) are or at the time of Closing will be duly authorized, executed and delivered by Seller, (ii) are or at the time of Closing will be legal, valid and binding obligations of Seller, and (iii) do not and at the time of Closing will not violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject;

10.1.2 Foreign Person. Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended (the "Federal Code");

10.1.3 Service Contracts. Seller has not entered into any contracts, subcontracts, arrangements, licenses, concessions, easements, or other agreements, either recorded or unrecorded, written or oral, affecting all or any portion of the Property, or the use of it, that will be binding on Purchaser after Closing, other than the Management Agreement and as previously disclosed to Purchaser. Except as required by this Agreement, Seller shall not modify any existing instrument nor enter into any new contract or other agreement affecting all or any portion of the Property, or the use of it, that will be binding on Purchaser after Closing, without the prior written consent of Purchaser, which consent will not be withheld unreasonably;

10.1.4 Title. To the actual knowledge of Seller's pastor, Rev. Martha Shiverick, without investigation, there are no mortgages, liens or judgments recorded against the Property.

10.1.5 No Bankruptcy. Seller has not filed, and to the actual knowledge of Seller's pastor, Rev. Martha Shiverick, without investigation, has not been the subject of any filing of, a petition under any federal or state bankruptcy law or any federal or state insolvency laws or laws for composition of indebtedness or for the reorganization of debtors.

10.1.6 Possession and Occupancy. Except pursuant to the Management Agreement, to the actual knowledge of Seller's pastor, Rev. Martha Shiverick, without investigation, no third parties have any rights of occupancy or possession of all or any portion of the Property.

10.1.7 Condemnation. Seller has received no written notice of any condemnation proceedings relating to the Property ("Condemnation Notices").

10.1.8 [Intentionally omitted.]

10.1.9 [Intentionally omitted.]

10.1.10 Compliance with Law. Prior to Closing, Seller shall comply, in all material respects and solely in respect of the Property, with all laws, rules, regulations, and ordinances of all governmental authorities having jurisdiction over the Property; provided, however, that (i) Purchaser (and not Seller) shall be responsible for such compliance with respect to matters for which Purchaser is responsible under the Management Agreement, and (ii) Seller shall not be deemed to be in default of this covenant unless Seller fails to cure any non-compliance of Seller within any applicable notice and cure period under such laws, rules, regulations and ordinances.

10.1.11 [Intentionally omitted.]

10.1.12 [Intentionally omitted.]

10.1.13 Restrictions on Sale. To the actual knowledge of Seller's pastor, Rev. Martha Shiverick, without investigation, there are no agreements that are currently in effect which restrict the sale of the Property.

10.1.14 No Rights of First Refusal. To the actual knowledge of Seller's pastor, Rev. Martha Shiverick, without investigation, there are no options or rights of first refusal to purchase the Property which are in force as of the date of this Agreement.

10.1.15 [Intentionally omitted.]

10.1.16 [Intentionally omitted.]

10.1.17 ERISA.

a. Seller represents, warrants and covenants that it is acting on its own behalf and that as of the date hereof it is not an employee benefit plan as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended



("ERISA") which is subject to Title I of ERISA nor a plan as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended, each of the foregoing hereinafter referred to collectively as a "Plan," and the assets of such Plans within the meaning of Department of Labor Regulation Section 2510.3-101.

b. Seller has no present intent to transfer the Property to any entity, person or employee benefit plan as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, or to a plan as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (each of the foregoing hereinafter referred to collectively as "Plan") which will cause a violation of ERISA.

c. Seller shall not assign its interest under this Agreement to any entity, person, or Plan which will cause a violation of ERISA.

10.1.18 OFAC. Seller (i) has not been designated as a "specifically designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <<<http://www.treas.gov/ofac/t11>> sdn.pdf> or at any replacement website or other replacement official publication of such list and (ii) is currently in compliance with and will at all times during the term of this Agreement (including any extension thereof) remain in compliance with the regulations of the Office of Foreign Asset Control of the Department of the Treasury and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

10.2 Status of Seller's Representations. At all times during the term of this Agreement and as of Closing, all of Seller's representations and warranties in this Agreement shall be true and correct. If at any time prior to or as of Closing any of Seller's representations and warranties in this Agreement are not true and correct for any reason beyond Seller's reasonable control, Seller shall not have any liability therefor.

