

Cutler Properties, LC

March 11, 2020

Town of Cutler Bay

Re: The Sale of approximately 8.45 acres located at 18551 Old Cutler Road, Cutler Bay, Florida (the "Property") from Cutler Properties, LC (the "Seller") to the Town of Cutler Bay (the "Town")

Dear Mr. Rafael Casals:

Seller hereby submits this proposal for the sale of the Property to the Town pursuant to settlement discussions between Seller and the Town.

1. Purchase Price. \$8,450,000 (the "Purchase Price").
2. Payment Terms. The Purchase Price shall be paid in two installments: (a) \$3,000,000 (the "Initial Payment") to Seller on the Escrow Closing (as defined below); and (b) the balance of \$5,450,000. (the "Second Payment") is due on or before June 30, 2021.
3. Closing. An escrow closing will occur within 30 days after execution of the Purchase and Sale Agreement (the "PSA") but in no event shall the Escrow Closing take place less than sixty (60) days from the execution of this Term Sheet, whereupon the deed for the Property (the "Deed") will be signed and placed in escrow with Seller's counsel pursuant to an Escrow Agreement reasonably agreed upon by the parties (the "Escrow Closing"). The Deed will be held in escrow by the escrow agent until the Second Payment is paid to Seller (the "Closing"). Subject to the terms and conditions of this Term Sheet, the PSA will be agreed upon by Seller and the Town within thirty (30) days after this Term Sheet is fully executed and delivered thereby.
4. Failure to Pay Purchase Price.
  - a. If the Second Payment is not paid to Seller by December 31, 2020, interest on such amount will begin accruing at the fixed rate of 3.0% per annum through the date of the Closing.
  - b. If the Second Payment is not made by June 30, 2021, then the Deed shall be returned to Seller, the transaction shall be automatically terminated and Seller shall retain the Initial Payment.
5. Transaction in Lieu of Condemnation. The PSA and Deed will reflect that the sale is being made under the threat of condemnation against the Property. Seller waives any right to object to the Town's intended use or intended user of the Property. The Purchase Price set forth herein represents a compromise price reached in settlement as a result of settlement negotiations engaged in by the parties to avoid anticipated litigation.

6. Appraisal.
  - a. The parties will share equally in the cost of commissioning an appraisal of the Property pursuant to the terms hereof, which shall be prepared by a qualified appraiser mutually acceptable to the parties (the "Appraisal").
  - b. The Property shall be appraised pursuant to the density and development plans that were recommended for approval by the Special Magistrate.
  - c. If the Appraisal valuation for the Property is less than the Purchase Price, the Town may, in its discretion, terminate the PSA.
  - d. If the Appraisal valuation for the Property is higher than the Purchase Price the conditions described in Paragraph 7.b below will apply.
7. Cooperation. The Town will cooperate in preparing and executing documentation necessary for Seller to receive any and all available tax benefits, which shall include, without limitation:
  - a. Documentation reasonably required for Seller to enter into a 1033 real property exchange.
  - b. Documentation reasonably required to evidence Seller's charitable contribution of the portion of the Property or value of the Property that exceeds the Purchase Price including, without limitation, the Town's execution of IRS Form 8283 that acknowledges receipt of the Property having a value in excess of the Purchase Price by the Town.
8. Inspection Period. The Town shall have thirty (30) calendar days from the date the PSA is executed by all parties to investigate the Property (the "Inspection Period") but in no event shall the Inspection Period be less than sixty (60) days from the execution of this Term Sheet. Within ten (10) calendar days of the execution of the PSA, the Seller shall provide the Town with copies of any owner's title policy, leases, rent roll, income and expense statements, list of all vendors, copies of all contracts that would survive (or expire after) the Closing Date, any prior surveys, soil reports, environmental reports, and any drawings, renderings and/or schematics that Seller may have. During the Inspection Period, the Seller shall provide the Town with full access to the property, at reasonable times, in order to conduct and perform any and all inspections and/or investigations which they may deem appropriate. The Town will be permitted to cancel the PSA for any reason (or no reason) by written notice to the Seller prior to the end of the Inspection Period. After the execution of this Term Sheet and prior to the execution of the PSA, Seller agrees to allow the Town's contractors to inspect the Property so long as such contractors execute an access agreement in a form provided by Seller.
9. Exclusivity. From the date of this Term Sheet through the earlier of (a) Closing Date or (b) the election by either party to terminate negotiations, neither party shall, directly or indirectly through any officer, director, employee, stockholder, agent, partner, member, manager, affiliate, or otherwise (i) enter into any agreement, agreement in principle or other commitment (whether or not legally binding) relating to the purchase of the Property (a "Competing Transaction"), or (ii) market, solicit or encourage the submission of any proposal or offer from any person or entity (including any of its officers, directors, partners, members, managers, employees, or agents) relating to any Competing Transaction, or participate in any negotiations regarding same.

