



RESOLUTION NO. 2021-010

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF MARIANNA, FLORIDA,
AUTHORIZING THE SALE OF SURPLUS PROPERTY FOR ECONOMIC DEVELOPMENT
PURPOSES**

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MARIANNA, FLORIDA

that:

SECTION 1. AUTHORITY FOR THIS RESOLUTION. This resolution is adopted pursuant to the provisions the Laws of Florida.

SECTION 2. FINDINGS. It is hereby ascertained, determined and declared that:

A. The City Commission of the City of Marianna (the "Commission") has determined that the property described in attached Exhibit "A" (the "Property") is not needed for municipal purposes; and

B. The Commission has determined that is in the best interest of the City of Marianna and its residents to dispose of the Property by private sale for economic development purposes to Hickinbotham Holdings Marianna, LLC as successor by assignment from Sawcross, Inc, pursuant to that certain "AS IS" Contract by and between the City of Marianna, Jackson County BOCC and Sawcross, Inc. dated December 11, 2020.

SECTION 3. APPROVAL OF OTHER NECESSARY ACTION. The Mayor is hereby authorized to take all other action necessary or required in connection with the transfer and sale of the Property as deemed advisable by the Mayor, including but not limited to executing any closing statements, title affidavits and a deed to the Property as contemplated by the December 11, 2020 "AS IS" Contract and in furtherance of the purpose of this resolution.

SECTION 4. REPEAL OF INCONSISTENT PROVISIONS. All resolutions or parts thereof in conflict with this Resolution are hereby repealed to the extent of such conflict.

SECTION 5. SEVERABILITY. In the event that any portion or section of this Resolution is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Resolution, which shall remain in full force and effect.

SECTION 6. EFFECTIVE DATE. This Resolution shall take effect immediately upon its final passage and adoption.

PASSED AND ADOPTED this day of February, 2021.

City of Marianna, Florida

Travis Ephriam, Mayor

ATTEST:

Kimberly Applewhite, City Clerk

EXHIBIT A LEGAL

DESCRIPTION

DESCRIPTION: OR 1668 P 367

Parcel 1:

Commence at the Southeast corner of the Northwest 1/4 of Southwest 1/4 of Section 17, Township 4 North, Range 10 West, Jackson County, Florida; thence West along the South line of said Northwest 1/4 of Southwest 1/4 601.05 feet to the point of beginning; thence continue West along said South line 187.93 feet, thence North 1200 feet or to the South boundary of a dirt road; thence Southeasterly along said South boundary to a point which is North of the point of beginning, thence run South 1100 feet to the point of beginning.

Parcel 2:

Commence at the Southeast corner of the Northwest 1/4 of Southwest 1/4 of Section 17, Township 4 North, Range 10 West and run West along the South line of said Northwest 1/4 of Southwest 1/4 788.98 feet to the point of beginning; thence continue West along said South line 500 feet to the West line of said Section 17; thence North along West Section line 1450 feet to the South right of way line of a dirt road; thence Southeasterly along said dirt road 590 feet; thence South 1200 feet to the point of beginning.

**EXHIBIT B
CONTRACT**

THIS INSTRUMENT PREPARED BY:

A. CLAY MILTON,
ESQ. Florida Bar No.
13185
FUQUA & MILTON,
P.A. Attorneys at Law
4450 Lafayette Street
Post Office Box 1508
Marianna, Florida 32447
Telephone: (850) 526-2263

"AS IS" CONTRACT

THIS AGREEMENT, made and entered into this 11th day of December, 2020 ("Agreement"), by and between CITY OF MARIANNA, a municipal subdivision of the State of Florida, whose address is Post Office Box 936, Marianna, Florida 32447 (hereinafter referred to as "COM") and JACKSON COUNTY BOCC, a political subdivision of the State of Florida, whose address is 2864 Madison Street, Marianna, Florida 32448, (hereinafter referred to as "JCBOCC" and collectively referred to along with the City as the "Seller") and SAWCROSS, INC., a Florida Corporation, whose mailing address is 10970 New Berlin Road, Jacksonville, FL 32226 (hereinafter referred to as "Buyer").