### 10.3 Survival and Limitations of Seller's Representations.

10.3.1 Survival. The representations and warranties of Seller set forth in Section 10.1 of this Agreement, as updated as of the Closing, shall survive the Closing for a period of six (6) months, to the extent damages are not covered under the Purchaser's owner's title insurance policy. If Purchaser has not notified Seller in writing of any breach of any of such representations or warranties within such six- (6-) month period, then Seller shall have no further liability therefor.

### 10.4 Seller Covenants. Seller hereby covenants with Purchaser as follows:

10.4.1 From the Effective Date hereof until the Closing or earlier termination of this Agreement, and except for Purchaser's obligations under the Management Agreement, Seller shall operate and maintain the Property in a manner generally consistent with the manner in which Seller has operated and maintained the Property prior to the date hereof;

10.5 Purchaser's Representations and Warranties. Purchaser hereby makes the following representations and warranties to Seller as of the Effective Date, which representations and warranties shall be deemed to have been made again as of the Closing;

10.5.1 Organization and Authority. Purchaser is a municipal corporation, duly organized, validly existing and in good standing under the laws of the State of Florida. This Agreement (i) is and at the time of Closing will be duly authorized, executed and delivered by Purchaser, (ii) is and at the time of Closing will be legal, valid and binding obligations of Purchaser, and (iii) does not and at the time of Closing will not violate any provision of any agreement or judicial order to which Purchaser is a party or to which Purchaser is subject. All documents executed by Purchaser which are to be delivered to Seller at Closing (i) are or at the time of Closing will be duly authorized, executed and delivered by Purchaser, (ii) are or at the time of Closing will be legal, valid and binding obligations of Purchaser, and (iii) do not and at the time of Closing will not violate any provision of any agreement or judicial order to which Purchaser is a party or to which Purchaser is subject.

10.5.2 Survival of Purchaser's Representations. The representations and warranties of Purchaser set forth in Section 10.5.1 of this Agreement, as updated as of the Closing, shall survive the Closing for a period of six (6) months. If Seller has not notified Purchaser in writing of any breach of any of such representations or warranties within such six-(6-) month period, then Purchaser shall have no further liability therefor.

10.5.3 Status of Purchaser's Representations. At all times during the term of this Agreement and as of Closing, all of Purchaser's representations and warranties in this Agreement shall be true and correct. If at any time prior to or as of Closing any of Purchaser's representations and warranties in this Agreement are not true and correct for any reason beyond Purchaser's reasonable control, Purchaser shall not have any liability therefor.

10.6 Purchaser Covenants. Purchaser hereby covenants with Seller as follows:

10.6.1 Purchaser agrees that following the Closing of the transaction contemplated herein, the Property shall be used as a "fire house" and a park and/or for other essential public purpose for a period not less than twenty-five (25) years.

10.6.2 Purchaser acknowledges that Seller will retain ownership of the remainder of the surface parking lot located on Seller's property adjacent to the east of the Property. Within six (6) months after the Closing, Purchaser agrees to perform certain one-time improvements on the remaining Seller-owned parking lot, which shall include restriping, curb cuts for direct two-way access to Sunset Drive, and buffer landscaping, as well as the relocation to a location on Seller's adjacent property of any dumpster or similar item located on the Property but serving Seller's adjacent property.

10.6.3 Purchaser shall obtain, at its expense, any and all subdivision and other land use approvals (if any) that may be required by the City of Coral Gables or its agencies or departments to divide the Property from the remainder of Seller's adjacent property for conveyance to Purchaser. This obligation shall include preparing any and all plats or plans necessary for such division.

10.7 Survival of Purchaser Covenants. Purchaser's covenants set forth in Section 10.6 shall survive Closing and shall not merge into any of the documents executed and delivered by Purchaser at Closing.

## 11. CONDITIONS PRECEDENT.

11.1 An express condition precedent to Purchaser's obligation to close this transaction is the truth and correctness of all of Seller's representations and warranties and the fulfillment of all of Seller's covenants at all times during the term of this Agreement and as of Closing. An express condition precedent to Seller's obligation to close this transaction is the truth and correctness of all of Purchaser's representations and warranties and the fulfillment of all of Purchaser's covenants at all times during the term of this Agreement and as of Closing.

11.2 The following items are additional conditions precedent to Purchaser's and Seller's obligation to close this transaction, respectively ("Conditions Precedent"):

11.2.1 Purchaser shall have obtained written approval of the Coral Gables City Commission (the "City Commission Approval") to allow for the execution, delivery and performance by Purchaser of its obligations under this Agreement.

