

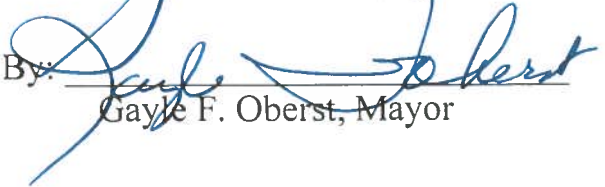
**RESOLUTION 15-34**

**BE IT RESOLVED** that the appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain Real Estate Sales Contract between the City and Long Beach Resort Community Association, a Florida non-profit corporation, relating to **the purchase of property located at 10511 Front Beach Road**, for the purchase amount of Sixty Three Thousand Nine Hundred Fifty Dollars (\$63,950.00), in substantially the form of the documents attached and presented to the Council today, draft dated September 24, 2014, with such changes, insertions or omissions as may be approved by the City Manager, whose execution of such agreement shall be conclusive evidence of such approval.

**THIS RESOLUTION** shall be effective immediately upon passage.

**PASSED** in regular session this 11 day of December, 2014.

**CITY OF PANAMA CITY BEACH**

By:   
Gayle F. Oberst, Mayor

**ATTEST:**



Holly White, City Clerk

## MEMORANDUM

**To:** Mario Gisbert, City Manager

**From:** John Alaghemand, P.E., Assistant City Manager/CRA Manager

**Subject:** **Real Estate Sales Contract for Purchase of Right-of-Way from Long Beach Resort Community Association for the Front Beach Road Segment 2 Improvement Project**

**Date:** December 5, 2014

As a part of the property acquisition efforts for the Front Beach Road Segment 2 Improvement Project, Chandler & Associates, Inc. has prepared an appraisal for a right-of-way strip along the Long Beach Community Association's property on Front Beach Road (**Exhibit A, parcels 63A and 63B**). Based on the Appraisal, the estimated fair market value of the required property (approximately 1037 square feet) is \$45,150.00. The City has previously approved a standard incentive schedule (Resolution 06-02) for calculating appropriate offers to landowners who willingly sell their land to the City for the right-of-way improvement purposes. The calculated incentive amount for the proposed property acquisition is \$18,800.00 to be added to the appraisal estimated price, which brings the total purchase price to \$63,950.00. The estimated purchase price of \$63,950.00 has been accepted by the property owner, Long Beach Resort Community Association.

It is recommended that the Council approve the attached Real Estate Sales Contract to purchase parcels 63A and 63B (approximately 1,037 square feet) in the amount of \$63,950.00 for the Front Beach Road Segment 2 Improvement Project and authorize the City Manager to execute the Contract.

Attachments: Resolution and Sales Agreement

## REAL ESTATE SALES CONTRACT

STATE OF FLORIDA

COUNTY OF BAY

THIS REAL ESTATE SALES CONTRACT (this "Contract") is made by and between LONG BEACH RESORT COMMUNITY ASSOCIATION, INC., a Florida non-profit corporation, ("Seller") and the CITY OF PANAMA CITY BEACH, FLORIDA, a municipal corporation ("Purchaser"), upon the terms and conditions set forth herein.

### ARTICLE I

1.01. Seller hereby sells and agrees to convey by statutory warranty deed (the "Deed"), and Purchaser hereby agrees to purchase and pay for, all that certain real estate located in Bay County, Florida described as follows:

SEE ATTACHED EXHIBIT A—Description Parcel 63A and 63B (sometimes referred to as the "Property").

Seller also sells and agrees to convey, and Purchaser hereby agrees to pay for, all and singular, the rights and appurtenances pertaining to the Property, including any right, title and interest of Seller in and to adjacent streets, alleys, or rights-of-way, and including any rights of Seller to any oil, gas, and other minerals, together with any improvements and fixtures situated on and attached to the Property or appurtenant thereto (all of such real property, leases, rights, and appurtenances being hereinafter collectively referred to as the "Property"), for the consideration and upon the terms and conditions hereinafter set forth.

## ARTICLE II

### PURCHASE PRICE

#### Amount of Purchase Price

2.01. The purchase price (herein called the "Purchase Price") for said Property shall be the sum of SIXTY THREE THOUSAND NINE HUNDRED FIFTY DOLLARS AND NO CENTS (\$63,950.00).

#### Deposit

2.02. Purchaser shall deposit with Harrison Sale McCloy, Chtd. the sum of Five Thousand Dollars (\$5,000.00) as an Escrow Deposit that shall be credited to the Purchaser at Closing.

#### Payment of Purchase Price

2.03. Purchaser shall pay at Closing the sum of Fifty Eight Thousand Nine Hundred Fifty Dollars and no Cents (\$58,950.00) in cash or certified funds.

