

**BEFORE THE
FLORIDA HOUSING FINANCE CORPORATION**

**HOUSTON STREET MANOR
LIMITED PARTNERSHIP,**

Petitioner,

vs.

**FLORIDA HOUSING FINANCE
CORPORATION,**

Respondent.

_____ /

**FHFC Case No. 2015-024BP
FHFC RFA No. 2014-115
Petitioner's Application No. 2015-119C**

MOTION FOR ENTRY OF FINAL ORDER OF DISMISSAL

POWERS AVENUE SENIOR APARTMENTS, LTD. d/b/a PINE GROVE SENIOR APARTMENTS ("Pine Grove Senior"), by and through its undersigned attorneys, and pursuant to Florida Administrative Code Rules 28-106.204 and 28-106.303, hereby moves for the entry of a Final Order of Dismissal of the Formal Written Protest and Petition for Formal Administrative Proceedings filed by HOUSTON STREET MANOR LIMITED PARTNERSHIP ("Houston Street Manor"), and as grounds therefore would show:

1. The above-styled cause involves a challenge by Houston Street Manor to a recommendation by FLORIDA HOUSING FINANCE CORPORATION ("Florida Housing") to award low income housing tax credits to Pine Grove Senior as applied for in Application No. 2015-164C.

2. Pursuant to Florida Administrative Code Rule 67-60.009, this proceeding is treated as a competitive solicitation protest and is governed by Section 120.57(3), Florida Statutes and Florida Administrative Code Chapter 28-110.

3. There is a threshold issue that must be met by Houston Street Manor in this case. The mere submission of an application in response to a Florida Housing Request for Applications does not give a bidder standing to challenge the approval of another application or the denial of its own. Instead, in order to demonstrate a sufficient “substantial interest,” the protestor must demonstrate that, but for the alleged error, that protestor would have been the winner. *Preston Carroll Company, Inc. v. Florida Keys Aqueduct Authority*, 400 So. 2d 524 (Fla. 3rd DCA 1981); *Intercontinental Properties, Inc. v. State, Dept. of Health & Rehab Services*, 606 So. 2d 380 (Fla. 3rd DCA 1992). If the petitioner does not demonstrate standing, the allegations regarding any defects in the winning bidder’s proposal need not be reached. *Hemophilia Health Services, Inc. v. AHCA*, DOAH Case No. 05-2804BID (F.O. January 17, 2006)¹; *Little Havana Activities and Nutrition Centers of Dade County, Inc. v. AHCA*, DOAH Case No. 13-0706BID (F.O. June 7, 2013).²

4. In this case, there is no disputed issue of material fact. Based on the clear terms of Request for Applications No. 2014-115 (hereafter “the RFA”) and the documents attached to Application No. 2015-119C by Houston Street Manor, its bid is not eligible for funding and it therefore lacks standing to proceed. As such, this matter should be dismissed by Florida Housing without referral to the Florida Division of Administrative Hearings.³

5. In order to be eligible for funding, the applicant must demonstrate “site control.” Failure to have site control as required by the RFA is fatal to the application. Site control can be demonstrated via an “eligible contract,” “deed” or “lease.” The RFA provides on page 31:

¹ The Recommended Order is found at 2005 WL 3733800.

² The Recommended Order is found at 2013 WL 2152012.

³ While investigation is still ongoing, there may be additional reasons that Houston Street Manor’s proposal is not eligible for funding beyond those stated in this Motion. This Motion is based only on the items on which there is currently no disputed issue of material fact. Should this Motion be denied, Pine Grove Senior reserves its right to raise additional defects in the Houston Street Manor Application.

8. Site Control:

The Applicant must demonstrate site control by providing, as Attachment 14 to Exhibit A, the documentation required in Items a., b., and/or c., as indicated below. If the proposed Development consists of Scattered Sites, site control must be demonstrated for all of the Scattered Sites.

a. Eligible Contract - For purposes of the RFA, an eligible contract is one that has a term that does not expire before July 31, 2015 or that contains extension options exercisable by the purchaser and conditioned solely upon payment of additional monies which, if exercised, would extend the term to a date that is not earlier than July 31, 2015; specifically states that the buyer's remedy for default on the part of the seller includes or is specific performance; and the buyer **MUST** be the Applicant unless an assignment of the eligible contract which assigns all of the buyer's rights, title and interests in the eligible contract to the Applicant, is provided. If the owner of the subject property is not a party to the eligible contract, all documents evidencing intermediate contracts, agreements, assignments, options, or conveyances of any kind between or among the owner, the Applicant, or other parties, must be provided, and, if a contract, must contain the following elements of an eligible contract: (i) have a term that does not expire before July 31, 2015 or contain extension options exercisable by the purchaser and conditioned solely upon payment of additional monies which, if exercised, would extend the term to a date that is not earlier than July 31, 2015, and (ii) specifically state that the buyer's remedy for default on the part of the seller includes or is specific performance.

b. Deed or Certificate of Title – The deed or certificate of title (in the event the property was acquired through foreclosure) must be recorded in the county in which the property is located and show the Applicant as the sole Grantee.

c. Lease - The lease must have an unexpired term of at least 50 years from the Application Deadline and the lessee must be the Applicant. If the owner of the subject property is not a party to the lease, all documents evidencing intermediate leases, subleases, assignments, or agreements of any kind between or among the owner, the lessor, or any sublessee, assignor, assignee, and the Applicant, or other parties, must be provided, and if a lease, must have an unexpired term of at least 50 years from the Application Deadline. (emphasis added)

6. The Houston Street Manor project is to be located on 0.59 acres of land. This property is currently divided into two even smaller contiguous parcels owned by two separate parties. Both contracts are included as Attachment 14 to the Houston Street Manor application.⁴ On their face, these contracts demonstrate that Houston Street Manor lacks adequate site control.

7. The project pro forma lists the total land cost at \$1,725,000. One of the two parcels of property is 0.09 acres owned by Keshher Investments, LLC and its current purchase price is \$750,000. The reason it is the “current” purchase price is that, according to the contract, the property is still for sale. Paragraph 18 of the contract provides:

18. RIGHT OF FIRST REFUSAL. It is understood that Purchaser is planning to apply for housing tax credits from the FHFC. Seller shall continue to market the property until FHFC approved or denies Purchasers application for tax credits, bonds or other similar financing. If any other written purchase offer for Property is submitted and deemed acceptable to Seller, the offer shall be presented to Purchaser and Purchaser shall have ten (10) days in which to match the terms of written offer or terminate this Agreement and receive a full refund of the Deposit and neither party shall have any further obligations under this Agreement. Only exception to this First Right of Refusal is if such submitted written offer is from an entity that would be a competitor for FHFC tax credits, bonds or other type of similar financing then that offer will be deemed unacceptable.

8. The other parcel is owned by Downtown Station LLC. It is 0.50 acres and its current price is \$975,000. However, according to paragraph 17(h) of the contract, it is also still for sale:

(h) Continued Marketing/Right of First Refusal. It is agreed that Seller herein, shall continue to market the subject Property and entertain any and all offers to purchase the said Property by others. Should Seller receive an offer to purchase the subject property from any other person or entity, with terms and conditions acceptable to Seller, Seller shall provide Purchaser herein notice of same. Purchaser shall have ten (10) days from notice of the foregoing that it wishes to purchase the subject property on the

⁴ Attachment 14 is attached hereto.

same terms and conditions as offered by another buyer. If Purchaser herein does not agree to purchase the subject property in accordance with said terms and conditions, then Seller shall have the right to proceed to sell the subject property to the subsequent buyer and this Agreement shall be null and void, at which time any and all deposits placed by Purchaser herein shall be returned to Purchaser.

9. An applicant cannot be said to have “site control” when the property is still for sale. While the applicant may have a right of first refusal, at a minimum, the exercise of that right is likely to cost more money than is reflected in the contract and in the pro formas in the application. Further, there could be other conditions that would have to be met in order to exercise that right. Control of the property cannot be said to be “conditioned solely on the payment of additional monies” and it certainly cannot be said to be conditioned solely on payment of the monies reflected in the contracts or otherwise in the application.

10. Because Houston Street Manor did not have proper site control when it filed its application, its application is not eligible for funding. Because it is not eligible for funding, Houston Street Manor does not have standing. There are no disputed issues of material fact in this regard.