11.2.2 Purchaser shall have obtained a grant in the amount of \$1,500,000.00 from the State of Florida, Division of Fire Marshall (the "State Grant") for use by the City for the purchase of the Property.

11.2.3 Seller shall have obtained written approval from the The Presbytery of Tropical Florida, Inc. a Florida non-profit corporation (the "Presbytery Approval"), for the execution, delivery and performance of Seller's obligations under this Agreement.

11.2.4 Purchaser and Seller shall have negotiated and agreed upon the terms of an amendment to the Management Agreement, which shall continue in force as to the Seller's parking lot adjacent to the Property. Such amendment shall provide generally, among other terms, with the specific provisions to be mutually agreed upon during the Investigation Period, that any parking fees or other revenues derived from the Property (so long as the Property continues to be a parking lot) or the Seller's adjacent parking lot shall be allocated first to the Seller's adjacent parking lot for purposes of calculating the fees payable by the Purchaser to the Seller pursuant to the Management Agreement.

11.2.5 Purchaser and Seller shall have negotiated and agreed upon the form and provisions of the Special Warranty Deed and other documents to be executed and delivered by the parties hereto at Closing, with such form and provisions to be consistent with the terms of this Agreement.

11.2.6 Purchaser and Seller shall have negotiated and agreed upon the specific scope of work, materials and schedule for the improvements and other work described in Section 10.6.2 to be performed by Purchaser after Closing. Such agreement shall be set forth in a written letter agreement signed by the parties hereto.

11.2.7 Purchaser shall have obtained and delivered to Seller (with respect to the portion of the Seller's adjacent property located within the City of Coral Gables) a standard zoning verification letter. Purchaser also shall have obtained all approvals (if any) for the division of the Property from the Seller's adjacent property required by Section 10.6.3 above.

11.2.8 Seller shall have approved the legal description for the Property attached hereto as Exhibit A.

11.3 While neither party hereto can assure that the conditions precedent set forth in Section 11.2 will be satisfied, each party hereto will use reasonable efforts in good faith to seek and obtain the satisfaction of such conditions. In the event that all of the conditions precedent set forth in Section 11.2 are not satisfied within sixty (60) days after the end of the Investigation Period (or such earlier time as may be expressly provided in this Agreement), then either Purchaser or Seller may terminate this Agreement upon written notice to the other party. Upon such written notice, the Agreement shall be terminated and be of no further force and effect, except for any provisions of this Agreement that expressly survive termination, and Escrow Agent shall promptly return the Deposit to Purchaser.

12. DEFAULT BY SELLER. If any of Seller's representations and warranties are not true and correct in all material respects when made or as of Closing for reasons reasonably within Seller's control, and if Seller fails to cure any such matters reasonably within Seller's control, or if Seller fails to comply in all substantial respects with its obligations under this Agreement including, without limitation, Seller's obligation to convey the Property, then Purchaser, at Purchaser's sole option and as its sole remedies, may elect to:

12.1 Waive the default or failure and close "as is", provided Seller is otherwise ready, willing, and able to close; or

12.2 Cancel this Agreement by written notice to Seller given on or before the Closing Date, in which event, Escrow Agent shall return the Deposit to Purchaser; upon such return, both parties shall be released from all further obligations under this Agreement except for the indemnification and other obligations contained elsewhere in this Agreement that expressly survive termination or cancellation of this Agreement (unless the default was caused by an intentional and knowing misrepresentation or breach of warranty or covenant by Seller, in which event Seller shall be liable for Purchaser's actual out-of-pocket damages and reasonable attorneys' fees caused by such default, not to exceed \$50,000); or

12.3 Seek specific performance of Seller's obligation to convey the Property to Purchaser pursuant to this Agreement.

13. DEFAULT BY PURCHASER. In the event of the failure or refusal of Purchaser to close this transaction, without fault on Seller's part and subject to the satisfaction of any conditions precedent to Purchaser's obligations under this Agreement, Seller shall (i) have the right to receive the Deposit as agreed and liquidated damages for said breach (and not as a penalty) and as Seller's sole and exclusive remedy for such default of Purchaser, whereupon the parties shall be relieved of all further obligations under this Agreement, except for indemnities

and other provisions of this Agreement that expressly survive termination or cancellation of this Agreement.