## ARTICLE III

### PURCHASER'S OBLIGATIONS

#### Conditions to Purchaser's Obligations

3.01. The obligation of Purchaser hereunder to consummate the transaction contemplated hereby is subject to the satisfaction of each of the following conditions (any of which may be waived in whole or in part by Purchaser at or prior to the closing):

#### Title Commitment

3.02. Five (5) days prior to Closing, Purchaser shall secure, at Purchaser's expense, a title insurance commitment (A Title Commitment). The Title Commitment shall commit to issue to Purchaser an owner's title insurance policy in an amount equal to the total Purchase Price of the

Property upon recording of the deed hereinafter called for, free and clear of all liens and encumbrances except the standard exceptions or qualification usually printed in the title insurer's commitment form and permitted exceptions identified herein. Purchaser shall have five (5) days from the date of receiving the Title Commitment to examine same and, if the title is found to be defective, Purchaser shall, within (2) days, notify Seller in writing specifying the defects and Seller shall have thirty (30) days from receipt of notice within which to cure said defects. If Seller is unsuccessful in removing the defects within that time to the reasonable satisfaction of Purchaser, Purchaser shall have the option of either (i) accepting title as it then is, including the title defect, or (ii) terminating this Contract whereupon Purchaser and Seller shall be released for all obligations under the Contract. Seller agrees that it will in good faith use due diligence to correct the title defect within the time provided.

#### Access and Inspection Rights

3.03. Purchaser may, prior to the Closing Date, personally or through its employees, representatives and consultants, make such inspections, tests and investigations of the Property (including, without limitation, environmental inspections, borings and physical samplings) as Purchaser deems necessary or desirable, and Seller shall cooperate fully in such inspections, tests, investigations and examinations and shall instruct its employees, representatives and agents to cooperate fully. Such inspections, tests, investigations and examinations shall be done at reasonable times and under reasonable circumstances.

Furthermore, from and during this Contract, Purchaser shall have the right to enter upon the Property for purposes of conducting any such inspections, tests, and investigations of the Property as Purchaser deems necessary or desirable and such right in Purchaser shall extend to Purchaser's

agents, representatives, consultants, and contractors. Any damage to the Property or improvements caused by any such entry, inspections, tests, or investigations shall be repaired immediately by Purchaser. Purchaser shall indemnify Seller and hold Seller harmless from and in respect of any loss, costs, damage or expense as a result of any claim asserted against Seller arising out of such entry, inspections, tests or investigations.

Buyer understands that it is purchasing the Property in As-is, where-is condition and that no stated or implied representations or warranties of any nature whatsoever have been made by the Seller pertaining to the size, shape, location or condition of the Property, or pertaining to the site, environmental matters, toxic waste, radon gas, etc.

#### **ARTICLE IV**

#### **CLOSING**

4.01. The Closing shall be at the offices of Harrison Sale McCloy, 304 Magnolia Avenue, Panama City, Florida, on or before [give 90 days from Council approval ], unless the parties agree in writing to another date and place for Closing.

4.02. Real property taxes, water rates and sewer charges, and rents, if any, shall be prorated and adjusted on the basis of thirty (30) days of each month, Seller to have the last day, to the date of Closing. Taxes for all prior years shall be paid by Seller. If the Closing shall occur before the tax rate is fixed for the then-current year, the apportionment of taxes shall be upon the basis of the tax rate for the preceding year applied to the latest assessed valuation, with the proration to be adjusted between the parties based on actual taxes for the year in which Closing occurs at the time such actual taxes are determined. Assessments, either general or special, for improvements completed prior to

the date of Closing, whether matured or unmatured, shall be paid in full by Seller. All other assessments shall be paid by Purchaser.

4.03. At the Closing, Seller shall:

(a) Deliver to Purchaser a duly executed and acknowledged special warranty deed conveying good and marketable title in fee simple to all of the Property, free and clear of any and all liens, encumbrances, conditions, easements, assessments, and restrictions, other than the mortgage and liens in favor of The Bank which Seller shall discharge or release prior to Closing.

(b) Deliver to Purchaser an Affidavit of Non-Foreign Status of Seller executed by Seller.

(c) Deliver to Purchaser and the Closing Agent affidavits by knowledgeable persons that there are no liens and encumbrances, existing or contingent, against the Property.

(d) Deliver to Purchaser possession of the Property.

4.04. At the Closing, Purchaser shall:

(a) Deliver to Seller the cash portion of the Purchase Price.