WHEREFORE, Powers Avenue Senior Apartments, Ltd. d/b/a Pine Grove Senior Apartments respectfully requests that a Final Order be entered dismissing the Formal Written Protest and Petition for Formal Administrative Proceedings by Houston Street Manor Limited Partnership.

DATED this 1st day of June, 2015.



MICHAEL J. GLAZER
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Tallahassee, Florida 32301
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Attorneys for Powers Avenue Senior Apartments,
Ltd. d/b/a Pine Grove Senior Apartments

CERTIFICATE OF SERVICE

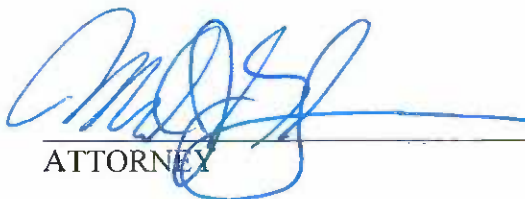
I HEREBY CERTIFY that the original of the foregoing has been furnished by Hand Delivery to Kate Flemming, Agency Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301 (kate.flemming@floridahousing.org); and copies have been furnished to the following this 1st day of June, 2015.

Hugh R. Brown, General Counsel
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329
Hugh.brown@floridahousing.org

Hand Deliver and Electronic Mail

M. Christopher Bryant
Oertel, Fernandez, Bryant & Atkinson, P.A.
P. O. Box 1110
Tallahassee, FL 32303-1110
cbryant@ohfc.com

Electronic Mail



ATTORNEY

Attachment 14

Site Control:

The Applicant must demonstrate site control by providing the documentation required as indicated below. If the proposed Development consists of Scattered Sites, site control must be demonstrated for all of the Scattered Sites.

Eligible Contract - For purposes of the RFA, an eligible contract is one that has a term that does not expire before July 31, 2015 or that contains extension options exercisable by the purchaser and conditioned solely upon payment of additional monies which, if exercised, would extend the term to a date that is not earlier than July 31, 2015; specifically states that the buyer's remedy for default on the part of the seller includes or is specific performance; and the buyer **MUST** be the Applicant unless an assignment of the eligible contract which assigns all of the buyer's rights, title and interests in the eligible contract to the Applicant, is provided. If the owner of the subject property is not a party to the eligible contract, all documents evidencing intermediate contracts, agreements, assignments, options, or conveyances of any kind between or among the owner, the Applicant, or other parties, must be provided, and, if a contract, must contain the following elements of an eligible contract:

- (i) have a term that does not expire before July 31, 2015 or contain extension options exercisable by the purchaser and conditioned solely upon payment of additional monies which, if exercised, would extend the term to a date that is not earlier than July 31, 2015, and
- (ii) specifically state that the buyer's remedy for default on the part of the seller includes or is specific performance.

Deed or Certificate of Title – The deed or certificate of title (in the event the property was acquired through foreclosure) must be recorded in the county in which the property is located and show the Applicant as the sole Grantee.

Lease - The lease must have an unexpired term of at least 50 years from the Application Deadline and the lessee must be the Applicant. If the owner of the subject property is not a party to the lease, all documents evidencing intermediate leases, subleases, assignments, or agreements of any kind between or among the owner, the lessor, or any sublessee, assignor, assignee, and the Applicant, or other parties, must be provided, and if a lease, must have an unexpired term of at least 50 years from the Application Deadline.

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment") is made as of the 19th day of November, 2014, between BENEFICIAL DEVELOPMENT 14 LLC, a Florida limited liability company ("Assignor"), and HOUSTON STREET MANOR LIMITED PARTNERSHIP, a Florida limited partnership ("Assignee"), upon the following terms and conditions:

A. Assignor, as Purchaser, entered into a Real Estate Purchase Agreement with Keshher Investments, LLC, a limited liability company ("Seller"), dated November 16, 2014 ("Contract"), for the sale and purchase of the real property described in the Contract ("Property").

B. Assignor desires to assign the Contract to Assignee, and Assignee desires to accept and assume the Contract.

NOW, THEREFORE, for valuable consideration paid, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Assignor assigns to Assignee all of Assignor's rights, title and interest in and to the Contract and the Property.

2. Assignor represents and warrants that (a) the Contract is in full force and effect, (b) the Contract has not been modified or amended, (c) Assignor has paid all sums required by the Contract to be paid by Assignor, and Assignor is not otherwise in default of any obligations under the Contract, (d) Assignor has no setoffs or claims against Seller arising out of the Contract and (e) there are no existing defaults by Seller under the Contract.

3. Assignee assumes and agrees to pay and perform all of Purchaser's duties, obligations, liabilities and responsibilities hereunder from and after the date of this Assignment, and Assignee agrees to indemnify and hold harmless Assignor from any and all claims, damages, losses and expenses that may arise out of, or in respect of, the Contract, from and after this date.

WITNESS the execution hereof as of the date first written above.

ASSIGNOR:

BENEFICIAL DEVELOPMENT 14 LLC,
a Florida limited liability company

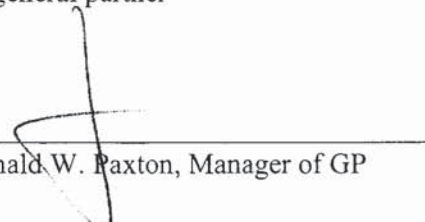
By: 

Name: Donald W. Paxton
Title: Manager
Date: November 19th, 2014

ASSIGNEE:

**HOUSTON STREET MANOR
LIMITED PARTNERSHIP,** a Florida limited
partnership

By: Beneficial Houston Street Manor LLC, a
Florida limited liability company
its general partner

By: 
Donald W. Paxton, Manager of GP

Date: November 19th, 2014

REAL ESTATE PURCHASE AGREEMENT

This real estate purchase agreement (the "Agreement") is made and entered into this 16th day of November, 2014 by and between Kesher Investments, LLC whose address is 3000 Hartley Road Suite 7, Jacksonville, FL. 32257 (hereinafter referred to as "Seller") and Beneficial Development 14 LLC a Florida limited liability company or assign, whose address is 3550 South Tamiami Trail, Suite 301, Sarasota, FL 34239, (hereinafter referred to as "Purchaser"). The Seller and Purchaser may hereinafter be referred to collectively as the "Parties". This Agreement shall be effective upon execution by both the Seller and the Purchaser (the "Effective Date").

RECITALS

WHEREAS, Seller is the owner of 0.09+/- acres of land including a two story building, located in, Duval County Florida, as more particularly described on the attached Exhibit "A", hereinafter referred to as the "Real Estate", and

WHEREAS, Seller desires to sell and Purchaser desires to purchase the Real Estate on the terms and conditions hereinafter set forth.

AGREEMENT

Subject to the terms and conditions of this Agreement, and in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, Seller and Purchaser agree as follows:

1. **REAL ESTATE, PROPERTY.** Subject to the terms and conditions set forth below, Seller shall sell and convey to Purchaser and Purchaser shall purchase from Seller the Real Estate, together with any and all easements, rights-of-way, privileges, benefits, contract rights, development rights, permits, licenses or approvals, improvements, or appurtenances arising from, pertaining to or associated with said real property (collectively, the "Property").

2. **PRICE AND PAYMENT.** The purchase price of the Real Estate shall be in the amount of Seven Hundred Fifty Thousand Dollars (\$750,000.00):

a. Upon exercise of the Agreement, the Purchaser shall pay an earnest money deposit of Two Thousand Five Hundred Dollars (\$2,500) by cash or check within ten business days of the Effective Date of this Agreement (the "Deposit") to the Escrow Agent, which term shall hereafter include all additional sums paid by Purchaser as additional Deposits under this Agreement. The Deposit shall be held by the Escrow Agent, and shall be refundable for any reason during the Due Diligence Period. Such deposit shall be applicable to the purchase price. Upon Florida Housing Finance Cooperation Board Recommendations, if Purchaser elects to proceed, a second deposit shall be deposited in the amount of Ten Thousand Dollars (\$10,000) with the Escrow Agent. All deposits are applicable to Purchase Price.

c. The Purchaser shall pay the balance of the purchase price in cash, less any Deposits, by wire transfer of funds at the time of the Closing as provided in Paragraph 5.