14. **ZONING VERIFICATION.** Seller may obtain, at Seller's sole cost and expense, from a national zoning and planning service a zoning and site requirements report, and from Miami-Dade County a zoning verification letter and such additional confirmations as Seller shall require and independently obtain at Seller's sole cost and expense. Based on the foregoing information that Seller may elect to obtain, Seller shall determine, in its reasonable judgment, that the conveyance of the Property to Purchaser pursuant to this Agreement shall not cause a violation of any zoning or land use laws, ordinances or other public or private requirements applicable to Seller's property adjacent to the Property, or require any approvals from Miami-Dade County or any agency or department thereof, or otherwise have a material adverse effect on Seller's continued ownership and use of its property adjacent to the Property. If Seller, despite its reasonable and good faith efforts, is unable to make this determination by the end of the Investigation Period, Seller shall have the right to terminate this Agreement by giving a written termination notice to Purchaser on or before the last day of the Investigation Period, in which case the Deposit shall be returned to Purchaser and neither party hereto shall have any further obligations hereunder except those that expressly survive termination of this Agreement.

15. **PRORATIONS.** Revenues, fees and other monetary obligations under the Management Agreement shall be prorated as of the Closing.

16. **SPECIAL ASSESSMENT LIENS.** Certified, confirmed, and ratified special assessment liens as of or after the Closing Date will be paid in full by Purchaser.

17. **CLOSING COSTS.** At the Closing, Seller and Purchaser shall be responsible for their own legal fees in connection herewith. Seller shall pay the documentary stamps on the deed. Purchaser shall pay for the title examination and updates, lien searches, title insurance, recording of the deed, and its due diligence costs. Seller shall pay the recording costs on documents necessary to clear title to the extent Seller has agreed to record such documents to clear title. If Seller is obligated to discharge any encumbrance at or prior to Closing and fails to do so, Escrow Agent may use purchase proceeds to satisfy the encumbrances. All other closing costs are to be allocated in the manner typical of similar transactions conducted within Miami-Dade County, Florida.

18. **CLOSING.**

18.1 Seller shall convey fee simple title to the Property, by good and sufficient Special Warranty Deed (with covenant of warranty limited to acts of the grantor), subject only to the Permitted Exceptions. Such Special Warranty Deed shall contain a restrictive covenant that limits the use of the Property solely to a public fire house and park, or other essential public purpose, for a period of 25 years after the recordation of the Special Warranty Deed in the Public Records for Miami-Dade County, and such other terms as may be mutually agreed by the parties hereto during the Investigation Period, including the right of Seller to enforce the terms of such restrictive covenant by injunctive relief and other appropriate available legal remedies. Seller shall also deliver to Purchaser at the Closing:

18.1.1 A title affidavit, reasonably satisfactory to Title Insurer, for the purpose of deleting the “gap”, and reasonably sufficient to delete the mechanics’ lien (for labor and/or materials contracted by Seller) and parties in possession (except with respect to the Management Agreement) standard title exceptions in Purchaser’s owner’s title insurance policy;

18.1.2 an appropriate assignment of any property or rights constituting a part of the Property;

18.1.3 an appropriate restatement of Seller’s representations and warranties which are to survive Closing;

18.1.4 a counterpart of the amendment to the Management Agreement contemplated by Section 11.2.4 executed by Seller;

18.1.5 appropriate evidence of Seller’s corporate existence and authority to sell and convey the Property, including without limitation: Seller’s articles of incorporation (and any amendments or other documents filed therewith) as certified by the Secretary of State of Florida; a certificate of good standing from the Secretary of State of Florida; and a copy of the resolutions of Seller’s governing body identifying Seller’s officers and authorizing this transaction and authorizing its officer(s) to execute all requisite documents, including the Special Warranty Deed;

18.1.6 instruments necessary to clear any Title Defects that Seller has elected to clear;

18.1.7 a non-foreign certificate and other documentation as may be appropriate to meet the non-withholding requirements under FIRPTA and any other federal statute or regulations; and

18.1.8 a settlement statement setting for the Purchase Price and the other costs and prorations provided for in this Agreement.