4.05. Each party shall pay any attorney's fees incurred by such party. Purchaser shall pay for the following: documentary tax stamps affixed to the Deed; the cost of the Title Insurance Policy and related charges for examination, search and closing; and the cost of recording the Deed. All other costs and expenses of Closing the sale and purchase and loans shall be borne and paid by the party requesting the item or service.

## **ARTICLE V**

### **LEGISLATIVE ACTION**

5.01. This agreement and purchase is wholly contingent upon the Panama City Beach City Council voting to approve this Contract on or before [ ]. If the decision is "yes," this Contract shall continue in full force and effect. If the decision is "no," this Contract shall terminate and neither party shall have any further obligations hereunder.

## **ARTICLE VI**

### **BREACH BY SELLER**

6.01. If Seller fails or refuses to comply fully with the terms of this Contract, because of failure to clear title, as outlined in Paragraph 3.02 contained herein, to Property or for any other cause other than Purchaser's default, Purchaser may, at its option, (a) rescind this Contract and recover from Seller the Deposit, or (b) proceed with this Contract and take the Property as-is, or (c) pursue a suit for specific performance.

## **ARTICLE VII**

### **BREACH BY PURCHASER**

7.01. If Purchaser shall default in the performance of any of the terms and conditions of this Contract, or if the Closing shall not occur through the fault of Purchaser, Seller may, as its sole remedy, retain the Deposit as liquidated damages, and this Contract shall be cancelled.



**ARTICLE VIII**

**MISCELLANEOUS**

Survival of Covenants

(a) The terms of this Agreement shall merge into the closing documents, notably, the deed, and shall not survive the Closing.

Notice

(b) Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to the Seller or the Purchaser, as the case may be, at the addresses set forth herein below:

IF TO SELLER:

Steve Emmett, President  
10511 Front Beach Road  
P.O. Box 9622  
Panama City Beach, Florida 32417

IF TO PURCHASER:

Mario Gisbert, City Manager  
John Alaghemand, CRA Manager  
City of Panama City Beach  
110 South Arnold Road  
Panama City Beach, Florida 32407

With Copy To:

Amy E. Myers, Esquire  
Harrison Sale McCloy  
304 Magnolia Avenue  
Post Office Box 1579  
Panama City, Florida 32402

Governing Law and Jurisdiction

(c) This Contract shall be construed and enforced in accordance with the laws of the State of Florida.

Parties Bound

(d) This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Contract.

Legal Construction

(e) In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Integration

(f) This Contract constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter. This Contract cannot be modified or changed except by the written consent of all of the parties.

Time of Essence

(g) Time is of the essence of this Contract. All times calculated in days hereunder shall be calendar days.

Attorney's Fees

(h) Any party to this Contract which is the prevailing party in any legal proceeding against any other party to this Contract brought under or with relation to this Contract or transaction shall be additionally entitled to recover court costs and reasonable attorneys' fees from the non-prevailing party.

Gender and Number

(i) Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.


Date of Contract

(j) The term "date of this Contract" as used herein shall mean the latest of the dates on which this Contract is fully signed by Seller or Purchaser, as indicated by their signatures below, which latest date shall be the date of final execution and agreement by the parties.

Executed on the dates set forth at the signatures of the parties hereto.

DATED as to Seller this 25 day of NOVEMBER, 2014.