The Deposits paid pursuant to this Agreement shall be deposited with Broad and Cassel as agent ("Escrow Agent") and released to the Seller as provided herein, which shall be applied to the Purchase Price at closing. The Escrow Agent upon termination of Agreement in accordance with terms hereof shall not require Seller's or Purchaser's signature in order to release the escrowed funds. Purchaser shall be entitled to any interest earned on the escrowed funds. The Escrow Agent shall serve without compensation for its services, and shall exercise its duties in accordance with the terms of this Agreement and in good faith, but under no circumstances shall it be held liable to Seller or Purchaser except for acts constituting gross neglect of duty or dishonesty. Upon delivery of the escrowed funds in accordance with the terms of this Agreement, its duties as Escrow Agent shall terminate.

3. **TITLE CONVEYANCE AND SURVEY.** Seller shall convey title to the Real Estate by general warranty deed at closing. Said deed shall convey marketable title in fee simple absolute, with release of dower, subject only to real estate taxes not then delinquent and easements and restrictions of record that do not unreasonably interfere with Purchaser's proposed development. As of the date hereof, Purchaser has not examined the title to the Real Estate. At least thirty (30) days prior to closing, Purchaser shall obtain an ALTA Owner's Title Insurance Commitment (the "Commitment") and a UCC-11 search, which will commit to insure title to the Real Estate in accordance with the previous sentence and shall furnish a copy to Seller. If such Commitment discloses any title defects or other matter which, in Purchaser's sole judgment, interferes with Purchaser's intended use of the Real Estate, or which renders the title unmarketable, then, prior to closing, Purchaser shall provide written notice of objection thereto to Seller. In such event, if Seller is unable to or does not elect to remedy any such title defects or other such matter of title at Seller's sole cost and expense on or prior to the closing date, then Purchaser at its election, may either acquire the Real Estate subject to the effect of the same or terminate this Agreement without further liability to either party, and the deposit shall be returned by the Escrow Agent to Purchaser. Purchaser shall, at the closing, pay for the cost of issuance of an ALTA Title Insurance Policy to Purchaser in the amount of the purchase price. Possession of the Real Estate shall be delivered to Purchaser at closing. During the term of this Agreement, Seller shall not convey any interest in the Real Estate without the prior written approval of Purchaser.

Purchaser at its own expense will obtain survey of the Real Estate that is prepared by a registered surveyor, prior to closing. The legal description prepared from this survey shall be used in the Seller's deed, provided that the description is approved as current, by all appropriate governmental authorities.

4. **REAL ESTATE TAXES AND ASSESSMENTS.** Real estate taxes shall be prorated as of the date of the closing, based upon the amount of the most recent available real estate tax bills. Seller shall be responsible for any real estate taxes that are recouped or recaptured as the result of Purchaser's proposed development of the Real Estate. Seller shall also be responsible for all assessments against the Real Estate (whether recorded or in the process of

being certified) as of the date of the closing including any deferred sewer or water tap-in fees. All delinquent real estate and personal property taxes and any amounts owing on the lien of any general or special assessments shall be paid by Seller at the time of Closing. If the amount of the real estate taxes prorated at the closing differs from the amount of the actual real estate taxes for the tax period in question by more than ten percent (10%), the Parties will re-prorate based on the actual tax bill and credit the appropriate party within thirty (30) days after receipt of such tax bill. Seller shall be responsible for all conveyance fees and other "taxes" associated with the conveyance of the Real Estate.

5. CONTINGENCIES, DUE DILIGENCE, EXTENSIONS & CLOSING.

Purchaser intends to construct certain improvements on the Real Estate. By reason thereof, it is necessary for Purchaser to make certain determinations as to the suitability of the Real Estate for Purchaser's proposed development. Therefore, the consummation of this transaction is conditioned upon:

a. **Feasibility Study.** Purchaser shall determine whether there is adequate access to the Real Estate, whether utilities are existing or will exist to serve the Real Estate, and whether soil and subsoil conditions, as well as other economic factors, will permit the efficient and economical construction of Purchaser's proposed improvements. Purchaser, in its sole discretion, shall determine the feasibility of the its intended use of the Real Estate, based upon but not limited to following: access to the Real Estate, availability of utilities adequate to serve the proposed improvements, soil and subsoil conditions, environmental conditions, water and drainage conditions, the existence of wetlands, and any other factors affecting the efficient and economic construction of the Purchaser's proposed improvements and intended use of the Real Estate.

b. **Development Plan Approval.** Purchaser shall have obtained, at its expense, from all appropriate governmental authorities and public utilities, all necessary zoning approvals, subdivision approvals and other site plan approvals for its proposed development.

c. **Title and Survey Defects.** IF, in the Purchaser's sole discretion, the Commitment, the lien search, or the survey reveal any defects affecting title to the Real Estate, the Purchaser shall provide the Seller notice of such defects as soon as practicable. The Purchaser may either waive the defects or request that the Seller correct the defects solely at the Seller's cost. If the Seller refuses to correct the defects, the Purchaser may terminate the agreement and, notwithstanding any provisions herein to the contrary, receive a full refund of any Earnest Money Deposit, any Additional Deposit and any Extension Fees.

d. **Utilities.** All utilities, including but not limited to, storm sewer, sanitary sewer, water, gas, electric and cable, will be available to the property line of the Real Estate. To Seller's knowledge, there is no fact or condition which would impair Purchaser's ability to tap-in and use said utilities for the development of the Real Estate. Purchaser shall have obtained, at its expense, any necessary utility easements from adjoining property owners on terms and conditions acceptable to Purchaser.

e. **Due Diligence Period:** Purchaser shall have until March 31st, 2015 ("Due Diligence Period") to satisfy or waive the conditions set forth in paragraphs 5(a) through 5(d)

above. Purchaser in its sole discretion shall determine whether or not a contingency has been satisfied. Upon the failure of any of the above contingencies to be satisfied within such time period, Purchaser may elect either to waive such contingencies or to terminate this Agreement. Upon notice of such termination, any deposit made by Purchaser shall be returned by the Escrow Agent in full and the Parties shall have no further obligation hereunder. If Purchaser fails to deliver notice to Seller that Purchaser is satisfied with or is waiving all of the contingencies set forth in this Paragraph 5 within the time frame set forth above, this Agreement shall automatically terminate, any deposit made by Purchaser shall be returned by the Escrow Agent in full and the Parties shall have no further obligation hereunder. Seller shall cooperate with Purchaser in obtaining the approvals required pursuant to this paragraph 5, such cooperation to include, but not be limited to, the execution by Seller of any and all documents needed by Purchaser to obtain permits and approvals. Seller hereby grants to Purchaser authority to apply for site plan approval, development plan approval, and clearing and building permits prior to the Closing, and Seller shall execute any and all documents as may be required by the appropriate governmental agency to evidence such authority.

f. **Extension Period:** Purchaser shall have the right to extend the closing for the payment of Two Thousand Five Hundred Dollars (\$2,500) per 30 day "(Extension Period)" for Four (4) Extension Periods. The extension fee(s) shall be released to Seller by the Escrow Agent immediately upon notice from Purchaser to Seller to extend the contract. Payment of extension fee(s) to be deducted from the Earnest Money Deposit. All extension fee(s) released to Seller through Escrow Agent shall be non-refundable, but applicable to the purchase price, and shall be deemed to be liquidated damages in the event this transaction does not close and is earned as such by Seller.

g. **Closing :** Closing to occur upon site plan approval and all building permits issued to the proposed multifamily project, but no later than August 31st, 2015 unless the closing date is extended.

(1.) Seller shall execute and/or deliver to Purchaser at Closing the following:

(a) A General Warranty Deed executed by Seller conveying fee simple title of the Property to Purchaser, subject only to the Permitted Exceptions.

(b) A non-foreign certificate in compliance with Section 1445 of the Internal Revenue Code;

(c) An assignment or assignments of all of Seller's right, title and interest with regard to all development rights, permits, licenses, consents, approvals, benefits soil tests, development plans, engineering plans or specification, tests, reports, studies, appraisals, analysis, or transportation capacity reservations or certificates, and similar documents or information which Seller may have in its possession and pertaining exclusively to the Property (the "Development Rights"), thereto, in form and content satisfactory and to the appropriate governmental agency or entity having jurisdiction thereof.

(d) Closing Statement; and

(e) Such other customary documents as reasonably may be reasonably required to consummate the transaction contemplated by this Contract, or which may be required by the Title Company in order to issue the Title Policy as required by the Title Commitment.

(2.) Purchaser shall have obtained financing, on terms and conditions acceptable to Purchaser, for the acquisition and development of the Real Estate.

