



**HARDEE COUNTY**  
ECONOMIC DEVELOPMENT COUNCIL



**HARDEE COUNTY**  
INDUSTRIAL DEVELOPMENT AUTHORITY

## **AGENDA**

**Economic Development Council/Industrial Development Authority**

**EDC/IDA REGULAR MEETING**

**October 5, 2023, at 8:00 AM**

**COMMISSIONER CHAMBERS, 412 WEST ORANGE STREET, ROOM 102,  
WAUCHULA, FL 33873**

## **BOARD MEMBERS**

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**Chairman Lee Mikell**

**Vice-Chairman Barney Cherry**

**Gene Davis**

**Calli Ward**

**Courtney Green**

**John Gill**

**Chris Idsardi**

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**1. CALL TO ORDER**

**2. APPROVAL OF AGENDA**

**3. AGENDA ITEMS**

- 1. SARAH EVERS- SALE/PURCHASE CONTRACT FOR REAL PROPERTY LOCATED AT 122 W. MAIN ST**

**ACTION RECOMMENDED:** MOTION TO APPROVE THE SALE/PURCHASE CONTRACT FOR REAL PROPERTY LOCATED AT 122 W. MAIN ST. SUBJECT TO LEGAL AND ADMINISTRATIVE REVIEW AND AUTHORIZE THE CHAIR OR VICE CHAIR TO SIGN ALL RELATED DOCUMENTS.

**4. ANNOUNCEMENTS/OTHER BUSINESS/PUBLIC COMMENTS**

**5. ADJOURNMENT**

## SALE/PURCHASE CONTRACT FOR REAL PROPERTY

(122 W Main Street, Wauchula, Hardee County, Florida)

**THIS SALE/PURCHASE CONTRACT FOR REAL PROPERTY** (the "Agreement") by and between **MAIN STREET WAUCHULA, INC.**, a Florida not for profit corporation (the "Seller") and the **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a body politic and corporate of the State of Florida (the "Purchaser") is entered into and effective on the date it is last executed by the Seller or Purchaser (the "Effective Date").

### RECITALS:

A. Seller is the owner of certain real property located in Hardee County, Florida as more specifically depicted and described on the attached Exhibit "A".

B. Seller wishes to sell to Purchaser, and Purchaser wishes to purchase from Seller the Property as hereafter defined upon the terms, covenants, and conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties covenant and agree as follows:

1. Sale of Property.

A. Subject to the terms and conditions hereinafter set forth, Seller agrees to sell, convey, and assign (to the extent assignable) to Purchaser, and Purchaser agrees to buy from Seller, that certain real property located in Hardee County, Florida, shown or described on Exhibit "A", which exhibit is attached hereto and made a part hereof, together with all appurtenances, easements, and privileges thereto belonging (the "Property").

B. Sellers agrees to have and maintain a temporary roof tarp and chimney seal on the Property's building no more than five days after the Effective Date.

2. Definitions. For purposes of this Agreement, the following terms are defined as hereinafter set forth: "**Closing**" shall mean the execution and delivery of the Transaction Documents and the payment of those funds required to be paid at the time and in the manner required herein for the purchase and sale of the Property. "**Encumbrance**" shall mean and include any charge, claim, condition, equitable interest, lien, option, pledge, security interest, right of first refusal, or restriction of any kind, including any restriction on use, transfer, receipt of income, or exercise of any other attribute of ownership. "**Survey**" shall mean a survey of the Property certified by a Florida Registered Land Surveyor. "**Transaction Documents**" shall mean this Agreement and all of the documents required or contemplated in connection with the Closing of the purchase and sale of the Property.

3. Price / Deposits. The total Purchase Price for the Property shall be **Fifty-Three Thousand Dollars (\$53,000.00)** ("Purchase Price"). The Purchase Price shall be due and payable as follows:

A. Within ten Business Days of the full execution of this Agreement, Purchaser will deposit the amount of One Thousand Dollars (\$1,000.00) (the "Earnest Money Deposit") with Wauchula Abstract and Title Co., Inc. as escrow agent (the "Escrow Agent"). After expiration of the Inspection Period, the Earnest Money Deposit shall become non-refundable (except in the event of Seller's default or as otherwise expressly provided in this Agreement). The Earnest Money Deposit shall be credited to the Purchaser at the time of the Closing (as hereinafter defined).

B. The remaining balance of Fifty-Two Thousand Dollars (\$52,000.00) shall be paid to Seller

at Closing in immediately available funds (Official Bank Check or wire transfer), subject to adjustments and prorations.

4. **Execution / Calculation of Time / Time of the Essence.**

A. **Execution.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which together shall constitute one and the same instrument. This Agreement shall become binding when one or more counterparts shall bear the respective signatures of all of the parties designated as signatories herein. If this Agreement shall be executed in counterparts, then upon the subsequent written request of any signatory, all parties shall join in the signing of one complete original instrument. A facsimile copy of this Agreement evidencing any signatures shall be considered as an original for all purposes.

B. **Calculation of Time.** All references to days shall mean calendar days unless Business Days are specifically stated. Business Days shall mean Monday through Friday, and exclude legal holidays. If any time period ends on a Saturday, Sunday, or legal holiday, it shall instead be deemed to expire at the end of the next Business Day.

C. **Time of the Essence.** The Parties have been fully advised and agree that time is of the essence in this Agreement.

5. **Purchaser's Inspection Period.**

A. Upon the full execution of this Agreement, Purchaser shall have 15 days (herein referred to as "the **Inspection Period**") to inspect the Property. Seller shall provide Purchaser and its agents and consultants reasonable access to the Property, provided that in each such case Seller shall have the right to have a representative of Seller present during the course of each such entry. Purchaser shall have the right to make inquiries of governmental bodies, utility companies, and other third parties.

B. In the event that Purchaser determines, in its sole opinion and sole discretion, that the Property or this Agreement is unacceptable for any reason whatsoever, Purchaser (by and through its designee) shall give Seller written notice before the end of the Inspection Period that it intends to terminate the transaction contemplated by this Agreement, and this Agreement shall forthwith and thereupon be terminated, become null and void, and be of no further force and effect, at which time the Escrow Agent shall return the Earnest Money Deposit to the Purchaser. If Purchaser does not give such notice, the contingency shall have expired, and Purchaser shall proceed to Closing

C. The Parties have been fully advised and agree that time is of the essence with respect to the obligations of the parties under the Inspection Period.

6. **Survey and Environmental Site Assessments.** During the Inspection Period, Purchaser may obtain, at Purchaser's expense and discretion, a survey of the Property (the "**Survey**") and environmental site assessments (the "**Environmental Assessments**"). In the event the Survey reflects any easements, encroachments, rights-of-way, roads, lack of access, deficiencies, gaps or gores or hiatus between any of the parcels included within the Property or between the Property and any adjoining streets or roads, or any other adverse matters not acceptable to Purchaser, Purchaser may terminate this Agreement pursuant to section 5 above or utilize the provisions of section 7.A. below. In the event the Environmental Assessments identify environmental contaminants, Purchaser may at its election terminate this Agreement pursuant to section 5 above.

7. **Evidence of Title.** Within ten (10) days of the Effective Date of this Agreement, at Seller's expense, a commitment for an owner's title insurance policy (the "**Title Commitment**") shall be obtained

agreeing to issue to Purchaser, upon recording of the Warranty Deed, a title insurance policy in the amount of the Purchase Price insuring Purchaser's title to the Property. The Title Commitment shall include legible copies of all documents referenced therein. The Title Commitment shall provide that all "standard exceptions" (including exceptions for taxes (for years prior to the year of Closing)) and assessments not shown in the public records, claims of unrecorded easements, parties other than owner in possession, construction liens and matters disclosed on an accurate Survey, shall be deleted from the Policy when issued. Seller shall provide to the Closing Agent any affidavits, undertakings and other instruments required to delete said standard exceptions, and Purchaser shall provide such Survey with required certifications.

A. Objections to Title. If the Title Commitment contains exceptions to coverage, other than the standard exceptions, which adversely affect title to the Property and render title unmarketable and uninsurable, or if the Survey reveals any defect as set forth in Section 6 hereof, the Purchaser shall notify the Seller, in writing, of Purchaser's objections to such exceptions within ten (10) days after the Title Commitment and copies of all underlying title search instruments and the Survey have been furnished to Purchaser.

B. Curing Title Objections. The Seller shall have ten (10) days after receipt of such notice in which to cure such defects (the "**Title Curative Period**") and furnish to the Purchaser evidence that same have been cured. If the objection cannot be cured by the payment of money and the Seller fails to cure such defects with the Title Curative Period, or notifies Purchaser in writing that Seller has determined, in Seller's sole discretion, that it is not feasible on a commercially reasonable basis to cure one or more of Purchaser's objections, Purchaser shall have the option, to be exercised in its sole discretion, to either (i) complete the purchase in accordance with the Agreement and accept title to the Property subject to such objections without any adjustment to the Purchase Price; or (ii) terminate this Agreement by written notice to Seller whereupon this Agreement shall terminate and be of no further force or effect and the Earnest Money Deposit shall be returned to Purchaser.