18.2 Purchaser shall deliver the following to Seller at Closing:

18.2.1 the Purchase Price, as adjusted by the costs and prorations for which Purchaser is obligated pursuant to this agreement;

18.2.2 a counterpart of the amendment to the Management Agreement contemplated by Section 11.2.4 executed by Purchaser;

18.2.3 appropriate evidence of Purchaser’s existence and authority to perform its obligations under this Agreement, including without limitation a certified copy of the resolutions of City Commission of Purchaser authorizing the execution, delivery and performance of this Agreement; and

18.2.4 a settlement statement setting for the Purchase Price and the other costs and prorations provided for in this Agreement.

19. BROKERS. The parties each represent and warrant to the other that there is no real estate broker, salesman or finder representing it in this transaction. If a claim for brokerage or similar fees in connection with this transaction is made by any broker, salesman or finder claiming to have dealt through or on behalf of one of the parties to this Agreement, then that party shall indemnify, defend and hold the other party under this Agreement harmless from all liabilities, damages, claims, costs, fees and expenses whatsoever (including reasonable attorneys' fees and court costs, including those for appellate matters and post judgment proceedings) with respect to said claim for brokerage. The provisions of this Section 19 shall survive the Closing or the termination or cancellation of this Agreement.

20. ASSIGNABILITY. Purchaser shall not be entitled to assign Purchaser's rights and obligations under this Agreement to any person or entity. Any such purported assignment shall at Seller's option be void.

21. ESCROW AGENT.

21.1 Escrow Agent undertakes to perform only such duties as are expressly set forth in this Agreement. Escrow Agent shall not be deemed to have any implied duties or obligations under or related to this Agreement. Escrow Agent is the law firm representing Purchaser. In the event of a dispute between the parties, the parties consent to Escrow Agent continuing to represent Purchaser, notwithstanding that Escrow Agent shall continue to have the duties provided for in this Agreement.

21.2 Escrow Agent may (a) act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine; (b) assume the validity and accuracy of any statement or assertion contained in such a writing or instrument; and (c) assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions of this Agreement has been duly authorized to do so. Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument deposited in escrow, nor as to the identity, authority, or right of any person executing any instrument; Escrow Agent's duties under this Agreement are and shall be limited to those duties specifically provided in this Agreement.

21.3 The parties to this Agreement do and shall indemnify Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or other expenses, fees, or charges of any character or nature, including attorneys' fees and costs, which it may incur or with which it may be threatened by reason of its action as Escrow Agent under this Agreement, except for such matters which are the result of Escrow Agent's gross negligence or intentional misconduct.

21.4 If the parties (including Escrow Agent) shall be in disagreement about the interpretation of this Agreement, or about their respective rights and obligations, or about the propriety of any action contemplated by Escrow Agent, Escrow Agent may, but shall not be required to, file an action in interpleader to resolve the disagreement; upon filing such action, Escrow Agent shall be released from all obligations under this Agreement. Escrow Agent shall be indemnified for all costs and reasonable attorneys' fees, including those for appellate and post judgment matters and for paralegals and similar persons, incurred in its capacity as escrow agent

in connection with any such interpleader action; Escrow Agent may represent itself in any such interpleader action and charge its usual and customary legal fees for such representation, and the court shall award such attorneys' fees, including those for appellate and post judgment matters and for paralegals and similar persons, to Escrow Agent from the losing party. Escrow Agent shall be fully protected in suspending all or part of its activities under this Agreement until a final judgment in the interpleader action is received.

21.5 Escrow Agent may consult with counsel of its own choice, including counsel within its own firm, and shall have full and complete authorization and protection in accordance with the opinion of such counsel. Escrow Agent shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its gross negligence or willful misconduct.

21.6 Escrow Agent may resign upon five (5) days' written notice to Seller and Purchaser. If a successor escrow agent is not appointed jointly by Seller and Purchaser within the five (5) day period, Escrow Agent may petition a court of competent jurisdiction to name a successor.

22. NOTICES. Any notices required or permitted to be given under this Agreement shall be delivered by hand, by electronic mail or delivered by a nationally recognized overnight delivery service, and addressed as described below; notices shall be deemed effective only upon receipt or refusal of delivery or, if by electronic mail sent after 5:30 p.m. on the next ensuing business day after transmission.