(3.) Purchaser shall execute and/or deliver to Seller at Closing:

(a) Closing Statement;

(b) The Purchase Price, subject to credits and proration's as provided herein; and

(c) All documents required hereunder in order to consummate this Contract, and such other customary documents as reasonably may be required to consummate the transaction contemplated by this Agreement, or which may be required by the Title Company in order to issue the title policies in this Contract.

h. **Closing Expenses.** The cost of documentary stamps on the Deed and of any corrective instruments or actions shall be paid by Purchaser on or before Closing. The cost of recording the Deed, the Survey, the title insurance premium and any title search charges or other charges pertaining to the Title Commitment and the owners' title insurance policy shall be paid by the Purchaser on or before Closing. Each party shall bear and pay its own attorneys' fees and expenses.

6. **SITE INVESTIGATION AND CONDITION OF REAL ESTATE.** Seller hereby grants to Purchaser a temporary license to enter onto the Real Estate to conduct such engineering and soil testing as it deems appropriate. Purchaser shall conduct such site investigation in such a manner so as to minimize any damage to the Real Estate and, to the extent practicable, Purchaser shall promptly restore any damaged areas of the Real Estate to its condition prior to Purchaser's entry on the Real Estate. Purchaser agrees to indemnify Seller from and against any loss or damage incurred or suffered by Seller relating to any activities of Purchaser, its employees or independent contractors, on or about the Real Estate prior to the date of closing hereunder. Prior to the closing, Seller shall not make any material alterations to the Real Estate without the prior written consent of Purchaser.

Seller doesn't have any engineering reports, nor environmental reports, assessments, nor soil test, easement agreements, subdivision approvals or feasibility studies pertaining to the Real Estate.

Seller represents and warrants to Purchaser that as of the closing, the Real Estate shall be free from any and all city, county, state and federal orders affecting the Real Estate. Seller further represents and warrants to Purchaser that Seller has not received notice of any violation of any applicable federal, state or local statute, law, ordinance, order, rule or regulation or of any covenant, condition, restriction or easement affecting the Real Estate. Seller further represents

and warrants to Purchaser that, to the best of Seller's knowledge, the Real Estate is free from any and all hazardous substances and wastes, asbestos, underground storage tanks, PCB's and wet lands. Within sixty (60) days following confirmation of financing, Purchaser, at its expense, shall perform an environmental audit and wet lands assessment on the Real Estate. In the event such audit discloses the presence of hazardous substances, wastes, asbestos, underground storage tanks or PCB's, then, unless Seller agrees, within ten (10) days after Seller's receipt of notice of the results of such audit, to remove and clean up any such hazardous substances, wastes, asbestos or underground storage tanks and to pay the costs of such removal and clean up prior to the closing date, Purchaser, at its election, may either acquire the Real Estate without requiring the removal of such hazardous substances, wastes, asbestos, underground storage tanks or PCB's, or may terminate this Agreement by written notice thereof to Seller, in which case any deposit made by Purchaser shall be returned by the Escrow Agent in full and neither party shall be under any further obligation hereunder.

7. **ADDITIONAL OBLIGATIONS OF SELLER.** Not Applicable:

8. **COOPERATION AGREEMENT.** Purchaser may need a variety of exclusive and non-exclusive public and private, permanent and temporary utility, drainage, right of way, grading, access, ingress/egress and roadway easement(s) to facilitate its re-development of subject property. Seller hereby agrees to fully cooperate with Purchaser in granting and signing said easements, as needed, and/or assisting Purchaser in obtaining same from required third Parties. The cost of design, designation, and recording of those easements shall be borne by Purchaser.

9. **SELLER'S REPRESENTATIONS AND WARRANTIES.** Seller represents, warrants, and covenants to Purchaser as to the following matters, and shall be deemed to remake all of the following representations, warranties, and covenants as of the date of Closing.

a. **No Consents Necessary.** Seller has the legal right, power, capacity and authority to enter into and perform its obligations under this Agreement, and no approval or consent of any other person or entity is necessary to authorize the execution of this Agreement by Seller or the consummation by Seller of the transactions contemplated hereby. The execution and delivery of this Agreement and every other document delivered pursuant to this Agreement by Seller, and the consummation of the transactions contemplated by this Agreement have been duly authorized and validly executed and delivered by Seller.

b. **No Violations.** Seller has not received any written notice (i) of any violations by Seller or the Real Estate or any part thereof, of any law, rule, regulation, order or ordinance or (ii) from any insurance company of the existence of any material and adverse condition which requires work to be done to cure such condition with respect to the Real Estate, and Seller has no knowledge that any such notices are forthcoming or that any such conditions or violations exist.

c. **No Pending Proceedings.** The Seller represents that there is no pending or threatened, condemnation action, litigation, arbitration, administrative action or examination, claim, demand, attachment, execution or similar proceeding whatsoever, relating to the Real Estate or Seller which would adversely affect the Real Estate. Seller shall immediately notify

Purchaser of any such claim or proceeding which is made, filed, threatened or instituted by or against Seller or the Real Estate after the date of this Agreement.

d. **No Third Party Rights.** The Seller represents that no tenant or other third party has any agreement, option, or other right of first refusal, to purchase the Real Estate or any part thereof nor does any party have any occupancy rights with respect to the Real Estate.

e. **Zoning.** Seller represents that the current zoning of the Real Estate is:
CCG-2.

f. **Access.** Seller has no knowledge of any fact or condition which would result in the termination or impairment of access to the Real Estate from adjoining public or private streets or ways or which could result in discontinuation of necessary sewer, water, electric, gas, telephone, or other utilities or services. To Seller's knowledge, all sewage, sanitation, plumbing, water retention, refuse disposal, and similar facilities servicing the Real Estate are in full compliance with governmental authorities' laws, rules and regulations.

g. **Utilities.** All utilities, except sanitary sewer, but including water, gas, electric and cable, are available to the Real Estate. To Seller's knowledge, there is no fact or condition which would impair Purchaser's ability to tap-in and use said utilities for the development of the Real Estate.

h. **Assessments.** There are no public improvements which have been ordered to be made and/or which have not heretofore been assessed, and there are no special, general, or other assessments pending, or to Seller's knowledge, threatened against or affecting the Real Estate.

i. **Third Parties.** Seller has not entered into, nor is aware of, any contract, lease, lien, encumbrance, agreement or right of possession, which cannot be canceled/terminated by Purchaser within a 30-day notice or less. Nor does any Third Party have any right(s) of occupancy, unrecorded or prescriptive easement(s) or usage with respect to the subject property, at law or in equity.

j. **Survival of Warranties.** Each of the foregoing representations and warranties shall survive the Closing and any independent investigation by Purchaser.

10. **EMINENT DOMAIN.** If, prior to the closing, any proceeding shall be threatened, commenced or consummated for the taking of any part of the Real Estate for public or quasi-public use pursuant to the power of eminent domain, then Seller shall forthwith give notice thereof (the "Condemnation Notice") to Purchaser. The Condemnation Notice shall, if possible, be accompanied by a sketch of the portion of the Real Estate which will be affected by such taking, and a metes and bounds description delineating the area to be affected. If any such taking, contemplated taking or threatened taking, shall occur or be commenced, then Purchaser shall have the option to terminate this Agreement upon written notice to Seller given not later than ten (10) days after receipt of the Condemnation Notice or go forward and take an assignment of Seller's condemnation award. In the event Purchaser elects to terminate this

shall have the option to terminate this Agreement upon written notice to Seller given not later than ten (10) days after receipt of the Condemnation Notice or go forward and take an assignment of Seller's condemnation award. In the event Purchaser elects to terminate this Agreement, any deposit made by Purchaser shall be returned by the Escrow Agent in full, and neither party shall be under any further obligation hereunder.