C. Updates of Title. The Title Commitment shall be updated by endorsement ("**Update Endorsement**") not less than five (5) days before the Closing Date. If such Update Endorsement discloses any new requirement, defect, Encumbrance or other adverse matter, then Purchaser shall notify Seller in writing specifying the new title defect and providing legible copies of said defect not later than three (3) days before the Closing Date and Seller shall have a period of ten (10) days following the receipt of such notice from Purchaser to cure such new title defect and the Inspection Period and Closing Date shall be extended. If Seller fails to cure any such new title defect, Purchaser shall have the option, to be exercised in its sole discretion, to either: (i) complete the purchase in accordance with the Agreement and accept title to the Property subject to such objections without any adjustment to the Purchase Price; or (ii) terminate this Agreement by written notice thereof to Seller whereupon this Agreement shall terminate and be of no further force or effect and the Earnest Money Deposit shall be returned to the Purchaser, together with all earned interest thereon.

D. Time. The Parties have been fully advised and agree that time is of the essence with respect to the parties' obligations under this Section.

8. Closing Date and Procedure / Documents to be Provided.

A. Closing Date. Unless extended by other provisions of this contract or terminated during the Inspection Period, the **Closing Date** contemplated by this Agreement shall be on or before 45 days following the end of the Inspection Period; provided, however, that the parties may agree to an earlier Closing Date. Closing shall occur remotely, or such place as the parties may agree. Closing / Title Agent shall be Wauchula Abstract & Title Co., Inc. The parties have been fully advised and agree that time is of the essence with respect to the Closing Date.

B. Closing Procedure.

1. Seller. At Closing, if not previously delivered to Purchaser, Seller shall execute and deliver to Purchaser:
  - (i) A fully executed Warranty Deed in favor of the Hardee County Industrial Development Authority;
  - (ii) An owner's title affidavit. The owner's title affidavit shall attest to the absence, unless otherwise provided for herein, of any lien or Encumbrance upon the Property to be conveyed known to Seller and improvements or repairs to the Property made within ninety (90) days immediately preceding date of Closing. However, if the Property has been improved or repaired within that time, Seller shall deliver releases or waivers of construction liens executed by all potential lienors and an affidavit setting forth the names of all potential lienors and affirming that all charges for improvements or repairs have been paid or will be paid at the Closing;
  - (iii) Bills of Sale as to personal property conveyed, if any;
  - (iv) Tenant Estoppel Certificate and letters notifying of change in ownership to each tenant or lessee, if any; and
  - (v) Any other document reasonably required pursuant to the terms of this Agreement.
  
2. Purchaser. At Closing, Purchaser shall deliver to Seller the following:
  - (i) The balance of the Purchase Price payable at the Closing, as adjusted for prorations and taxes and hold-backs, in the manner required under this Agreement;
  - (ii) Instructions from Purchaser directing payment of the Earnest Money Deposit and the Purchase Price and all other amounts due at Closing, or thereafter in accordance with the provisions of this Agreement, to Seller or any other person as Seller shall designate; and
  - (iii) Any other document reasonably required pursuant to the terms of this Agreement.
  
3. Seller and Purchaser. Seller and Purchaser shall, on the Closing Date, each execute, acknowledge (as appropriate) and deliver the following documents:
  - (i) Any transfer tax returns required under any tax laws applicable to the transactions contemplated herein;
  - (ii) The Lease Option in the form attached hereto as Exhibit B;
  - (ii) The Closing Statement;
  - (iii) Any other affidavit(s), document or instrument required to be delivered by Seller or Purchaser pursuant to the terms of this Agreement.

9. Costs. At the time of Closing, Purchaser shall pay to Seller the total Purchase Price for the Property, less prorations and adjustments in accordance with this Agreement. Taxes and governmental assessments for the Property shall be prorated through the day before Closing. Purchaser shall have the option of taking over existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at Closing shall be increased or decreased as may be required by prorations to be made through day prior to Closing. Taxes shall be prorated based on the current year's tax. If Closing occurs at a date when the current year's millage is not fixed and current year's assessment is available, taxes will be prorated based upon such assessment and prior year's millage. If current year's assessment is not available, then taxes will be prorated

on prior year's tax. A tax proration based on an estimate shall, at request of either party, be readjusted upon receipt of current year's tax bill. This covenant shall survive Closing.

A. Seller shall pay for the following items: (i) the documentary stamp tax due on the Warranty Deed; (ii) the cost of the premium due on the Owner's Title Insurance required under this Agreement, along with all related title and search costs related thereto; (iii) Seller's legal fees and expenses; (iv) any broker's commission; and (v) any costs of curing title defects.

B. Purchaser shall pay for the following items: (i) the cost of all inspections, tests and studies undertaken by Purchaser in connection with its investigation, including the cost of any Survey; (ii) the recording fees for the Warranty Deed; and (iii) Purchaser's legal fees and expenses.

10. Seller's Delivery of Property Data. Within ten (10) days of the execution of this agreement, at Seller's sole cost and expense, Seller shall provide Purchaser with copies of all of the following documents that it has in its care, custody or control:

A. All documentation pertaining to the physical condition, development and operation of the Property in Seller's possession and control, including plats and surveys, plans and specifications for improvements, any and all environmental, asbestos, ADA, engineering, mechanical, electrical, structural, soil or other similar reports covering all or any portion of the Property, and copies of any and all notices Seller has received from any governmental authority with respect to them; and

B. Copies of all leases, licenses, and occupancy agreements in effect for use or possession of any portion of the Property; and

C. Copies of all management, service, supply, maintenance, parking, equipment service, equipment rental, cleaning, garage or parking operation, license or franchise agreements, or other contracts pertaining to the Property.

Seller's delivery of the documents in its care, custody or control shall be a representation that the documents and information provided are true, correct and complete in all material respects. If Seller does not timely deliver any document required to be delivered in this section 10, the Inspection Period and Closing will be extended one day for each day of delay.

11. Duties and Rights of Escrow / Closing Agent.

A. Purchaser and Seller authorize Escrow Agent or Closing Agent (each referenced as "Agent" for purposes of this Section), and Agent agrees by acceptance hereof, to hold all monies paid in escrow and to disburse the same in accordance with the terms and conditions of this Agreement. Agent undertakes to perform only such duties as are expressly set forth in this Agreement and no implied duties or obligations will be read into this Agreement against Agent.

B. Agent may act in reliance on any writing or instrument or signature that it, in good faith, believes to be genuine; may assume the validity and accuracy of any statement contained in such a writing or instrument; and may assume that any person purporting to give any writing, notice or instructions with respect to this Agreement has been duly authorized to do so.

C. In the event of doubt as to its duties or liabilities under the provisions of this Agreement, Agent shall have the right to withhold payment of the monies which are the subject of this escrow until the parties mutually agree to the disbursement thereof, or until a judgment of a court of competent jurisdiction shall determine the rights of the parties thereto, or Agent may deposit all monies then held pursuant to this Agreement, less the reasonable attorneys' fees and costs for the interpleader or similar action, with the

Clerk of the Circuit Court of Hardee County, and upon notifying all parties concerned of such action, all liability on the part of Agent shall fully terminate. Purchaser and Seller agree that Agent shall not be liable to any party or person whomsoever for misdelivery to Purchaser or to Seller of money subject to this escrow, unless such misdelivery shall be due to a willful breach of Agent's duties under this Agreement or gross negligence by Agent, and the parties will fully indemnify Agent from any and all expense, cost, claim, or charges it may incur, including its reasonable attorneys' fees and costs, subject to the limitations of s. 768.28, Florida Statutes.

12. Default and Notice to Cure.

A. If Purchaser defaults in the payment of the Purchase Price, Seller shall have the right to receive disbursement of the Earnest Money Deposit if not previously delivered, and terminate this Agreement. Upon such delivery of the Earnest Money Deposit in accordance with the preceding sentence, this Agreement shall terminate and neither party hereto shall have any further obligations hereunder except for those that are expressly provided in this Agreement to survive the termination hereof.

B. If Seller defaults in any of its material obligations to be performed on or prior to the Closing Date, Purchaser shall have the right (i) to receive a return of the Earnest Money Deposit and terminate this Agreement, or (ii) to seek specific performance of Seller's obligations hereunder (it being expressly acknowledged that the remedy of specific performance is an appropriate remedy in the event of a default by Seller under this Agreement). Upon such return and delivery of the Earnest Money Deposit in accordance with Clause (i) of the preceding sentence, if such remedy is elected by Purchaser, this Agreement shall terminate and neither party hereto shall have any further obligations hereunder except for those that are expressly provided in this Agreement to survive the termination hereof.