Notices to Purchaser:

City of Coral Gables  
405 Biltmore Way  
Coral Gables, Florida 33134  
Attn: Peter J. Iglesias

With a copy to:

Holland & Knight LLP  
701 Brickell Avenue, Suite 3000  
Miami, Florida 33131  
Attn: Vivian de las Cuevas-Diaz, Esq.  
Telephone: 305-789-7452  
Email: vivian.cuevas@hkllaw.com

Notices to Seller:

Riviera Presbyterian Church  
5275 Sunset Drive  
Coral Gables, Florida 33143  
Attn: Rev. Martha Shiverick

With a copy to:

Hunton Andrews Kurth LLP  
1111 Brickell Avenue, Suite 2500  
Miami, Florida 33131  
Attn: Gil O. Acevedo

Notices to Escrow Agent:

Holland & Knight LLP



701 Brickell Avenue, Suite 3000  
Miami, Florida 33131  
Attn: Vivian de las Cuevas-Diaz, Esq.  
Telephone: 305-789-7452  
Email: vivian.cuevas@hkllaw.com

23. RISK OF LOSS.

23.1 Subject to the force majeure provisions of Section 24, the Property shall be conveyed to Purchaser in the same condition as on the date of this Agreement, ordinary wear and tear and damage caused by Purchaser excepted.

23.2 Upon receipt of an offer or any notice or communication from any other governmental or quasi-governmental body seeking to take under its power of eminent domain all or any portion of the Property, Seller shall promptly notify Purchaser of the receipt of same and shall send such communication, or a copy of it, to Purchaser. Upon receipt of such notice, Purchaser shall have the right to terminate this Agreement by delivery of written notice to Seller within sixty (60) days of Purchaser's receipt of the communication from Seller. In the event Purchaser elects to terminate, then Purchaser shall receive a refund of the Deposit, in which case both parties shall be relieved of all further obligations under this Agreement, except for the parties' indemnities and any other provisions of this Agreement that expressly survive termination or cancellation of this Agreement. In the event Purchaser elects not to terminate, then Purchaser shall be entitled to all condemnation awards and settlements. Seller and Purchaser agree to cooperate with each other to obtain the highest and best price for the condemned property.

24. FORCE MAJEURE. Purchaser and Seller shall not be required to perform any obligation under this Agreement or be liable to each other for damages so long as performance or non-performance of the obligation, or the availability of services, insurance, or required approvals essential to Closing, is disrupted, delayed, caused or prevented by Force Majeure. "Force Majeure" means: hurricanes, floods, extreme weather, earthquakes, fire, or other acts of God, unusual transportation delays, or wars, insurrection, or acts of terrorism, which, by exercise of reasonable diligent effort, the non-performing party is unable in whole or in part to prevent or overcome. All time periods, including the Closing Date, will be extended a reasonable time up to seven (7) days after the Force Majeure no longer prevents performance under this Agreement, provided, however, if such Force Majeure continues to prevent performance under this Agreement more than thirty (30) days beyond the Closing Date, then either party may terminate this Agreement by delivering written notice to the other party and the Deposit shall be refunded to Purchaser, thereby releasing the Purchaser and Seller from all further obligations under this Agreement.

25. RETURN OF DEPOSIT. Unless otherwise specified in this Agreement, in the event that Purchaser terminates this Agreement pursuant to any termination right of Purchaser under this Agreement, then Purchaser's Deposit shall be returned in accordance with applicable Florida laws and regulations and neither party shall have any further obligations under this Agreement except for its respective indemnity obligations and any other obligations that expressly survive termination or cancellation of this Agreement.

26. RADON GAS NOTICE. Pursuant to Florida Statutes Section 404.056(5), Seller hereby makes, and Purchaser hereby acknowledges, the following notification:

RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

27. SOVEREIGN IMMUNITY. Seller and Purchaser acknowledge that the Florida Doctrine of Sovereign Immunity bars all claims against the Purchaser other than claims arising out of this Agreement. Specifically, Seller acknowledges that it cannot and will not assert any claims against Purchaser, unless the claim is based upon a breach by Purchaser of the Agreement. Without limiting any right of Seller to assert against Purchaser any claims based upon a breach by Purchaser of this Agreement as just provided, nothing in this Agreement shall be intended to operate as a waiver of Purchaser's sovereign immunity, as set forth in the Florida Constitution and Florida Statutes Chapter 768.28.

28. WAIVER OF JURY TRIAL. Seller and Purchaser mutually agree that they waive all rights to a trial by jury in the event of any dispute or court action arising from, growing out of, or related to, this Agreement.

29. COOPERATION. Purchaser agrees to cooperate with Seller in affecting a like kind exchange, provided there is no cost or delay to Purchaser.