Witnesses

  
\_\_\_\_\_  
Sathemallu

**SELLER:**  
**LONG BEACH RESORT COMMUNITY ASSOCIATION, INC.**

  
\_\_\_\_\_  
Steve Emmett, President

DATED as to Purchaser this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

**PURCHASER:**  
**PANAMA CITY BEACH, FLORIDA**

\_\_\_\_\_  
Holly J. White, City Clerk

By: \_\_\_\_\_  
Mario Gisbert, City Manager

## EXHIBIT A

### Legal Description:

#### DESCRIPTION: NEW PARCEL 63A

Commence at the Southerly most corner on the Southeasterly boundary line of Lot 1, First Addition to Long Beach as per plat recorded in Plat Book 2 page 21 of the Public Records of Bay County, Florida and thence run North 34 degrees 24 minutes 23 seconds East, along the Southeasterly boundary line of said Lot 1 and the projection thereof, 236.21 feet to a point on the Southerly right of way line of Front Beach Road (State Road 30), said point being on a curve concave to the Northeast, thence run in a Southeasterly direction along said Southerly right of way line and curve having a radius of 4616.75 feet, through a central angle of 06 degrees 54 minutes 52 seconds for an arc length of 557.15 feet, chord of said arc being South 70 degrees 54 minutes 54 seconds East 556.81 feet to a point, thence run South 70 degrees 06 minutes 34 seconds East, along said Southerly right of way line, 171.08 feet to a point, thence run South 74 degrees 54 minutes 20 seconds East, along said Southerly right of way line, 159.04 feet to an iron rod, thence run North 11 degrees 25 minutes 49 seconds East, along said Southerly right of way line, 23.59 feet to a nail & disc, said nail and disc being on a curve concave to the Northeast, thence run in a Southeasterly direction along said Southerly right of way line and curve having a radius of 4616.75 feet, through a central angle of 00 degrees 31 minutes 15 seconds for an arc length of 41.96 feet, chord of said arc being South 78 degrees 49 minutes 48 seconds East 41.95 feet to a spike nail marking the Northwest corner of the Long Beach Resort Management, LLP property as described in Official Record Book 2072 page 1139 of said Public Records, thence continue in a Southeasterly direction along said Southerly right of way line and curve having a radius of 4616.75 feet, through a central angle of 00 degrees 54 minutes 03 seconds for an arc length of 72.59 feet, chord of said arc being South 79 degrees 32 minutes 27 seconds East 72.59 feet to the Northeast corner of said Long Beach Resort Management, LLP property for the POINT OF BEGINNING, thence from said Point of Beginning continue in a Southeasterly direction along said Southerly right of way line and curve having a radius of 4616.75 feet, through a central angle of 00 degrees 40 minutes 27 seconds for an arc length of 54.31 feet, chord of said arc being South 80 degrees 19 minutes 42 seconds East 54.31 feet to a point, thence departing said Southerly right of way line run South 77 degrees 33 minutes 28 seconds West 45.31 feet to a x cut in concrete, said x cut being on a curve concave to the Northeast, thence run in a Northwesterly direction along said curve having a radius of 4633.75 feet, through a central angle of 00 degrees 07 minutes 08 seconds for an arc length of 9.60 feet, chord of said arc being North 80 degrees 05 minutes 09 seconds West 9.60 feet to an iron rod on the East boundary line of said Long Beach Resort Management, LLP property, thence run North 00 degrees 32 minutes 31 seconds East, along said East boundary line, 17.23 feet to the Point of Beginning.

#### DESCRIPTION: NEW PARCEL 63B

Commence at the Southerly most corner on the Southeasterly boundary line of Lot 1, First Addition to Long Beach as per plat recorded in Plat Book 2 page 21 of the Public Records of Bay County, Florida and thence run North 34 degrees 24 minutes 23 seconds East, along the Southeasterly boundary line of said Lot 1 and the projection thereof, 236.21 feet to a point on the Southerly right of way line of Front Beach Road (State Road 30) said point being on a curve concave to the Northeast, thence run in a Southeasterly direction along said Southerly right of way line and curve having a radius of 4616.75 feet, through a central angle of 06 degrees 54 minutes 52 seconds for an arc length of 557.15 feet, chord of said arc being South 70 degrees 54 minutes 34 seconds East 556.81 feet to a point, thence run South 70 degrees 06 minutes 34 seconds East, along said Southerly right of way line, 171.08 feet to a point, thence run South 74 degrees 54 minutes 20 seconds East, along said Southerly right of way line, 169.04 feet to an iron rod, thence run North 11 degrees 25 minutes 49 seconds East, along said Southerly right of way line, 11.59 feet to a nail & disc on the Southerly right of way line of said Front Beach Road (State Road 30) for the POINT OF BEGINNING, thence from said Point of Beginning continue North 11 degrees 25 minutes 49 seconds East, along said Southerly right of way line, 12.0 feet to a nail & disc, said nail & disc being on a curve concave to the Northeast, thence run in a Southeasterly direction along said Southerly right of way line and curve having a radius of 4616.75 feet, through a central angle of 00 degrees 31 minutes 15 seconds for an arc length of 41.96 feet, chord of said arc being South 78 degrees 49 minutes 48 seconds East 41.96 feet to a spike nail marking the Northwest corner of the Long Beach Resort Management, LLP property as described in Official Records Book 2072 page 1139 of said Public Records, thence departing said Southerly right of way line run in a Southwesterly direction along a curve having a radius of 137.33 feet, through a central angle of 05 degrees 03 minutes 04 seconds for an arc length

of 12.11 feet, chord of said arc being South 18 degrees 24 minutes 19 seconds West 12.10 feet to an iron rod said iron rod being on a curve concave to the Northeast, thence run in a Northwesterly direction along said curve having a radius of 4628.75 feet, through a central angle of 00 degrees 30 minutes 04 seconds for an arc length of 40.49 feet, chord of said arc being North 78 degrees 49 minutes 13 seconds West 40.49 feet to the Point of Beginning.