C. In connection with any litigation arising out of the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to recover from the other, all costs incurred, including reasonable attorneys' fees, including without limitation trial and appellate proceedings, subject to the limitations of Section 768.28, Florida Statutes.

D. The provisions of this Section 12 shall survive the termination hereof.

13. Condemnation. If, prior to the Closing Date, any part of the Property is taken by an entity other than Purchaser (other than a temporary taking), or if Seller shall receive an official notice from any governmental authority, having eminent domain power over the Property, of its intention to take by eminent domain proceeding any part of the Property (a "**Taking**"), then Purchaser shall have the option, exercisable within ten (10) days after receipt of notice of such Taking, to terminate this Agreement by delivering written notice thereof to Seller, whereupon Purchaser's deposit shall be returned and this Agreement shall be deemed cancelled and of no further force or effect, and neither party shall have any further rights or liabilities against or to the other except pursuant to the provisions of this Agreement, which are expressly provided to survive the termination hereof. If a Taking shall occur and Purchaser shall not have timely elected to terminate this Agreement, then Purchaser and Seller shall consummate this transaction in accordance with this Agreement, without any abatement of the Purchase Price or any liability or obligation on the part of Seller by reason of such Taking, provided, however, that Seller shall, on the Closing Date, (i) assign and remit to Purchaser, and Purchaser shall be entitled to receive and keep, the net proceeds of any award or other proceeds of such Taking which may have been collected by Seller as a result of such Taking less the reasonable expenses incurred by Seller in connection with such Taking, or (ii) if no award or other proceeds shall have been collected, deliver to Purchaser an assignment of Seller's right to any such award or other proceeds which may be payable to Seller as a result of such Taking and Purchaser shall reimburse Seller for the reasonable expenses incurred by Seller in connection with such Taking.

14. Notices. Any notices provided for in this Agreement shall be in writing to the address set forth



below and shall be effective (a) upon receipt or refusal if delivered personally; (b) one (1) Business Day after deposit with a recognized overnight courier or (c) two (2) Business Days after deposit in the U.S. mail.

If to Seller:

Main Street Wauchula, Inc.  
Attn: Jessica Newman  
107 E Main Street  
Wauchula, Florida 33873

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If to Escrow / Closing / Title Agent:

Wauchula Abstract & Title Co., Inc.  
Attn: Marcus Conerly  
123 S. 9<sup>th</sup> Avenue  
Wauchula, Florida 33873  
Telephone: 863-773-9054  
Facsimile: 863-773-5857  
[mconerly@wauchulaabstract.com](mailto:mconerly@wauchulaabstract.com)

If to Purchaser:

Hardee County Industrial Development Authority  
Attn: Denise Grimsley  
107 East Main Street  
Wauchula, Florida 33873  
Telephone: 863-773-3030

*with copy to Purchaser's legal counsel:*

Swaine, Harris & Wohl, P.A.  
Attn: Shannon L. Nash  
425 South Commerce Avenue  
Sebring, Florida 33870  
Telephone: 863-385-1549  
Facsimile: 863-471-0008  
[shannon@heartlandlaw.com](mailto:shannon@heartlandlaw.com)

Either party may change their address by written notice given to the other as hereinabove provided. Notwithstanding the foregoing, any notice sent to the last designated address of the party to whom a notice may be or is required to be delivered hereunder shall not be deemed ineffective if actual delivery cannot be made due to an unnoticed change of address of the party to whom the notice is directed or the failure or refusal of such party to accept delivery of the notice.

15. Covenants: Preclosing Rights and Obligations of Seller.

- A. From the Effective Date of this Agreement until the Closing Date, Seller shall:
  - i. not take any action which will adversely affect title to the Property;
  - ii. notify Purchaser of any material changes discovered by Seller to the representations or warranties made by Seller. In the event that Purchaser learns, through Seller or otherwise, prior to the Closing Date, that any of Seller's warranties or representations are materially incorrect, Purchaser shall have the right to terminate this Agreement and all deposits shall be immediately returned in full to Purchaser;
  - iii. not enter into any lease, license or other agreement for occupancy of the Property, unless Purchaser has previously consented in writing;
  - iv. not enter into any service contracts which survive the Closing, unless Purchaser has previously consented in writing.
- B. The provisions of this Section 15 shall survive the Closing.

16. Warranties, Representations and Disclosures of Seller. Seller makes the following warranties, representations and disclosures to Purchaser, which representations and disclosures shall be true on the Effective Date and shall also be true at the time of Closing:

- A. Authority. Seller is lawfully organized and has all requisite power and authority to execute

and deliver this Agreement.

B. Marketable Title. As of the Closing Date, Seller shall have the ability to deliver good, marketable and insurable title to the Property.

C. Validity. This Agreement, when executed, will constitute the legal, valid and binding obligation of Seller, enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law.)

D. Condemnation. Seller has no knowledge of any pending or threatened condemnation or similar proceeding affecting the Property, nor does Seller have knowledge that any such action is presently contemplated.

E. Pending Litigation/Violations. Seller has no knowledge of any legal actions, suits, code enforcement, regulatory actions, or other legal or administrative proceedings, including bankruptcy proceedings, pending or threatened, against the Property or Seller, and Seller is not aware of any facts which might result in any action, suit or other proceeding against the Property or Seller that could result in a lien encumbering the Property or any part thereof.

F. Other Obligations and Assessments. Seller has no knowledge of any outstanding impact fees, obligations, assessments, fair share agreements or capital recovery obligations for sewer, water, drainage, roadway or other improvements which affect the Property by reason of any past or existing improvements on the Property.

G. Special Assessments. There are no outstanding special assessments with respect to the Property. Any special assessment lien that has not been certified, confirmed and ratified as of Closing shall be assumed by Purchaser.

H. Development Rights. Seller has not transferred any development rights with respect to the Property.

I. Historic District/Landmark. No portion of the Property has been designated a historic landmark.

J. Environmental Matters. Except as identified in the Notice of Remediation, Seller has no knowledge of any adverse environmental condition, which shall include the presence of Hazardous Materials in violation of any Environmental Laws, relating to the Property and has received no notice from any regulatory body or authority have jurisdiction regarding any such adverse environmental condition of the Property.

**"Hazardous Materials"** shall mean any solid, gaseous or liquid wastes (including hazardous wastes), regulated substances, pollutants or contaminants or terms of similar import, as such terms are defined in any Environmental law, and shall include, without limitation, any petroleum or petroleum products or by-products, flammable explosives, radioactive materials, asbestos in any form, polychlorinated biphenyls and any other substance or material which constitutes a threat to health, safety, property or the environment or which has been or is in the future determined by any governmental entity to be prohibited, limited or regulated by any Environmental Law.

**"Environmental Law"** shall mean any federal, state or local statute, regulation or ordinance or any judicial or administrative decree or decision, whether now existing or hereinafter enacted, promulgated or issued, with respect to any hazardous materials, drinking water, groundwater, wetlands, landfills, open

dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water runoff, waste emissions or wells. Without limiting the generality of the foregoing, the term shall encompass each of the following statutes, and regulations, including any state of local counterparts or equivalent, in each case, order, decrees, permits, licenses and deed restrictions now or hereafter promulgated thereunder, and amendments and successors to such statutes and regulations as may be enacted and promulgated from time to time: (i) the Comprehensive Environmental Response, Compensation and Liability Act (codified in scattered sections of 26 U.S.C., 33 U.S.C., 42 U.S.C. and 42 U.S.C. Section 9601 et seq.) ("CERCLA"); (ii) the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.); (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.); (iv) the Toxic Substances Control Act (15 U.S.C. Section 2061 et seq.); (v) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vi) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vii) the Safe Drinking Water Act (21 U.S.C. Section 349, 42 U.S.C. Section 201 and Section 300f et seq.); (viii) the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.); (ix) the Superfund Amendments and Reauthorization Act of 1986 (codified in scattered sections of 10 U.S.C., 29 U.S.C., 33 U.S.C. and 42 U.S.C.); (x) Title III of the Superfund Amendment and Reauthorization Act (40 U.S.C. Section 1101 et seq.); (xi) the Uranium Mill Tailings Radiation Control Act (42 U.S.C. Section 7901 et seq.); (xii) the Occupational Safety & Health Act (29 U.S.C. Section 655 et seq.); (xiii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (xiv) the Noise Control Act (42 U.S.C. Section 4901 et seq.); and (xv) the Emergency Planning and Community Right to Know Act (42 U.S.C. Section 1100 et seq.).