30. REPORTS AND STUDIES. Purchaser shall provide to Seller, within ten (10) days after Seller's request from time to time, copies of all inspection reports, evaluations, surveys, title commitments, title reports, lien searches, and other diligence materials prepared for or obtained by Purchaser and relating to the Property.

31. MISCELLANEOUS.

31.1 This Agreement has been negotiated and executed in Florida; it shall be construed and governed in accordance with the laws of the State of Florida, without application of conflicts of laws principles.

31.2 In the event any term or provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such 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.

31.3 In the event of any litigation between the parties under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees. Wherever provision is made in this Agreement for "attorneys' fees," such term shall be deemed to include accountants' and attorneys' fees and court costs, whether or not litigation is commenced, including those for appellate and post judgment proceedings and for paralegals and similar persons.

31.4 Each party has participated fully in the negotiation and preparation of this Agreement with full benefit of counsel. Accordingly, this Agreement shall not be more strictly construed against either party.

31.5 Whenever used in this Agreement, the singular shall include the plural, the plural shall include the singular, any gender shall include every other and all genders, and captions and paragraph headings shall be disregarded.

31.6 The captions in this Agreement are for the convenience of reference only and shall not be deemed to alter any provision of this Agreement.

31.7 Any reference in this Agreement to time periods less than six (6) days shall, in the computation thereof, exclude Saturdays, Sundays, and legal holidays; any time period provided for in this Agreement which shall end on a Saturday, Sunday or legal holiday shall extend to 5:00 p.m. of the next business day.

31.8 This Agreement constitutes the entire agreement between the parties and may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought.

31.9 All references in this Agreement to exhibits, schedules, paragraphs, subparagraphs and sections refer to the respective subdivisions of this Agreement, unless the reference expressly identifies another document.

31.10 All of the terms of this Agreement, including but not limited to the representations, warranties and covenants of Seller and Purchaser, shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective permitted successors and assigns.

31.11 Typewritten or handwritten provisions which are inserted in or attached to this Agreement as addenda or riders shall control all printed or pretyped provisions of this Agreement with which they may be in conflict.

31.12 The only provisions of this Agreement that will survive Closing or the termination of this Agreement are those that expressly state they will survive Closing or termination. This Section 30.12 will survive Closing or the termination of this Agreement.

31.13 Time is of the essence as to all material terms of this Agreement.

**SIGNATURE PAGES FOLLOW**

EXECUTED as of the date first written above in several counterparts, each of which shall be deemed an original, but all of which constitute only one agreement.

SELLER:

RIVIERA PRESBYTERIAN CHURCH,  
a Florida not for profit corporation

By: Barbara E. Overton  
Name: Barbara Overton  
Title: President/Director

Dated: 2/16, 2020

PURCHASER:

CITY OF CORAL GABLES, a municipal  
corporation existing under the laws of the State of  
Florida

By: \_\_\_\_\_  
Name: Peter J. Iglesias  
Title: City Manager

Date: \_\_\_\_\_, 2020

**Approved for Form and Legal Sufficiency:**

By: \_\_\_\_\_  
Name: Miriam Soler Ramos  
Title: City Attorney

**Attestation of Signatures:**

By: \_\_\_\_\_  
Name: Billy Y. Urquia  
Title: City Clerk

Exhibit "A"

Legal Description

That part of Block 219, of the Second Revised Plat of Coral Gables Riviera Section Part 14, as recorded in Plat Book 28, at Page 32, of the Public Records of Dade County, Florida, described as follows:

Beginning at the Northwest Corner of Lot 6; Thence N 89°44'23" E, along the North line of lots 6 and 7, for a distance of 75.00 feet, to a point that is 25.00 Feet Westerly of the Northeast corner of said lot 7; thence S 00°19'02" W for a distance of 200.00 feet, to a point on the South line of Lot 18, this point also being 25.00 feet Westerly of said Lot 18; Thence S 89°44'23" W along the South line of Lots 18 and 19, for a distance of 75.00 Feet, to the Southwest Corner of Lot 19; Thence N 00°19'02" E along the West Line of Lots 19 and 6, for a distance of 200.00 Feet, to the point of beginning.

Containing 14,999.5 SQ FT (0.344 Acres more or less).

All bearings are referred to an assumed value according to the plat of record.

Property Address: 5275 Sunset Drive, Coral Gables, Florida 33143