WITNESSETH:

1. **Agreement of Sale and Purchase.** Seller agrees to sell and Buyer agrees to purchase the following described real property, with its appurtenances, located in the County of Jackson, State of Florida, and more fully described as follows (the "Property"):

See Exhibit "A" attached and made a part thereof

2. **Purchase Price.** Buyer agrees to pay at closing a price equal to One Thousand Five Hundred Dollars (\$1,500.00) per surveyed acre (prorated for areas of less than a full acre) of the Property (the "Purchase Price"). The total area of the Property shall be certified to Buyer and Seller by a Florida-licensed surveyor at the expense of Buyer.

3. **Title Insurance.** Buyer may, at Buyer's expense, acquire an ALTA owner's title insurance policy insuring Buyer to the full amount of the Purchase Price against loss or damage

by reason of defect in the title of Seller in the above described Property. Following the date of this Agreement, Buyer may obtain an ALTA owners title insurance commitment (the "Title Commitment") from a national title insurance company (the "Title Company") through a title agent selected by Buyer ("Title Agent" or "Closing Agent"), who may also serve as the Closing Agent in this transaction. If the Title Commitment reveals any encroachments, overlaps, easements, restrictions, covenants, conditions, other title defects or other matters objectionable to Buyer (hereinafter referred to as the "Title Objections", Buyer may furnish Seller with a written statement of Buyer's Title Objections. If the Title Commitment reveals any Title Objections and Seller does not agree to cure any such Title Objections prior to Closing, then Buyer may either (i) terminate this Agreement or (ii) waive any such Title Objections and proceed to Closing. For purposes of clarity, Seller shall have no duty to cure any of the matters reflected in the Title Objections.

4. **Property Information.** Within five (5) days following the date of this Agreement, the Seller shall deliver to the Buyer copies of the following, to the extent such items are within the Seller's possession or control: (i) any and all existing title policies, deeds, plans, appraisals, service contracts, and boundary or topographic surveys or maps of the Property; (ii) all soil tests or reports relating to the Property; (iii) any and all existing environmental audits, reports, or tests relating to the Property including any and all Phase I and Phase II environmental reports; (iv) any development order or PUD zoning ordinance applicable to the Property; and (v) all other test results or documents related to the physical condition of the Property (the "Existing Information").

5. **Survey.** Buyer may, prior to Closing, obtain at its sole cost and expense a current ALTA boundary survey of the Property (the "Survey") from a licensed Florida surveyor (the

“Surveyor”). The Survey shall (i) provide a metes and bounds legal description for the Property, (ii) determine the total acreage of the Property, and (iii) be certified by the Surveyor to all necessary parties required by the Title Company. If the Survey shows any material encroachments or easements burdensome to the Property or any other matters that are objectionable to Buyer, then any such facts may constitute a Title Objection for purposes of Section 3 above, and Buyer shall furnish Seller with a written statement of the Title Objections shown by the Survey.

6. Buyer acknowledges and agrees that, except as set forth in Sections 7 and 8, Seller is selling the Property AS-IS with all faults and makes no representation or warranty as to the condition of the Property or its fitness for any particular purpose. By accepting the Property "AS IS", Buyer waives all claims against the Seller for any defects in the Property. In addition, Buyer acknowledges and agrees that Buyer shall rely exclusively upon the results of Buyer’s due diligence or feasibility studies conducted prior to Closing as to the condition of the Property and whether or not the Property is sufficient for Buyer’s intended use and will not rely upon any verbal representations made by any officers, agents, employees or representatives of Seller. SELLER HEREBY SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, OR CONCERNING ANY HAZARDOUS SUBSTANCES ON, NEAR OR ADJACENT TO THE PROPERTY.

7. Representations and Warranties by Seller. Seller hereby represents and warrants to Buyer, which representations and warranties shall be true and shall be deemed to be restated at the Closing:

- (a) Seller, has all requisite power and authority to make, deliver, enter into and perform all actions pursuant to the terms and covenants of this Agreement and to carry out the transactions contemplated hereby.**

- (b) The execution of this Agreement by Seller and the consummation of the transactions herein contemplated have been duly authorized by all requisite action on the part of Seller, and the execution and delivery of all documents to be executed and delivered by Seller, has been or will be duly authorized by all requisite action on the part of Seller.
- (c) The Seller is exempt from paying all ad valorem real estate taxes or assessments with respect to the Property.