K. Contracts/Leases. Seller has not entered into any existing, in force contracts for the sale of the Property other than this Agreement. Seller has received no notice of and has no knowledge of any rights of first refusal, right of first offer, or options to purchase any of the Property or any other rights or agreements that may delay or prevent this transaction. No person or entity other than Seller is entitled to possession of the Property except for lease or occupancy agreement that have been provided to Purchaser. In the case of a lease or occupancy agreement, Seller shall provide Purchaser a Tenant Estoppel Certificate and letters notifying the tenant of the change in ownership for each tenant. If a tenant refuses to execute an estoppel certificate, Seller shall, to the satisfaction of Purchaser, certify that information regarding the tenant's lease is correct. Other than as certified by estoppel certificate for a lease or occupancy agreement, Seller warrants that there is in effect no contract or agreement relating to occupancy, management, or operation of the Property that cannot be terminated on or prior to the Closing Date.

L. Mechanic's Liens. There has been no labor or materials of any kind furnished to or for the benefit of the Property for which payment in full has not been made or with respect to which a construction lien may be filed against the Property.

M. Other Agreements. There is no note, mortgage, security agreement, or other agreement affecting the Property, including leases, that requires the consent of any party (or Seller shall provide such consent, if necessary, at its expense) as a result of the sale contemplated by this Agreement, and that there are no defaults existing in any such agreements affecting the Property.

It shall be a condition precedent to Purchaser's obligation to close hereunder that the representations and warranties of Seller set forth in this Agreement will be true in all material respects on the Closing Date. Should Purchaser determine prior to the Closing Date that any representation or warranty set forth herein is inaccurate in a material way, then Purchaser shall promptly provide written notice to Seller of such inaccuracy, and provided that Seller does not otherwise elect or is unable to cure such inaccuracy, Purchaser shall have the option of either waiving any claim against Seller by virtue of such inaccuracy and proceeding to Closing without any adjustment to the Purchase Price, or Purchaser may terminate this Agreement, by written notice to Seller within ten (10) days following written notice from Seller that Seller cannot or will not cure any inaccuracy, whereupon this Agreement and all rights and obligations of the parties hereunder shall thereupon cease and be deemed null and void. In the event of such a termination by Purchaser pursuant to this section, the Earnest Money Deposit shall be immediately returned to Purchaser.

Seller shall indemnify Purchaser, its successors and assigns, against, and shall defend and hold Purchaser, its successors and assigns harmless from, any expenses or damages, including reasonable attorneys' fees, that Purchaser incurs because of the breach of any of the representations, disclosures, and warranties set forth in Section 16 A – 16 M above, whether such breach is discovered before or after Closing. Seller shall further indemnify and hold harmless Purchaser, its successors and assigns, from all claims, demands, damages, fines, costs, cleanup, attorney's fees, and court costs arising from discharge (either intentional or accidental) of Hazardous Materials by Seller, its agents and representatives, to the soil, air, water, or wastewater treatment facility, whether known or unknown at the time at the time of Closing.

17. Warranties and Representations of Purchaser. Purchaser hereby makes the following warranties and representations to Seller, which warranties and representations shall be true on the Effective Date and shall also be true at the time of Closing.

A. Purchaser is an industrial development authority created pursuant to Part III, Chapter 159, Florida Statutes, and a dependent special district authorized by resolution of the Hardee County Board of County Commissioners, and is duly organized, validly existing, and in good standing under the laws of the State of Florida, and has all requisite power and authority to execute and deliver this Agreement.

B. The execution, delivery and performance of this Agreement and the consummation of the transaction contemplated herein by the Purchaser have been duly authorized and approved by all necessary action. This Agreement, when executed, will constitute the legal, valid and binding obligation of Purchaser, enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

It shall be a condition precedent to Seller's obligation to close hereunder that the representations and warranties of Purchaser set forth in this Agreement will be true in all material respects on the Closing Date. Should Seller determine prior to the Closing Date that any representation or warranty set forth herein is inaccurate in a material way, then Seller shall promptly provide written notice to Purchaser of such inaccuracy, and provided that Purchaser does not otherwise elect to cure such inaccuracy, Seller shall have the option of either waiving any claim against Purchaser by virtue of such inaccuracy and proceeding to Closing without any adjustment to the Purchase Price, or Seller may terminate this Agreement, by written notice to Purchaser within ten (10) days following written notice from Purchaser that Purchaser cannot or will not cure any inaccuracy, whereupon this Agreement and all rights and obligations of the parties hereunder shall thereupon cease and be deemed null and void and Purchaser shall be deemed in default.

18. Purchaser's Conditions Precedent. The following are conditions precedent to Purchaser's obligations to close this transaction:

A. Marketable Title. Seller's delivery of good, marketable and insurable fee simple title to the Property.

B. Document Delivery. Seller shall have executed and delivered all of the documents required of Seller under this Agreement to Purchaser, including but not limited to an acceptable Warranty Deed, sufficient and acceptable to the Closing Agent / title agent to address the elimination of standard exceptions for "gap" coverage, construction liens and possession.

C. Performance of Covenants. Seller shall have performed all of its material covenants, agreements and obligations under this Agreement.

D. Truth of Representations and Warranties. All of Seller's representations and warranties set forth in this Agreement shall be true and correct in all material respects though first made as of the date of

the Closing.

E. Removal of Personal Property. Seller shall remove all personal property, unless otherwise set forth herein, from the Property. This obligation includes, but is not limited to, the requirement that the residence be vacant and in broom clean condition.

Purchaser may waive any or all of the preceding conditions precedent. With respect to those conditions precedent of which require the cooperation or subsequent action of Seller, Seller shall undertake such cooperation or action in good faith. If, notwithstanding the parties' commercially reasonable diligent effort, all of the following conditions precedent are not satisfied on or before the Closing Date, Purchaser shall have the right and option to either (i) waive any such unsatisfied condition precedent and close this Agreement in accordance with its terms without any adjustment to the Purchase Price, or (ii) terminate this Agreement on such Closing Date. If Purchaser terminates this Agreement because of the failure to satisfy or waive any such condition precedent all rights and obligations of the parties hereunder to each other shall end and this Agreement shall be of no further force or effect. In the event of such a termination, the Earnest Money Deposit shall be returned to Purchaser.

19. Seller's Conditions Precedent. The following are conditions precedent to Seller's obligation to close this Transaction:

A. Delivery of Documents. Purchaser shall have executed and delivered to Seller all of the documents required of Purchaser under this Agreement.

B. Performance of Covenants. Purchaser shall have performed all of its material covenants, agreements and obligations under this Agreement.

C. Payment of Purchase Price. Purchaser shall have delivered to Seller the balance of the Purchase Price and the Escrow Agent shall have delivered to Seller the Earnest Money Deposit.

D. Truth of Representations and Warranties. All of Purchaser's representations and warranties set forth in Section 17 of this Agreement shall be true and correct in all material respects.

Seller may waive any or all of the preceding conditions precedent. With respect to those conditions precedent of which require the cooperation or subsequent action of Purchaser, Purchaser shall undertake such cooperation or action in good faith. If, notwithstanding the parties' commercially reasonable diligent effort, all of the following conditions precedent are not satisfied on or before the Closing Date, Seller shall have the right and option to either (i) waive any such unsatisfied condition precedent and close this Agreement in accordance with its terms without any adjustment to the Purchase Price, or (ii) terminate this Agreement on such Closing Date. If Seller terminates this Agreement because of the failure to satisfy or waive any such condition precedent all rights and obligations of the parties hereunder to each other shall end and this Agreement shall be of no further force or effect. In the event of such a termination pursuant to this section, the Earnest Money Deposit shall be retained by Seller (or if not previously disbursed, the Earnest Money Deposit shall be immediately disbursed to Seller).

20. Miscellaneous.

A. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, representatives, successors and assigns; and no third party shall have any rights, privileges or other beneficial interest in or under this Agreement. Purchaser may assign its rights and obligations under this Agreement without condition or necessity for prior written consent from Seller. Seller may assign its rights and obligations under this Agreement with written consent of Purchaser, which consent will not be unreasonably withheld. As used herein, the singular number shall

include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

B. Broker's Commissions. Seller and Purchaser warrant and represent to each other that no broker or other person expecting or due a fee or commission related to the transaction herein contemplated was involved in this Agreement. Each party shall indemnify the other party against any claim of any broker claiming by, through, or under the indemnifying party. This indemnification clause is not intended nor shall it be construed to waive the Purchaser's rights and immunities or exceed the limitations provided by s. 768.28, Florida Statutes. This warranty and representation shall survive delivery of the Deed and Closing of this transaction.