11. DEFAULT.

I. BY PURCHASER. IF THE CLOSE OF ESCROW FAILS TO OCCUR DUE TO A DEFAULT OR BREACH BY PURCHASER OF ANY MATERIAL OBLIGATION HEREUNDER, SELLER SHALL BE ENTITLED TO RECEIVE AND RETAIN THE EARNEST MONEY DEPOSIT AS WELL AS ADDITIONAL FEES PAID TO SELLER AS FULL AND COMPLETE LIQUIDATED DAMAGES AND NEITHER PARTY SHALL BE UNDER ANY FURTHER OBLIGATION HEREUNDER. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE DAMAGES TO SELLER IN THE EVENT OF PURCHASER'S DEFAULT OR BREACH WOULD BE IMPOSSIBLE TO ACCURATELY DETERMINE, THAT PROOF OF THE AMOUNT OF SUCH DAMAGES WOULD BE COSTLY AND INCONVENIENT AND THAT SAID SUM IS FAIR AND REASONABLE IN LIGHT OF ALL OF THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, INCLUDING THE PARTIES' ESTIMATION OF THE POSSIBLE RANGE OF DAMAGES TO SELLER IN THE EVENT OF SUCH A DEFAULT OR BREACH BY PURCHASER. SUCH LIQUIDATED DAMAGES SHALL BE SELLER'S SOLE AND EXCLUSIVE REMEDY FOR PURCHASER'S DEFAULT OR BREACH. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER. SELLER AND PURCHASER EACH CONFIRM THEIR AGREEMENT TO THE FOREGOING BY INITIALING IN THE SPACE PROVIDED BELOW.

II. BY SELLER. IN THE EVENT THE SELLER SHALL DEFAULT IN THE CONSUMMATION OF THIS AGREEMENT, THE SELLER AGREES THAT THE PURCHASER SHALL HAVE ALL REMEDIES AVAILABLE AT LAW OR IN EQUITY, INCLUDING, BUT NOT LIMITED TO, SPECIFIC PERFORMANCE.

Seller's Initials



Purchaser's Initials



12. ASSIGNMENT. This Agreement may be assigned by Purchaser without the consent of Seller, provided that in the event of an assignment of this Agreement by Purchaser, Purchaser shall not be released from any of its obligations under this Agreement.

13. NOTICES. Any notices to be given hereunder shall be given by placing the notice in the United States Mail, certified or registered, properly stamped and addressed to the address shown below or such other addresses as the respective party may direct in writing to the other, by personal delivery to such address, or by facsimile transmission (with receipt of transmission) and such notice shall be deemed effective upon such placing in the mails, on the next business day following delivery to a nationally recognized overnight delivery service, upon such personal delivery, or on the date sent via facsimile (with receipt of transmission):

Seller: **Name:** **Kesher Investments LLC**
Address: **3000 Hartely Road Suite 7**
City/State: **Jacksonville, FL. 3225732246**
Attn: **Robert E. Burke CPA**
Phone: **(904) 260-3812**
Fax: _____

Email: _____

To Buyer: **Name:** **Beneficial Development 14 LLC**
Address: **3550 South Tamiami Trall, Suite 301**
City/State: **Sarasota, FL. 34239**
Attn: **Don Paxton**
Phone: **(941) 929-1270**
Fax: **(941) 929-1271**
Email: **dpaxton@beneficialcom.com**

With copy to: **Name:** **Heather Toft, ESQ**
Address: **390 North Orange Avenue Suite 1400**
City/State: **Orlando, FL. 32801**
Attn: _____

Phone: **(407) 839-4252**

Fax: **(407) 650-0966**

Email: **Htoft@BroadandCassel.com**

14. **INVALID PROVISIONS.** In the event that any one or more of the provisions contained in this Agreement are held to be 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.

15. **BROKER.** The Parties do mutually represent to each other that no brokerage commission shall be due upon the execution of this Agreement or the transfer of all or any portion of the Real Estate other than a broker's commission to be paid by Seller to Seaman Realty & Management Co., INC. at the closing. The Parties agree to hold each other harmless and indemnify each other as a result of a claim for a real estate commission asserted by any other broker as a result of any dealings with either party hereto.

16. **FORCE MAJEURE.** Neither party shall be liable for nonperformance or delay in performance due to any act of God; regulation or law of any government; riot; civil commotion; destruction of the subject Real Estate by fire, earthquake or storm; strike; labor disturbances; or the failure of any public utilities or common carriers.

17. **MISCELLANEOUS PROVISIONS.**

(a) **Successors and Assigns.** This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(b) **Amendments and Termination.** Except as otherwise provided herein, this Contract may be amended or modified by, and only by, a written instrument executed by Seller and Purchaser, acting by their respective duly authorized agents or representatives.

(c) **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Florida.

(d) **Section Headings.** The section headings inserted in this Contract are for convenience only and are intended to, and shall not be construed to, limit, enlarge or affect the scope or intent of this Contract, nor the meaning of any provision hereof.

(e) **Counterparts.** This Contract may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

(f) **Entire Understanding; Merger of Prior Agreements.** The foregoing Agreement contains the entire understanding between Seller and Purchaser relative to the subject matter hereof and no oral representations heretofore made by either party to the other shall be binding upon either of them. This Contract supersedes all prior agreements and understandings between the parties hereto relating to the subject matter hereof.

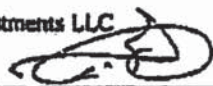
(g) **Time.** Time is of the essence of this Contract. When any time period specified herein falls or ends upon a Saturday, Sunday or legal holiday, the time period shall be automatically extended to 5:00 P.M. on the next ensuing business day.

18. **RIGHT OF FIRST REFUSAL.** It is understood that Purchaser is planning to apply for housing tax credits from the FHFC. Seller shall continue to market the property until FHFC approves or denies Purchaser's application for tax credits, bonds or other similar financing. If any other written purchase offer for Property is submitted and deemed acceptable to Seller, the offer shall be presented to Purchaser and Purchaser shall have ten (10) days in which to match the terms of written offer or terminate this Agreement and receive a full refund of the Deposit and neither party shall have any further obligations under this Agreement. Only exception to this First Right of Refusal is if such submitted written offer is from an entity that would be a competitor for FHFC tax credits, bonds or other type of similar financing then that offer will be deemed unacceptable.

IN WITNESS WHEREOF, the Parties have hereunto set their hands on the day and year below indicated.

SELLER:

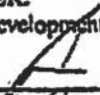
Kasher Investments LLC

By: 
Name: SHLOMO A. BATZIA
Its: MANAGER

Date: November 16, 2014

PURCHASER:

Beneficial Development 14 LLC

By: 
Name: DORI FALCON
Its: MANAGER

Date: November 14, 2014

ESCROW ACKNOWLEDGMENT

The undersigned acknowledges receipt of the Two Thousand Five Hundred & ^{no}/₁₀₀
(\$2,500.00) earnest money deposit this 25th day of November, 2014 and
agrees to hold such funds in accordance with the terms of this Agreement.

ESCROW AGENT:

BROAD AND CASSEL

By: Jeaneline V. Best
Jeaneline S. Best

Exhibit "A"
Property Description
Attached

Ex. "A"

39-2S-26E .091
LAVILLA HARTS MAP
E 36FT LOT 5, W 2.3FT OF N 100FT



ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment") is made as of the 19th day of November , 2014, between BENEFICIAL DEVELOPMENT 14 LLC, a Florida limited liability company ("Assignor"), and HOUSTON STREET MANOR LIMITED PARTNERSHIP, a Florida limited partnership ("Assignee"), upon the following terms and conditions:

A. Assignor, as Purchaser, entered into a Real Estate Purchase Agreement with Downtown Station, LLC , a limited liability company ("Seller"), dated November 17, 2014 ("Contract"), for the sale and purchase of the real property described in the Contract ("Property").

B. Assignor desires to assign the Contract to Assignee, and Assignee desires to accept and assume the Contract.

NOW, THEREFORE, for valuable consideration paid, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Assignor assigns to Assignee all of Assignor's rights, title and interest in and to the Contract and the Property.

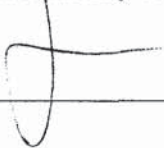
2. Assignor represents and warrants that (a) the Contract is in full force and effect, (b) the Contract has not been modified or amended, (c) Assignor has paid all sums required by the Contract to be paid by Assignor, and Assignor is not otherwise in default of any obligations under the Contract, (d) Assignor has no setoffs or claims against Seller arising out of the Contract and (e) there are no existing defaults by Seller under the Contract.

3. Assignee assumes and agrees to pay and perform all of Purchaser's duties, obligations, liabilities and responsibilities hereunder from and after the date of this Assignment, and Assignee agrees to indemnify and hold harmless Assignor from any and all claims, damages, losses and expenses that may arise out of, or in respect of, the Contract, from and after this date.

WITNESS the execution hereof as of the date first written above.