10. Tax Exemption. Seller acknowledges that Town is a tax-exempt governmental entity. The PSA will provide that the Seller will be responsible for complying with Section 196.295 of the Florida Statutes prior to Closing. The requirements for compliance with Section 196.295 provided by the Miami-Dade County Property Appraiser will be as follows:
- a. Once the Closing Date has been determined, Closing Agent will submit a written formal request to the Miami-Dade County Property Appraiser's Office via e-mail or regular mail for a proration letter. A proration letter will be provided by Property Appraiser displaying the prorated amount of taxes due to date of closing.
  - b. Taxes will be prorated on the Closing Statement based on the amount set forth in the Property Appraiser's letter plus an additional 20% of the amount of tax prorated (the additional 20% is the "Tax Escrow") to cover any additional taxes required to be paid upon issuance of the current year's tax bill for the Property.
  - c. After the Closing, Closing Agent will submit to the Tax Collector the Property Appraiser's escrow letter and the prorated tax amount of taxes stated to be due in the Property Appraiser's letter, and obtain a receipt for the deposit of the estimated taxes. Closing Agent will provide a copy of the Tax Collector receipt to Town.
  - d. After issuance of the actual tax bill for the Property, and no later than December 31 of the year of Closing, Closing Agent will determine if any additional taxes are owed to the Tax Collector. If additional taxes are owed, Closing Agent will notify Seller, pay the additional taxes to the Tax Collector from the Tax Escrow, and remit any remaining balance of the Tax Escrow to the Seller. If Closing Agent determines that no additional taxes are due after issuance of the tax bill, Closing Agent will refund the Tax Escrow to Seller.
11. Section 286.23 Disclosure. Seller shall comply with the provisions of Section 286.23, Florida Statutes, regarding disclosure of beneficial interests at least 10 days prior to the Closing Date.
12. Closing Costs. The Town of Cutler Bay shall pay all costs of the issuance of obtaining a title commitment and a title policy, obtaining a survey of the Property and any documentary stamp and intangible tax due on the recording of the Deed. Each party shall pay its own legal fees and costs.
13. Brokers. No real estate brokers or other similar parties have participated in procured this transaction and, accordingly, no commissions, finders fees or other similar fees or commissions are due in connection with the transaction contemplated hereby.
14. Execution of Term Sheet. The term sheet will be executed within three (3) business day from approval of this Term Sheet by the Town's Council.
15. Counterparts. This Term Sheet may be executed in any number of counterparts, and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument

16. Termination/No WAIVER. Either Seller or the Town can terminate negotiations of the PSA at any time and for any reason by delivering a written termination notice to the other party hereto. In such event, this Term Sheet shall terminate and the parties shall be deemed to have waived any rights and remedies solely in connection with the negotiation of this Term Sheet and the PSA and the parties hereto shall have the same rights and remedies as they had immediately prior to the execution of this Term Sheet.

17. Extension of Dates. The party reserve the right to extend or alter any of the deadlines set forth in this Term Sheet upon mutual agreement by both parties.

While this Term Sheet does not constitute a binding contractual agreement between the parties, it does set forth an understanding in principle and the present intention of the parties to enter into one or more agreements incorporating the above, upon terms and conditions mutually acceptable to the parties and their respective counsel. This Term Sheet is not intended to be comprehensive, nor shall it be interpreted as addressing every matter that may be included in the PSA.

Sincerely,

Cutler Properties, LC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Acknowledged and accepted by the Town this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Town of Cutler Bay

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_