C. Entire Agreement. This Agreement, including the Exhibit attached hereto, contains the entire Agreement between Seller and Purchaser and all other representations, negotiations and agreements, written and oral, including any letters of intent which pre-date the Effective Date hereof, with respect to the Property or any portion thereof, are superseded by this Agreement and are of no force and effect. This Agreement may be amended and modified only by instrument, in writing, executed by all parties hereto.

D. 1031 Exchange. If Seller wishes to enter into an IRC Section 1031 like-kind exchange with respect to the Property ("Exchange"), the Purchaser agrees to cooperate, including the execution of documents; provided (1) the Purchaser shall incur no liability or expense related to the Exchange and (2) the Closing shall not be contingent upon, nor extended or delayed by, such Exchange.

E. 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 health department.

F. Mold. Mold is naturally occurring and may cause health risks or damage to property. This Agreement is not contingent upon testing for the existence of toxic mold unless specifically provided.

G. Risk of Loss. Loss or damage to all improvements shall be at the risk of Seller until Closing. In the event of substantial damage to the Property prior to the Closing Date or any condemnation of the Property, the Purchaser may either close this transaction and accept the Seller's interest in the insurance or condemnation proceeds or terminate this Agreement and be entitled to the return of the deposit monies paid by the Purchaser together with all interest earned thereon. For purposes of this Agreement, substantial damage shall mean damage to at least 10% of the Property.

H. Waiver. No waiver hereunder of any condition or breach shall be deemed to be a continuing waiver or a waiver of any subsequent breach

I. Severability. In case anyone or more provisions contained in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

J. Florida Contract. This Agreement shall be deemed a Florida contract and construed according to the laws of such state, regardless of whether this Agreement is being executed by any of the parties hereto in other states or otherwise. The proper and exclusive venue for any action concerning this Agreement shall be the Circuit Court in and for Hardee County, Florida. Except as specifically set forth herein, Purchaser does not waive sovereign immunity and Purchaser's liability, if any, is subject to and limited by Section 768.28, Florida Statutes.

K. Time for Acceptance. Any offer or counter-offer made hereunder must be accepted via

counter-signature within seven (7) days of the date signed by the first party, unless the offer or counter-offer is sooner rescinded. Any offer or counter-offer that is not timely accepted shall be deemed expired and revoked. Seller acknowledges that Purchaser is dependent special district operating under applicable laws of the State of Florida, including Chapter 159, Florida Statutes, and further acknowledges that official acts by Purchaser are authorized by a governing body at duly noticed meetings open to the public. No contract or agreement, whether in writing or verbal, is binding upon Purchaser until reviewed and accepted by the Purchaser's governing body and executed by all parties.

Seller:

**MAIN STREET WAUCHULA, INC.**, a Florida  
not for profit corporation

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

Date of execution: \_\_\_\_\_, 2023

Purchaser:

**HARDEE COUNTY INDUSTRIAL  
DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_

Lee Mikell, Chair

Date of execution: \_\_\_\_\_, 2023

ATTEST:

\_\_\_\_\_

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

**Exhibit A**

**DESCRIPTION OF REAL PROPERTY**  
*(Legal description subject to survey and title work)*

Addresses: 122 W Main Street, Wauchula, Hardee County, Florida

Parcel ID: 03-34-25-0200-00020-018C

Description:

**The East 25 feet of the West 87 feet of Lot 18 LESS the North 23 feet; AND the East 25 feet of the West 87 feet of Lots 19 and 20, Block 20, of the Original Town Survey of Wauchula, as recorded in Plat Book 1, Page 29, Public Records of Desoto County, Florida, of which Hardee County was formerly a part, lying in Section 4, Township 34 South, Range 25 East.**

Depiction:





## Exhibit B

### OPTION CONTRACT FOR LEASE

1. **PARTIES**. The parties hereto are identified as the Hardee County Industrial Development Authority, a body politic and corporate of the State of Florida (herein called “IDA”) and Main Street Wauchula, Inc., a Florida not for profit corporation (herein called “Holder”).

2. **PREMISE**. The parties have entered into a sale/purchase contract for real property dated \_\_\_\_\_, 2023 (“Sale/Purchase Contract”) for the sale of real property located at 122 Main Street West, Wauchula, Florida as more specifically described in the Sale/Purchase Contract (the “Property”). Holder is selling the Property to IDA on the terms and conditions set forth in the Sale/Purchase Contract. Anticipating forthcoming business developments and the ensuing potential for economic growth to Hardee County facilitated by Holder, IDA is interested in leasing the Property to Holder at a future date.

3. **CONSIDERATION**. This lease option is executed contingent on the Closing of the sale of the Property, as those terms are defined in the Sale/Purchase Contract. The consideration for this option is the Closing on the sale of the Property, and there shall be no credit or refund of consideration.

4. **OPTION**. Upon completion of, and passing final inspection for, a complete re-roof of the Property and sealing the interior walls and slab of the Property against water intrusion and the elements, the Holder shall have the option to lease the Property according to the terms and conditions of the lease agreement which is attached hereto, incorporated into this option contract by reference, and marked for identification by the parties by their having placed their initials on the upper right hand corner of each page, subject to the contingencies set forth below. The initials are not to be construed as an execution of the lease contract, but only to identify it as an attachment to this option contract setting forth the terms of lease, should Holder exercise this option.

5. **EXERCISING THE OPTION**: To exercise this option, and thereby accept the offer to enter into the attached lease agreement, Holder shall execute two copies of the attached lease agreement and deliver them to IDA at the following address: Hardee County Industrial Development Authority, 107 East Main Street, Wauchula, Florida 33873, with a copy to: Swaine, Harris & Wohl, P.A., 425 S. Commerce Avenue, Sebring, Florida 33870, together with a written notice that Holder is thereby exercising the option. The option shall be effectively exercised upon IDA’s receipt of the notice and the lease agreement executed by Holder. Delivery may be accomplished by personal delivery or by sending the executed lease agreement and notice by messenger or U.S. mail (certified and return receipt requested).

If Holder has exercised this option as specified above, IDA shall, at its next regularly held meeting that is at least ten days following delivery, authorize execution of the lease agreement delivered by Holder and shall direct that the executed copy be delivered to the Holder within a reasonable time. IDA shall retain the second fully executed copy.

6. **EXPIRATION OF THE OPTION**: This option shall expire January 15, 2025. The option may be exercised until 5:00 p.m. local time on the expiration date. An attempt to exercise the option after that time and date shall have no effect. Time is considered to be of the essence by both parties to this option.

7. **“TERM START DATE” OF LEASE**: The “Term Start Date” set forth in the Lease shall be between 30 to 60 days after the date Holder provides written notice of exercise of the option to lease, and shall be a date certain selected by the Holder.

8. **ASSIGNMENT**. This option may be assigned by Holder only upon written approval of IDA, which approval will not be unreasonable withheld. This option shall be binding on the successors and assigns of the IDA to the extent permitted by law. This option shall inure to the benefit of the successors and assigns of the Holder.

9. **OTHER**. This option shall be interpreted pursuant to the laws of the State of Florida, and the parties agree that jurisdiction and venue are proper in courts of competent jurisdiction in and for Hardee County, Florida. In the event either IDA or Holder shall be required to institute any litigation to interpret or enforce any of its rights hereunder, the prevailing party shall be entitled to recover from the unsuccessful party all costs incurred in connection therewith, including, but not limited to, all court costs and reasonable attorneys’ fees and costs, whether incurred before or during litigation, on appeal, in bankruptcy, or in post judgment collections, subject to limitations set forth by s. 768.28, Florida Statutes.

**MAIN STREET WAUCHULA, INC.**, a Florida not for profit corporation

**HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a body politic and corporate of the State of Florida

By: \_\_\_\_\_

By: \_\_\_\_\_

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

Lee Mikell, Chair

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

**COMMERCIAL LEASE WITH OPTION TO PURCHASE  
BY AND BETWEEN  
HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY  
AND MAIN STREET WAUCHULA, INC.**

**THIS LEASE AGREEMENT** is made by and between the **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a body politic and corporate of the State of Florida (herein called "LANDLORD") and **MAIN STREET WAUCHULA, INC.**, a Florida not for profit corporation (herein called "TENANT").

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

**WHEREAS**, LANDLORD is the owner of certain real property located at 122 W Main Street, Wauchula, Hardee County, Florida; and,

**WHEREAS**, LANDLORD has agreed to lease the property to TENANT, subject to certain terms and conditions; and,

**WHEREAS**, TENANT wishes to lease said property from LANDLORD.

**NOW THEREFORE**, in consideration of the premises and the covenants, terms and conditions to be performed as set forth hereinafter, the parties agree as follows:

1. The above stated recitals are true and correct and are incorporated herein by reference. The parties agree that this Commercial Lease Agreement with Option to Purchase shall supersede any and all prior leases, options, or agreements as to the Premises (as hereinafter defined) between the parties.