ASSIGNOR:

BENEFICIAL DEVELOPMENT 14 LLC,
a Florida limited liability company

By: _____


Name: Donald W. Paxton
Title: Manager
Date: November 19th, 2014

ASSIGNEE:

**HOUSTON STREET MANOR
LIMITED PARTNERSHIP,** a Florida limited
partnership

By: Beneficial Houston Street Manor LLC, a
Florida limited liability company
its general partner

By: _____

Donald W. Paxton, Manager of GP

Date: November 19th, 2014

REAL ESTATE PURCHASE AGREEMENT

This real estate purchase agreement (the "Agreement") is made and entered into this ¹⁷ day of November, 2014 by and between Downtown Station LLC whose address is 1837 Hendricks Ave. Jacksonville, FL. 32207 (hereinafter referred to as "Seller") and Beneficial Development 14 LLC a Florida limited liability company or assign, whose address is 3550 South Tamiami Trail, Suite 301, Sarasota, FL 34239, (hereinafter referred to as "Purchaser"). The Seller and Purchaser may hereinafter be referred to collectively as the "Parties". This Agreement shall be effective upon execution by both the Seller and the Purchaser (the "Effective Date").

RECITALS

WHEREAS, Seller is the owner of 0.50+/- acres of land, located in, Duval County Florida, as more particularly described on the attached Exhibit "A", hereinafter referred to as the "Real Estate", and

WHEREAS, Seller desires to sell and Purchaser desires to purchase the Real Estate on the terms and conditions hereinafter set forth.

AGREEMENT

Subject to the terms and conditions of this Agreement, and in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, Seller and Purchaser agree as follows:

1. **REAL ESTATE, PROPERTY.** Subject to the terms and conditions set forth below, Seller shall sell and convey to Purchaser and Purchaser shall purchase from Seller the Real Estate, together with any and all easements, rights-of-way, privileges, benefits, contract rights, development rights, permits, licenses or approvals, improvements, or appurtenances arising from, pertaining to or associated with said real property (collectively, the "Property").

2. **PRICE AND PAYMENT.** The purchase price of the Real Estate shall be in the amount of Nine Hundred Seventy Five Thousand Dollars (\$975,000.00):

a. Upon exercise of the Agreement, the Purchaser shall pay an earnest money deposit of Five Thousand Dollars (\$5,000) by cash or check within ten business days of the Effective Date of this Agreement (the "Deposit") to the Escrow Agent, which term shall hereafter include all additional sums paid by Purchaser as additional Deposits under this Agreement. The Deposit shall be held by the Escrow Agent, and shall be refundable for any reason during the Due Diligence Period. Such deposit shall be applicable to the purchase price. Upon Florida Housing Finance Cooperation Board Recommendations, if Purchaser elects to proceed, a second deposit shall be deposited in the amount of Ten Thousand Dollars (\$10,000) with the Escrow Agent. All deposits are applicable to Purchase Price.

c. The Purchaser shall pay the balance of the purchase price in cash, less any Deposits, by wire transfer of funds at the time of the Closing as provided in Paragraph 5.

The Deposits paid pursuant to this Agreement shall be deposited with Broad and Cassel as agent ("Escrow Agent") and released to the Seller as provided herein, which shall be applied to the Purchase Price at closing. The Escrow Agent upon termination of Agreement in accordance with terms hereof shall not require Seller's or Purchaser's signature in order to release the escrowed funds. Purchaser shall be entitled to any interest earned on the escrowed funds. The Escrow Agent shall serve without compensation for its services, and shall exercise its duties in accordance with the terms of this Agreement and in good faith, but under no circumstances shall it be held liable to Seller or Purchaser except for acts constituting gross neglect of duty or dishonesty. Upon delivery of the escrowed funds in accordance with the terms of this Agreement, its duties as Escrow Agent shall terminate.

3. **TITLE CONVEYANCE AND SURVEY.** Seller shall convey title to the Real Estate by general warranty deed at closing. Said deed shall convey marketable title in fee simple absolute, with release of dower, subject only to real estate taxes not then delinquent and easements and restrictions of record that do not unreasonably interfere with Purchaser's proposed development. As of the date hereof, Purchaser has not examined the title to the Real Estate. At least thirty (30) days prior to closing, Purchaser shall obtain an ALTA Owner's Title Insurance Commitment (the "Commitment") and a UCC-11 search, which will commit to insure title to the Real Estate in accordance with the previous sentence and shall furnish a copy to Seller. If such Commitment discloses any title defects or other matter which, in Purchaser's sole judgment, interferes with Purchaser's intended use of the Real Estate, or which renders the title unmarketable, then, prior to closing, Purchaser shall provide written notice of objection thereto to Seller. In such event, if Seller is unable to or does not elect to remedy any such title defects or other such matter of title at Seller's sole cost and expense on or prior to the closing date, then Purchaser at its election, may either acquire the Real Estate subject to the effect of the same or terminate this Agreement without further liability to either party, and the deposit shall be returned by the Escrow Agent to Purchaser. Purchaser shall, at the closing, pay for the cost of issuance of an ALTA Title Insurance Policy to Purchaser in the amount of the purchase price. Possession of the Real Estate shall be delivered to Purchaser at closing. If there are any buildings or other structures on the Real Estate, upon request by Purchaser, Seller shall have such buildings and/or other structures removed from the Real Estate prior to closing. During the term of this Agreement, Seller shall not convey any interest in the Real Estate without the prior written approval of Purchaser.

Within 10 days from the Effective Date of this Agreement, Seller shall, at its expense, provide a copy of an existing survey of the Real Estate to the Purchaser, prepared by a registered surveyor. The survey shall be updated by the Purchaser, at the expense of Purchaser, prior to closing. The legal description prepared from this survey shall be used in the Seller's deed, provided that the description is approved as current, by all appropriate governmental authorities.

4. **REAL ESTATE TAXES AND ASSESSMENTS.** Real estate taxes shall be prorated as of the date of the closing, based upon the amount of the most recent available real estate tax bills. Seller shall be responsible for any real estate taxes that are recouped or recaptured as the result of Purchaser's proposed development of the Real Estate. Seller shall also

be responsible for all assessments against the Real Estate (whether recorded or in the process of being certified) as of the date of the closing including any deferred sewer or water tap-in fees. All delinquent real estate and personal property taxes and any amounts owing on the lien of any general or special assessments shall be paid by Seller at the time of Closing. If the amount of the real estate taxes prorated at the closing differs from the amount of the actual real estate taxes for the tax period in question by more than ten percent (10%), the Parties will re-prorate based on the actual tax bill and credit the appropriate party within thirty (30) days after receipt of such tax bill. Seller shall be responsible for all conveyance fees and other "taxes" associated with the conveyance of the Real Estate.

5. CONTINGENCIES, DUE DILIGENCE, EXTENSIONS & CLOSING.

Purchaser intends to construct certain improvements on the Real Estate. By reason thereof, it is necessary for Purchaser to make certain determinations as to the suitability of the Real Estate for Purchaser's proposed development. Therefore, the consummation of this transaction is conditioned upon:

a. **Feasibility Study.** Purchaser shall determine whether there is adequate access to the Real Estate, whether utilities are existing or will exist to serve the Real Estate, and whether soil and subsoil conditions, as well as other economic factors, will permit the efficient and economical construction of Purchaser's proposed improvements. Purchaser, in its sole discretion, shall determine the feasibility of the its intended use of the Real Estate, based upon but not limited to following: access to the Real Estate, availability of utilities adequate to serve the proposed improvements, soil and subsoil conditions, environmental conditions, water and drainage conditions, the existence of wetlands, and any other factors affecting the efficient and economic construction of the Purchaser's proposed improvements and intended use of the Real Estate.

b. **Development Plan Approval.** Purchaser shall have obtained, at its expense, from all appropriate governmental authorities and public utilities, all necessary zoning approvals, subdivision approvals and other site plan approvals for its proposed development.

c. **Title and Survey Defects.** If, in the Purchaser's sole discretion, the Commitment, the lien search, or the survey reveal any defects affecting title to the Real Estate, the Purchaser shall provide the Seller notice of such defects as soon as practicable. The Purchaser may either waive the defects or request that the Seller correct the defects solely at the Seller's cost. If the Seller refuses to correct the defects, the Purchaser may terminate the agreement and, notwithstanding any provisions herein to the contrary, receive a full refund of any Earnest Money Deposit, any Additional Deposit and any Extension Fees.