8. **Conveyance by Special Warranty Deed.** Seller agrees, on full payment of the Purchase Price in the manner herein specified, to make, execute, and deliver to Buyer a Special Warranty Deed to the Property. Seller shall also execute and deliver an Owner's Affidavit as required by the Title Agent with respect to the Property.

9. **Closing; Closing Costs.** Closing will take place on or before **January 15, 2021** at the office of the Closing Agent. Buyer will pay to Seller the amount of the Purchase Price in certified funds or by wire transfer. Buyer shall pay any and all closing costs associated with this transaction, excluding Seller's attorney's fees.

10. **Ad Valorem Property Taxes.** The Buyer shall be responsible for any and all ad valorem property taxes levied against the Property subsequent to December 31, 2020. The 2021 ad valorem taxes will not be prorated.

11. **Attorney's Fees.** Each party shall be responsible for their own attorney's fees, if any.

12. **Default.** If either party defaults under this Agreement, the parties do hereby acknowledge and agree that its sole remedy against the defaulting party shall be to terminate this Agreement.

13. **Brokers.** Seller and Buyer each hereby warrant and represent to the other that all claims for brokerage fees, commissions or finders' or other similar fees in connection with the

transactions contemplated in this Agreement, insofar as such claims shall be based on agreements made by either of the parties, shall be paid by the party making such agreements, and the party hereto making such agreement does hereby indemnify and hold the party hereto which does not make such agreement harmless from and against all liability or actual out-of-pocket loss, cost, damage or expense (including but not limited to reasonable attorney's fees and costs of litigation) which the party hereto which does not make such agreement shall suffer or incur because of any claim by any broker, agent or finder claiming any compensation pursuant to such agreement with respect to the sale and purchase of the Property or the execution of this Agreement.

14. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

15. **Further Assurances.** Each party shall at the time of Closing execute all such documents as may be necessary or appropriate in order to consummate the transaction contemplated by this Agreement.

16. **Effective Date.** For the purposes of this Agreement, the effective date of this Agreement shall be the date as appears by the signature of the Buyer or Seller who last executes the same. The last party to execute this Agreement shall also insert the date on page 1 of this Agreement and agrees to fax or email notice of said execution to the other party upon the date the same is executed.

17. **Survival.** The provisions of Sections 7, 13 and 15 of this Agreement shall survive Closing.

18. **Binding Agreement.** This Agreement and all of the terms, provisions and covenants contained herein shall apply to, be binding upon and inure to the benefit of the parties hereto, their respective successors and permitted assigns.

19. **Captions.** The captions employed in this Agreement are for convenience only and are not intended in any way to limit or amplify the terms and provisions of this Agreement.

20. **Time of the Essence.** TIME IS OF THE ESSENCE of this Agreement.

21. **Choice of Law.** This Agreement shall be construed in accordance with the laws of the State of Florida, and shall be performable in the county where the Property is located. Venue of any proceeding to enforce the terms of this Agreement shall lie exclusively in Jackson County, Florida.

22. **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the subject matter hereof, and shall not be varied, amended, or superseded except by written agreement between the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands and affixed their seals the day and year first above written.

BUYER:

SAWCROSS, INC.


By: Mark E. Hickinbotham
Its: President

Dated: 12/11/20

SELLER:

JACKSON COUNTY BOARD OF
COUNTY COMMISSIONERS


By: James Peacock
Its: Chairman

Dated: 1/12/2021

SELLER:

CITY OF MARIANNA


By: Travis H. Ephraim
Its: Mayor-Commissioner

Dated: 12-15-2020

Exhibit "A"

Parcel 1:

Commence at the Southeast corner of the Northwest 1/4 of Southwest 1/4 of Section 17, Township 4 North, Range 10 West, Jackson County, Florida; thence West along the South line of said Northwest 1/4 of Southwest 1/4 601.05 feet to the point of beginning; thence continue West along said South line 187.93 feet, thence North 1200 feet or to the South boundary of a Dirt Road; thence Southeasterly along said South boundary to a point which is North of the point of beginning, thence run South 1100 feet to the point of beginning.

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