2. **TERM.** The initial term of this lease agreement shall be for five (5) years commencing on \_\_\_\_\_ ("Term Start Date") and ending on \_\_\_\_\_, unless sooner terminated as herein provided.

3. **PROPERTY.** The property subject to this agreement, commonly known as 122 W Main Street, Wauchula, Hardee County, Florida, and containing a commercial building, is more specifically described as:

**The East 25 feet of the West 87 feet of Lot 18 LESS the North 23 feet; AND the East 25 feet of the West 87 feet of Lots 19 and 20, Block 20, of the Original Town Survey of Wauchula, as recorded in Plat Book 1, Page 29, Public Records of Desoto County, Florida, of which Hardee County was formerly a part, lying in Section 4, Township 34 South, Range 25 East.**

(herein called the "Premises").

4. **USE AND SUITABILITY.** The Premises are to be used by TENANT for the purpose of economic improvement and viability of the downtown area of Wauchula, Hardee County, Florida. TENANT will make no unlawful, improper, or offensive use of the Premises. TENANT acknowledges having examined the Premises thoroughly before entering into this agreement and acknowledges the suitability of the Premises for TENANT's proposed use. TENANT does not rely upon any representations

by the OWNER as to the suitability of the Premises for the TENANT's purposes.

**5. RENT.**

**A.** Except as otherwise specifically provided herein, TENANT shall pay monthly rent to OWNER equal to **\$1,000.00** ("Base Rent"). Base Rent shall be paid by TENANT to OWNER, together with any sales or use taxes thereon, in advance, on or before the first day of each month. The amount of Base Rent shall never decrease.

**B.** In addition to the Base Rent, TENANT shall reimburse OWNER for OWNER's actual cost of insurance and property tax related to the Premises, which amounts shall be invoiced by OWNER to TENANT as additional rent ("Additional Rent"). Additional Rent shall be paid net 30 days from date of invoice.

**C.** No Base Rent shall be due for the first six months of this Lease. For the six months thereafter, fifty percent (50%) of the monthly Base Rent shall be due and payable. Beginning the month of the annual anniversary of the Effective Date, and continuing every month thereafter, monthly Base Rent shall be due and payable in full. *[For example purposes only: if the Effective Date of this lease is February 10, then no base rent would be due in February, March, April, May, June, or July. For August, September, October, November, December, and January, 50% of base rent would be due. Beginning the following February, 100% of base rent would be due on or before the first of the month.]*

**D.** This is a triple net lease. The parties agree that except for costs or expenses that are expressly set forth herein as the obligation of OWNER, all cost, fees, and expenses associated with the Premises and the use or maintenance of the Premises shall be the sole responsibility of and shall be paid by TENANT, including without limitation, insurance, taxes, maintenance, and capital expenditures relating to the Premises.

**6. SECURITY DEPOSIT.** No security deposit is required for this Lease.

**7. LATE PAYMENTS.** Payments remaining due and unpaid for a period of ten (10) days after the date due shall accrue a service charge equal to 1.5% of the amount of the delinquent payment, or \$100.00, whichever is greater, per month, from the date due until paid.

**8. WORTHLESS PAYMENTS.** Any payments returned as worthless or as insufficient funds shall accrue a service charge equal to 5% of the amount of the returned payment, or \$35.00, whichever is greater.

**9. EMERGENCY CONTACT.** TENANT shall provide OWNER with the name and telephone number of a contact person who shall be on call at all times to respond in case of emergency. In addition, TENANT shall ensure that OWNER has 24-hour access to the Premises for purposes of emergency, including key-card access, if applicable.

**10. CLEANLINESS AND SAFETY.** TENANT agrees to keep the Premises in a clean, safe

and sanitary condition, and to abide by all reasonable safety and fire regulations. TENANT will contract with a franchised solid waste hauler to dispose of solid waste, if instructed to do so by OWNER. TENANT shall at all times keep and maintain an adequate number of operating, charged fire extinguishers in or on the Premises. TENANT will not permit the Premises to be occupied for any purpose deemed disreputable or deemed to be extra-hazardous on account of fire. TENANT agrees not to do or allow anything to be done on the Premises which may injure or endanger persons on or about or adjacent to the Premises. TENANT hereby indemnifies and holds OWNER harmless from any claims because of injury to life, person or property by reason or anything done or permitted by TENANT, its agents, employees, guests, or invitees on or about or adjacent to the Premises.

**11. TAXES.** TENANT shall pay all Florida sales or use taxes on this Lease or the lease payments. Failure to pay such charges when due shall be paid by TENANT to OWNER on demand. Should said taxes not be paid by TENANT, they shall be considered unpaid additional rent and failure to pay said taxes shall be considered a default hereunder.

**12. UTILITIES AND SERVICES.** OWNER will not be obligated to pay any charges for any telephone service, gas, electricity, water, or other utility service or commodity procured or consumed by TENANT. TENANT shall be solely responsible for such charges and, if OWNER shall pay those on behalf of TENANT, the amount of such charges shall be considered additional rent hereunder.

**13. SIGNAGE.** All signage on the property must be approved by OWNER as to style, location, content, and construction before installation, which approval will not be unreasonably withheld.

**14. ASSIGNMENT / SUBLEASE.** TENANT shall not assign this Lease without the written consent of OWNER, which consent will not be unreasonably withheld. TENANT may sublet the Premises, provided such subletting shall be subject to the terms and conditions of this Lease and sublessor shall acknowledge and agree to the same in writing, and further provided that TENANT shall notify OWNER in writing of such subletting promptly. Such subletting shall not release TENANT from any of its obligations under this Lease, including its obligation for timely payment of all rents.

**15. ALTERATIONS.** TENANT shall make no material additions or alterations in or to the Premises without the written consent of OWNER. TENANT shall be responsible for the cost of any additions or alterations made by TENANT and shall protect and reimburse OWNER against possible mechanics', laborers' and materialmen's liens upon the Premises. All furnishings, inventory, machinery, and equipment constructed or installed on the Premises by TENANT shall be the property of TENANT and the TENANT shall have legal title thereto during the term of this Lease; however, upon the expiration or termination of this Lease, title to all such fixtures shall automatically revert to and vest in the OWNER, except as provided in Section 26 herein.

**16. MAINTENANCE AND REPAIRS.** TENANT shall be responsible for all maintenance,

repair, and upkeep of the Premises and shall keep the Premises in good order and repair. Reasonable repairs shall be made in a timely manner and if TENANT refuses or neglects to make any repairs to the reasonable satisfaction of OWNER within a reasonable period of time after receipt of written notice of need for such repair from OWNER, OWNER may make such repairs without liability to TENANT for any loss or damage that may occur to TENANT'S property or business and TENANT shall pay OWNER'S costs for making such repairs, including OWNER'S reasonable administrative costs. Such costs for repairs shall bear interest at the rate of 18% per annum from the tenth day after billing therefor until paid and shall constitute additional rent. OWNER reserves the right to enter on the Premises at all reasonable times to make such repairs.

**17. LANDSCAPING / CURB APPEAL.** TENANT shall be responsible for all mowing, landscaping, and overall curb appeal at the Premises, including upkeeping and replacing plants, shrubs, grass, and trees, as necessary, and upkeeping and maintaining outward-facing (street facing) elements such as shutters, windows, and doors. Any substantial modification by TENANT of the landscaping or outward-facing elements in place as of the Term Start Date shall be subject to prior approval of OWNER. All mechanical units and refuse receptacles shall be shielded from public view. TENANT shall maintain all sidewalks and paved surfaces free of debris and in good condition. TENANT shall ensure that all outward-facing windows, doors, walls, and overhands are regularly washed or cleaned.

**18. NO LIENS CREATED.** TENANT has no power to incur any indebtedness giving a right to a lien of any kind or character upon the Premises. No third person shall be entitled to any lien against the Premises or any structure thereon, derived through or under TENANT. All persons contracting with TENANT, or furnishing materials or labor to TENANT, shall be bound by this provision. Should any such lien be filed, TENANT shall have the same discharged within sixty (60) days thereafter by paying the same or by filing a bond, or otherwise as permitted by law. TENANT is not the agent of OWNER and cannot confer upon a laborer upon the Premises, or upon a materialman who furnishes material incorporated in the construction of improvements upon the Premises, a construction lien upon OWNER's property under the provision of Chapter 713, Florida Statutes, or any subsequent revisions of that law.

**19. PLEDGE OF LEASEHOLD INTEREST.** TENANT may, from time to time, pledge its leasehold interest as security for a bona fide loan or loans from reputable established lenders or lending institutions. OWNER shall not subordinate its interest in the Premises to any such security holder under any circumstances whatsoever.

**20. SUBORDINATION.** This Lease Agreement shall be subordinate to the provisions of any existing or future agreement of OWNER relative to the operation or maintenance of the Premises, the execution of which has been or may be required as a condition precedent to the receipt of or expenditure of funds for development.