d. **Utilities.** All utilities, including but not limited to, storm sewer, sanitary sewer, water, gas, electric and cable, will be available to the property line of the Real Estate. To Seller's knowledge, there is no fact or condition which would impair Purchaser's ability to tap-in and use said utilities for the development of the Real Estate. Purchaser shall have obtained, at its expense, any necessary utility easements from adjoining property owners on terms and conditions acceptable to Purchaser.

e. **Due Diligence Period:** Purchaser shall have until March 31st 2015 ("Due Diligence Period") to satisfy or waive the conditions set forth in paragraphs 5(a) through 5(d) above. Purchaser in its sole discretion shall determine whether or not a contingency has been satisfied. Upon the failure of any of the above contingencies to be satisfied within such time period, Purchaser may elect either to waive such contingencies or to terminate this Agreement. Upon notice of such termination, any deposit made by Purchaser shall be returned by the Escrow Agent in full and the Parties shall have no further obligation hereunder. If Purchaser fails to deliver notice to Seller that Purchaser is satisfied with or is waiving all of the contingencies set forth in this Paragraph 5 within the time frame set forth above, this Agreement shall automatically terminate, any deposit made by Purchaser shall be returned by the Escrow Agent in full and the Parties shall have no further obligation hereunder. Seller shall cooperate with Purchaser in obtaining the approvals required pursuant to this paragraph 5, such cooperation to include, but not be limited to, the execution by Seller of any and all documents needed by Purchaser to obtain permits and approvals. Seller hereby grants to Purchaser authority to apply for site plan approval, development plan approval, and clearing and building permits prior to the Closing, and Seller shall execute any and all documents as may be required by the appropriate governmental agency to evidence such authority.

f. **Extension Period:** Purchaser shall have the right to extend the closing for the payment of Two Thousand Five Hundred Dollars (\$2,500) per 30 day "(Extension Period)" for Four (4) Extension Periods. The extension fee(s) shall be released to Seller by the Escrow Agent immediately upon notice from Purchaser to Seller to extend the contract. Payment of extension fee(s) to be deducted from the Earnest Money Deposit. All extension fee(s) released to Seller through Escrow Agent shall be non-refundable, but applicable to the purchase price, and shall be deemed to be liquidated damages in the event this transaction does not close and is earned as such by Seller.

g. **Closing :** Closing to occur upon site plan approval and all building permits issued to the proposed multifamily project, but no later than August 31st, 2015 unless the closing date is extended.

(1.) Seller shall execute and/or deliver to Purchaser at Closing the following:

(a) A General Warranty Deed executed by Seller conveying fee simple title of the Property to Purchaser, subject only to the Permitted Exceptions.

(b) A non-foreign certificate in compliance with Section 1445 of the Internal Review Code;

(c) An assignment or assignments of all of Seller's right, title and interest with regard to all development rights, permits, licenses, consents, approvals, benefits soil tests, development plans, engineering plans or specification, tests, reports, studies, appraisals, analysis, or transportation capacity reservations or certificates, and similar documents or information which Seller may have in its possession and pertaining exclusively to the Property (the "Development Rights"), thereto, in form and content satisfactory and to the appropriate governmental agency or entity having jurisdiction thereof.

(d) Closing Statement; and

(e) Such other customary documents as reasonably may be reasonably required to consummate the transaction contemplated by this Contract, or which may be required by the Title Company in order to issue the Title Policy as required by the Title Commitment.

(2.) Purchaser shall have obtained financing, on terms and conditions acceptable to Purchaser, for the acquisition and development of the Real Estate.

(3.) Purchaser shall execute and/or deliver to Seller at Closing:

(a) Closing Statement;

(b) The Purchase Price, subject to credits and proration's as provided herein; and

(c) All documents required hereunder in order to consummate this Contract, and such other customary documents as reasonably may be required to consummate the transaction contemplated by this Agreement, or which may be required by the Title Company in order to issue the title policies in this Contract.

h. **Closing Expenses.** The cost of documentary stamps on the Deed and of any corrective instruments or actions shall be paid by Purchaser on or before Closing. The cost of recording the Deed, the Survey, the title insurance premium and any title search charges or other charges pertaining to the Title Commitment and the owners' title insurance policy shall be paid by the Purchaser on or before Closing. Each party shall bear and pay its own attorneys' fees and expenses.

6. **SITE INVESTIGATION AND CONDITION OF REAL ESTATE.** Seller hereby grants to Purchaser a temporary license to enter onto the Real Estate to conduct such engineering and soil testing as it deems appropriate. Purchaser shall conduct such site investigation in such a manner so as to minimize any damage to the Real Estate and, to the extent practicable, Purchaser shall promptly restore any damaged areas of the Real Estate to its condition prior to Purchaser's entry on the Real Estate. Purchaser agrees to indemnify Seller from and against any loss or damage incurred or suffered by Seller relating to any activities of Purchaser, its employees or independent contractors, on or about the Real Estate prior to the date of closing hereunder. Prior to the closing, Seller shall not make any material alterations to the Real Estate without the prior written consent of Purchaser.

Within thirty (30) days after the date of this Agreement, Seller shall deliver to Purchaser copies of all engineering reports, environmental (plant and animal) reports or environmental site assessments, topographical maps, soil tests, feasibility studies, easement agreements, subdivision approvals, title insurance policies and surveys in Seller's possession pertaining to the Real Estate.

Seller represents and warrants to Purchaser that as of the closing, the Real Estate shall be free from any and all city, county, state and federal orders affecting the Real Estate. Seller

further represents and warrants to Purchaser that Seller has not received notice of any violation of any applicable federal, state or local statute, law, ordinance, order, rule or regulation or of any covenant, condition, restriction or easement affecting the Real Estate. Seller further represents and warrants to Purchaser that, to the best of Seller's knowledge, the Real Estate is free from any and all hazardous substances and wastes, asbestos, underground storage tanks, PCB's and wet lands. Within sixty (60) days following confirmation of financing, Purchaser, at its expense, shall perform an environmental audit and wet lands assessment on the Real Estate. In the event such audit discloses the presence of hazardous substances, wastes, asbestos, underground storage tanks or PCB's, then, unless Seller agrees, within ten (10) days after Seller's receipt of notice of the results of such audit, to remove and clean up any such hazardous substances, wastes, asbestos or underground storage tanks and to pay the costs of such removal and clean up prior to the closing date, Purchaser, at its election, may either acquire the Real Estate without requiring the removal of such hazardous substances, wastes, asbestos, underground storage tanks or PCB's, or may terminate this Agreement by written notice thereof to Seller, in which case any deposit made by Purchaser shall be returned by the Escrow Agent in full and neither party shall be under any further obligation hereunder.

7. **ADDITIONAL OBLIGATIONS OF SELLER.** Not Applicable:

8. **COOPERATION AGREEMENT.** Purchaser may need a variety of exclusive and non-exclusive public and private, permanent and temporary utility, drainage, right of way, grading, access, ingress/egress and roadway easement(s) to facilitate its re-development of subject property. Seller hereby agrees to fully cooperate with Purchaser in granting and signing said easements, as needed, and/or assisting Purchaser in obtaining same from required third Parties. The cost of design, designation, and recording of those easements shall be borne by Purchaser.

9. **SELLER'S REPRESENTATIONS AND WARRANTIES.** Seller represents, warrants, and covenants to Purchaser as to the following matters, and shall be deemed to remake all of the following representations, warranties, and covenants as of the date of Closing.

a. **No Consents Necessary.** Seller has the legal right, power, capacity and authority to enter into and perform its obligations under this Agreement, and no approval or consent of any other person or entity is necessary to authorize the execution of this Agreement by Seller or the consummation by Seller of the transactions contemplated hereby. The execution and delivery of this Agreement and every other document delivered pursuant to this Agreement by Seller, and the consummation of the transactions contemplated by this Agreement have been duly authorized and validly executed and delivered by Seller.

b. **No Violations.** Seller has not received any written notice (i) of any violations by Seller or the Real Estate or any part thereof, of any law, rule, regulation, order or ordinance or (ii) from any insurance company of the existence of any material and adverse condition which requires work to be done to cure such condition with respect to the Real Estate, and Seller has no knowledge that any such notices are forthcoming or that any such conditions or violations exist.

c. **No Pending Proceedings.** The Seller represents that there is no pending or threatened, condemnation action, litigation, arbitration, administrative action or examination, claim, demand, attachment, execution or similar proceeding whatsoever, relating to the Real Estate or Seller which would adversely affect the Real Estate. Seller shall immediately notify Purchaser of any such claim or proceeding which is made, filed, threatened or instituted by or against Seller or the Real Estate after the date of this Agreement.