**21. PRIORITY.** This lease is subject and subordinate to the present and future restrictions and regulations imposed by any governmental body or agency applicable to the Hardee County Industrial Development Authority, and further subordinate to existing or future agreements between the OWNER and any branch or agency of the Government of the United States of America, or the State of Florida relative to development, operation, and maintenance of the Premises. The parties specifically understand and agree that some of the improvements to the Premises may be funded in whole or in part by grants from State and Federal Government. TENANT agrees to comply with all state and federal laws and the rules upon which the grants are conditioned.

**22. HOLD HARMLESS.** TENANT agrees to hold OWNER harmless against all claims for bodily injury, sickness, disease, death or personal injury, or damage to property or loss of use resulting therefrom, arising out of this contract unless such claims are a result of the OWNER's sole negligence. TENANT agrees to pay on behalf of OWNER, and to pay the cost of OWNER's legal defense, as may be selected by OWNER, for all claims described in this paragraph. Such payment on behalf of OWNER shall be in addition to any and all other legal remedies available to OWNER and shall not be considered to be OWNER's exclusive remedy.

**23. INSURANCE AND INDEMNITY.** TENANT will at its own expense and at all times during the term of this Lease Agreement, provide and maintain in effect for the Premises those insurance policies and minimum limits of coverage as designed below, with companies licensed to do business in the State of Florida. Insurance will be written with carrier/carriers with a minimum rating of "A-, X" by A.M. Best Rating agency or equivalent agency. These minimum insurance requirements shall not be interpreted to in any way limit TENANT's defense and indemnity obligations. In addition, the policies shall: **(i)** Specifically recognize and insure the contractual liability assumed by TENANT under this Commercial Lease Agreement; **(ii)** Provide that TENANT's insurance shall be primary to and non-contributory with any and all insurance maintained by or afforded to OWNER and its affiliated and subsidiary companies, and their respective officers, directors, shareholders, employees and agents; **(iii)** Provide that no cancellation or non-renewal will become effective except upon thirty (30) days prior written notice to OWNER except for non-payment of premium; **(iv)** Specifically waive insurers' rights of subrogation against OWNER; and **(v)** Specifically recognize that should TENANT's policies provide a limit of liability in excess of the amounts required below, OWNER shall have the right of the benefit to the full extent of the coverage available.

**A. PROPERTY/CONTENT COVERAGE.** TENANT shall procure and maintain for the term of this lease, at its expense, All Risk / Special Form insurance coverage for its personal property, including all contents, trade fixtures, machinery, equipment, furniture, furnishings, and TENANT's leasehold improvements.

**B. LIABILITY INSURANCE.** TENANT shall, at its own expense, maintain a policy or policies of comprehensive general liability insurance with respect to the operations conducted on the Premises with the premiums thereon fully paid on or before due date, issued by and binding upon some insurance company approved by OWNER, such insurance to afford minimum protection of not less than \$3,000,000 combined single limit coverage of bodily injury, property damage or combination thereof. OWNER, Hardee County Industrial Development Authority, shall be listed as an additional insured on TENANT's policy or policies of comprehensive general liability insurance and TENANT shall provide OWNER with current Certificates of Insurance evidencing TENANT's compliance with this paragraph.

**C. BUSINESS AUTO INSURANCE.** TENANT shall, at its own expense, maintain Business Auto Liability coverage is to include bodily injury and property damage arising out of ownership, maintenance or use of any auto, including owned, non-owned and hired automobiles. Such insurance shall afford minimum protection of not less than \$1,000,000 combined single limit coverage for Bodily Injury and Property Damage.

**D. WORKERS' COMPENSATION.** TENANT shall have and maintain workers' compensation insurance as required by law.

**E. CERTIFICATE OF INSURANCE.** Upon execution of this Agreement, TENANT must furnish a Certificate of Insurance to OWNER evidencing the insurance required herein, written or translated in English. From thereon, TENANT will furnish a valid Certificate of Insurance to OWNER annually at the address in the "Notices" clause of this Agreement.

**F. TENANT'S LIABILITY NOT LIMITED.** NOTWITHSTANDING THE PROVISIONS HEREIN, FOR PURPOSES OF THIS LEASE, TENANT ACKNOWLEDGES THAT ITS POTENTIAL LIABILITY IS NOT LIMITED TO THE AMOUNT OF LIABILITY INSURANCE COVERAGE IT MAINTAINS NOR TO THE LIMITS REQUIRED HEREIN.

**G. INVALIDATION OR CONFLICT WITH EXISTING INSURANCE POLICIES.** TENANT shall not do, permit or suffer to be done any act, matter, thing or failure to act in respect to the Premises that will **a)** invalidate or be in conflict with any insurance policies covering the Premises or any part thereof; or **b)** increase the rate of insurance on the Premises or any property located therein. If by reason of the failure of TENANT to comply with the provisions of this Lease, the insurance rate shall at any time be higher than it otherwise would be, then TENANT shall reimburse OWNER and any other tenants, on demand, for that part of all premiums for any insurance coverage that shall have been charged because of such actions by TENANT.

**H. TENANT'S NEGLIGENCE.** If the Premises or any other part of the building is damaged by fire or other casualty resulting from any act or negligence of TENANT or any of TENANT's agents, employees or invitees, rent shall not be diminished or abated while such damages are under repair,



and TENANT shall be responsible for the costs of repair not covered by insurance.

**I. INDEMNIFICATION.** TENANT shall indemnify OWNER and hold OWNER harmless for any and all liability, claims, damages, expenses (including attorneys' fees and costs for trial or appeal), proceedings and causes of action of every kind and nature arising out of or connected with the use, maintenance, operation or control of the Premises by TENANT, except as may arise out of conditions occurring or present prior to the commencement of this lease or caused by the misconduct or gross negligence of OWNER.

**24. COMPLIANCE WITH ALL LAWS AND RESTRICTIONS.** TENANT hereby agrees to abide by all applicable local, state, and federal laws, statutes, regulations, and rules, including any and all ordinances, building codes, or covenants and restrictions governing the Premises.

**25. NOTICES.** Whenever any notice is required or permitted by this Agreement to be given, such notice shall be by certified mail, overnight delivery, or facsimile addressed to:

*If to TENANT:*  
Main Street Wauchula, Inc.  
Attn: Jessican Newman  
107 East Main Street  
Wauchula, Florida 33873

*If to OWNER:*  
The Development Group  
107 East Main Street  
PO Box 458  
Wauchula, Florida 33873

*With copy to:*  
Swaine, Harris & Wohl, P.A.  
Attn: Shannon L. Nash, Esq.  
425 S. Commerce Avenue  
Sebring, Florida 33870

Notice shall be considered given when deposited with the U.S. Postal Service or commercial carrier, postage prepaid, or when received by the other party if by facsimile. Each party will be responsible for notifying the other of any change in their address. Management of the Premises on behalf of the OWNER shall be by and through Hardee County Economic Development Council, Inc., d/b/a The Development Group.

**26. REMOVAL OF PERSONAL PROPERTY UPON TERMINATION.** Upon expiration or termination of this Agreement, provided all monies due OWNER have been paid, TENANT shall have the right and responsibility to remove all of its personal property, including machinery and equipment, which it has installed or placed on the Premises, which removal shall be accomplished no later than the termination date. Electrical and plumbing facilities, fixtures, or systems, air conditioner units or systems, and other permanently installed fixtures shall not be considered personal property. TENANT shall repair any damage occasioned by reason of such removal or damage caused by TENANT's occupancy. In the event TENANT fails to remove its personal property or to repair any damage done to the Premises by the expiration or termination date of this Lease, OWNER reserves the right to remove and store all such

personal property left, at the risk and expense of TENANT, and to make repairs necessary to restore the Premises, with the cost of such repairs to be paid by TENANT.

**27. ABANDONMENT OF PREMISES BY TENANT.** In case TENANT shall abandon said Premises, or any part thereof, during the term of this Agreement, OWNER may, at its option, without notice, relet said Premises, or any part thereof, on such terms and for such rent as it may deem expedient or proper. Such reletting shall not operate as a waiver of any right whatsoever which OWNER would otherwise have to hold TENANT responsible for the rent. In case said Premises, or any part thereof, shall be relet, OWNER shall collect that rent and, after paying the expense of such reletting and collections, apply the remainder toward the rent due or to become due from TENANT.

**28. DEFAULT.** The occurrence of one or more of the following shall be an event of default by TENANT: **(a)** Failure of TENANT to make any payment required by this Lease when due, and the failure continues for three (3) days after written Notice of Default from OWNER to TENANT; **(b)** A failure of TENANT to comply with any obligation imposed upon TENANT by this Lease, other than the obligation to pay money, within thirty (30) days after written Notice of Default from OWNER to TENANT. Should the obligation be such that it cannot reasonably be corrected within thirty (30) days, TENANT shall not be in default so long as TENANT is diligently proceeding to comply and the noncompliance does not continue for over ninety (90) days after Notice of Default. A subsequent failure of TENANT to comply with the same obligation shall be a default without any grace period.; **(c)** Proceedings under the Bankruptcy Act for bankruptcy filed by or against TENANT or any guarantor of TENANT's performance hereunder and not dismissed within thirty (30) days after the filing; **(d)** An assignment of TENANT's property for the benefit of creditors; **(e)** A receiver, conservator, or similar officer is appointed by a court of competent jurisdiction to take charge of all or a substantial part of TENANT's or any guarantor's property, and the officer is not discharged and possession of the property is not restored within thirty (30) days; **(f)** TENANT's interest in the Premises or under this Lease is the subject of a taking or levy under execution, attachment, or other process of law and the action is not cancelled or discharged within thirty (30) days after its occurrence; or **(g)** TENANT defaults under any other lease or agreement with OWNER.

**29. OWNER'S REMEDIES.** If any event of default occurs and has not been cured within the time period provided in this Lease, OWNER may immediately or at any time thereafter do one or more of the following: **(a)** Remove any of TENANT's personal property from the Premises and store the same elsewhere at TENANT's expense without relieving TENANT from any liability or obligation; **(b)** Make the Premises available to another party without liability to TENANT and without relieving TENANT from any liability or obligation to OWNER; **(c)** Bring an action then or thereafter against TENANT to recover the amount of any payment owing by TENANT to OWNER as the same is due, becomes due, or accumulates; **(d)** Accelerate the rent to be paid over the entire term of this Lease and bring then or thereafter an action

for said rent and all other amounts due and owing by TENANT to OWNER; (e) Terminate this Lease by giving TENANT written notice thereof, without relieving TENANT from any obligation or liability for payments theretofore or thereafter becoming due or any other present or prospective damages or sums due or provided by law or this Lease and resulting from TENANT's default; (f) Terminate this Lease, relieving TENANT of any liability or obligation for any payments then or thereafter becoming due; or (g) Exercise any combination of the above or any other remedy provided by law.

**30. NON-DISCRIMINATION.** TENANT for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (i) No person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (ii) In the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national original shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination; and (iii) In the event of a breach of any of the above nondiscrimination covenants, OWNER shall have the right to terminate the lease.

**31. ENVIRONMENTAL MATTERS.** TENANT covenants and agrees to discharge only domestic waste into the sewer system. TENANT will not allow any hazardous substances including without limitation, any and all pollutants, wastes, flammables, explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances and all other materials defined by or regulated under any Environmental Law, including those defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9604 (14), pollutants or contaminants as defined in CERCLA, 42 U.S.C. § 9604 (A) (2), or hazardous waste as defined in the Resources Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6903 (5), or other similar applicable Federal or State Laws or regulations, to be generated, released, stored, or deposited over, beneath, or on the Premises or on any structures located on the Premises from any source whatsoever. TENANT further covenants to hold the OWNER harmless from all claims, demands, damages, fines, costs, cleanup, attorney's fees, and court costs arising from TENANT'S discharge (either intentional or accidental) of such matters to the soil, air, water, or wastewater treatment facility. OWNER hereby agrees to hold TENANT harmless from all claims, demands, damages, fines, costs, cleanup, attorneys' fees, and court costs arising from any discharge of such matters occurring prior to the term of this Lease.

**32. 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. This notification is pursuant to §404.056(5), Florida Statutes.

**33. STORM WATER POLLUTION PREVENTION PLAN.** TENANT agrees to abide by all rules and regulations established by OWNER or any state, county, or federal agency in regard to storm water pollution prevention. The stormwater pollution prevention plan is a major mechanism to comply with the National Pollution Discharge Elimination System (NPDES) Multi-Sector Generic Permit (MSGP) for stormwater discharge associated with industrial activities. The NPDES MSGP is administered by Florida Department of Environmental Protection (FDEP) and is defined in rule 62-621.100 *et seq.*, F.A.C.

**34. OFAC LIST.** TENANT hereby represents, warrants and covenants to OWNER that neither TENANT nor any person or entity that directly or indirectly (i) controls TENANT or (ii) has an ownership interest in Tenant of twenty-five percent (25%) or more, appears on the list of Specially Designated Nationals and Blocked Persons published by the Office of Foreign Assets Control of the U.S. Department of the Treasury.

**35. OPTION TO PURCHASE.**

**A.** OWNER grants to TENANT the exclusive option to purchase the Premises defined in this Lease on the terms and conditions set forth in this Section 35.

**B.** Provided TENANT is not in default under the Lease or any other agreement with or obligation to OWNER, TENANT may elect to purchase the Premises, including all improvements then-contained on the Premises, by giving OWNER written notice thereof during the term of the Lease.

**C.** TENANT shall give OWNER written notice of its election pursuant to the Notice provisions set forth in the Lease. OWNER shall, within forty-five (45) days after receipt of such notice, provide TENANT with a contract for sale/purchase at the Purchase Option Price (defined hereinafter) with TENANT paying all closing costs and all (non-prorated) real estate taxes for the year of closing. The sale/purchase contract shall provide for a closing date no less than 90 days after full execution of the contract. Further, the contract shall be contingent upon TENANT and OWNER entering into a right of first refusal whereby, for a period of five years after the closing date, OWNER has first right to re-purchase the Premises from TENANT at a purchase price equivalent to the then-current appraised value. In addition, such contract shall contain all reasonable standard provisions for contracts for similar sales.

**D.** The "Purchase Option Price" shall the total OWNER investment in the Premises (including, but not limited to, initial purchase price and all improvements and construction expenses). OWNER shall prepare and provide to TENANT the total OWNER investment.

**E.** TENANT shall receive credit against the Purchase Option Price equal to Base Rent payments timely made by TENANT to OWNER pursuant to the Lease, which amounts shall be calculated by OWNER. In no event shall total credits exceed the Purchase Option Price.

**F.** The consideration for this option is the mutual covenants of the parties, one to the other, as well as One Dollar (\$1.00) from TENANT to OWNER upon execution of the Lease.

**G.** TENANT's failure to remain in good standing (including any failure to timely make rent payments) under this Lease shall terminate this option; provided, however, that if TENANT cures any such default, the option shall remain. This option shall not survive the expiration or termination of this Lease.

**H.** This purchase option may not be assigned by TENANT.

**36. ATTORNEYS' FEES AND COSTS.** In any action brought by either party for the interpretation or enforcement of the obligations of the other party, including OWNER's right to indemnification, the prevailing party shall be entitled to recover from the losing party all reasonable attorneys' fees, paralegal fees, court and other costs, whether incurred before or during litigation, on appeal, in bankruptcy, or in post judgment collections subject to limitations set forth by s. 768.28, Florida Statutes.

**37. WAIVER OF BREACH.** Waiver by OWNER or TENANT of any breach of the terms, covenants, or conditions herein contained shall not be deemed a waiver of any subsequent breach.

**38. AMENDMENT.** No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof, and duly executed by each party.

**39. PROVISIONS OF LAW DEEMED INSERTED.** Each and every provision of law and clause required by law to be inserted in this document shall be deemed to be inserted herein and the lease shall be read and enforced as though it were included, and if, through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon application of either party, the lease shall forthwith be physically amended to make such insertion or correction.

**40. JURISDICTION AND VENUE.** The parties understand and agree that this lease was negotiated, entered into, and is to be performed in Hardee County, Florida; venue is appropriate in the Circuit Court in and for Hardee County, Florida. All issues will be governed by Florida Law.

**41. SEVERABILITY.** It is the intention of both of the parties hereto that the provisions of this Lease Agreement shall be severable in respect to a declaration of invalidity of any provisions hereof.

**42. ASSIGNS AND SUCCESSORS.** Except as otherwise provided, the covenants and conditions herein shall be binding upon and inure to the benefit of the assigns and successors of the parties.

**43. TIME.** Time is of the essence of this agreement.

**44. MULTIPLES; RECORDING.** This agreement is executed in multiple copies, each copy of which shall be deemed an original. Recording of this Lease is strictly prohibited and shall be an event of default; a memorandum of lease executed by both parties shall be recorded at TENANT's expense upon request by OWNER.

**IN WITNESS WHEREOF,** the parties hereto have hereunto set their hands and seals.

IDA: \_\_\_\_\_  
Holder: \_\_\_\_\_

***[SIGNATURE BLOCK TO BE INSERTED. NOT FOR SIGNATURE UNTIL EXERCISE  
OF OPTION CONTRACT FOR LEASE]***