d. **No Third Party Rights.** The Seller represents that no tenant or other third party has any agreement, option, or other right of first refusal, to purchase the Real Estate or any part thereof nor does any party have any occupancy rights with respect to the Real Estate.

e. **Zoning.** Seller represents that the current zoning of the Real Estate is:
CCG-2.

f. **Access.** Seller has no knowledge of any fact or condition which would result in the termination or impairment of access to the Real Estate from adjoining public or private streets or ways or which could result in discontinuation of necessary sewer, water, electric, gas, telephone, or other utilities or services. To Seller's knowledge, all sewage, sanitation, plumbing, water retention, refuse disposal, and similar facilities servicing the Real Estate are in full compliance with governmental authorities' laws, rules and regulations.

g. **Utilities.** All utilities, except sanitary sewer, but including water, gas, electric and cable, are available to the Real Estate. To Seller's knowledge, there is no fact or condition which would impair Purchaser's ability to tap-in and use said utilities for the development of the Real Estate.

h. **Assessments.** There are no public improvements which have been ordered to be made and/or which have not heretofore been assessed, and there are no special, general, or other assessments pending, or to Seller's knowledge, threatened against or affecting the Real Estate.

i. **Third Parties.** Seller has not entered into, nor is aware of, any contract, lease, lien, encumbrance, agreement or right of possession, which cannot be canceled/terminated by Purchaser within a 30-day notice or less. Nor does any Third Party have any right(s) of occupancy, unrecorded or prescriptive easement(s) or usage with respect to the subject property, at law or in equity.

j. **Survival of Warranties.** Each of the foregoing representations and warranties shall survive the Closing and any independent investigation by Purchaser.

10. **EMINENT DOMAIN.** If, prior to the closing, any proceeding shall be threatened, commenced or consummated for the taking of any part of the Real Estate for public or quasi-public use pursuant to the power of eminent domain, then Seller shall forthwith give notice thereof (the "Condemnation Notice") to Purchaser. The Condemnation Notice shall, if possible, be accompanied by a sketch of the portion of the Real Estate which will be affected by such taking, and a metes and bounds description delineating the area to be affected. If any such taking, contemplated taking or threatened taking, shall occur or be commenced, then Purchaser

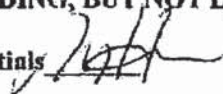
shall have the option to terminate this Agreement upon written notice to Seller given not later than ten (10) days after receipt of the Condemnation Notice or go forward and take an assignment of Seller's condemnation award. In the event Purchaser elects to terminate this Agreement, any deposit made by Purchaser shall be returned by the Escrow Agent in full, and neither party shall be under any further obligation hereunder.

11. DEFAULT.

i. BY PURCHASER. IF THE CLOSE OF ESCROW FAILS TO OCCUR DUE TO A DEFAULT OR BREACH BY PURCHASER OF ANY MATERIAL OBLIGATION HEREUNDER, SELLER SHALL BE ENTITLED TO RECEIVE AND RETAIN THE EARNEST MONEY DEPOSIT AS WELL AS ADDITIONAL FEES PAID TO SELLER AS FULL AND COMPLETE LIQUIDATED DAMAGES AND NEITHER PARTY SHALL BE UNDER ANY FURTHER OBLIGATION HEREUNDER. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE DAMAGES TO SELLER IN THE EVENT OF PURCHASER'S DEFAULT OR BREACH WOULD BE IMPOSSIBLE TO ACCURATELY DETERMINE, THAT PROOF OF THE AMOUNT OF SUCH DAMAGES WOULD BE COSTLY AND INCONVENIENT AND THAT SAID SUM IS FAIR AND REASONABLE IN LIGHT OF ALL OF THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, INCLUDING THE PARTIES' ESTIMATION OF THE POSSIBLE RANGE OF DAMAGES TO SELLER IN THE EVENT OF SUCH A DEFAULT OR BREACH BY PURCHASER. SUCH LIQUIDATED DAMAGES SHALL BE SELLER'S SOLE AND EXCLUSIVE REMEDY FOR PURCHASER'S DEFAULT OR BREACH. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER. SELLER AND PURCHASER EACH CONFIRM THEIR AGREEMENT TO THE FOREGOING BY INITIALING IN THE SPACE PROVIDED BELOW.

ii. BY SELLER. IN THE EVENT THE SELLER SHALL DEFAULT IN THE CONSUMMATION OF THIS AGREEMENT, THE SELLER AGREES THAT THE PURCHASER SHALL HAVE ALL REMEDIES AVAILABLE AT LAW OR IN EQUITY, INCLUDING, BUT NOT LIMITED TO, SPECIFIC PERFORMANCE.

Seller's Initials



Purchaser's Initials



12. ASSIGNMENT. This Agreement may be assigned by Purchaser without the consent of Seller, provided that in the event of an assignment of this Agreement by Purchaser, Purchaser shall not be released from any of its obligations under this Agreement.

13. NOTICES. Any notices to be given hereunder shall be given by placing the notice in the United States Mail, certified or registered, properly stamped and addressed to the address shown below or such other addresses as the respective party may direct in writing to the other, by personal delivery to such address, or by facsimile transmission (with receipt of transmission) and such notice shall be deemed effective upon such placing in the mails, on the next business day following delivery to a nationally recognized overnight delivery service, upon such personal delivery, or on the date sent via facsimile (with receipt of transmission):

To Seller: **Name:** **Downtown Station LLC**
 Address: **1837 Hendricks Ave.**
 City\State: **Jacksonville, FL. 32207**
 Attn:
 Phone: _____

Fax: _____

Email: _____

To Buyer: **Name:** **Beneficial Development 14 LLC**
 Address: **3550 South Tamiami Trail, Suite 301**
 City\State: **Sarasota, FL. 34239**
 Attn: **Don Paxton**
 Phone: **(941) 929-1270**
 Fax: **(941) 929-1271**
 Email: **dpaxton@beneficialcom.com**

With copy to: **Name:** **Heather Toft, ESQ**
 Address: **390 North Orange Avenue Suite 1400**
 City\State: **Orlando, FL. 32801**
 Attn:
 Phone: **(407) 839-4252**
 Fax: **(407) 650-0966**
 Email: **Htoft@BroadandCassel.com**

14. **INVALID PROVISIONS.** In the event that any one or more of the provisions contained in this Agreement are held to be 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.

15. **BROKER.** The Parties do mutually represent to each other that no brokerage commission shall be due upon the execution of this Agreement or the transfer of all or any portion of the Real Estate other than a broker's commission to be paid by Seller to Seaman Realty & Management Co., INC. at the closing. The Parties agree to hold each other harmless and indemnify each other as a result of a claim for a real estate commission asserted by any other broker as a result of any dealings with either party hereto.

16. **FORCE MAJEURE.** Neither party shall be liable for nonperformance or delay in performance due to any act of God; regulation or law of any government; riot; civil commotion; destruction of the subject Real Estate by fire, earthquake or storm; strike; labor disturbances; or the failure of any public utilities or common carriers.

17. **MISCELLANEOUS PROVISIONS.**

(a) **Successors and Assigns.** This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(b) **Amendments and Termination.** Except as otherwise provided herein, this Contract may be amended or modified by, and only by, a written instrument executed by Seller and Purchaser, acting by their respective duly authorized agents or representatives.

(c) **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Florida.

(d) **Section Headings.** The section headings inserted in this Contract are for convenience only and are intended to, and shall not be construed to, limit, enlarge or affect the scope or intent of this Contract, nor the meaning of any provision hereof.

(e) **Counterparts.** This Contract may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

(f) **Entire Understanding; Merger of Prior Agreements.** The foregoing Agreement contains the entire understanding between Seller and Purchaser relative to the subject matter hereof and no oral representations heretofore made by either party to the other shall be binding upon either of them. This Contract supersedes all prior agreements and understandings between the parties hereto relating to the subject matter hereof.

(g) **Time.** Time is of the essence of this Contract. When any time period specified herein falls or ends upon a Saturday, Sunday or legal holiday, the time period shall be automatically extended to 5:00 P.M. on the next ensuing business day.

AMH 11/17/14
(h) **Continued Marketing/Right of First Refusal.** It is agreed that Seller herein, shall continue to market the subject Property and entertain any and all offers to purchase the said Property by others. Should Seller receive an offer to purchase the subject property from any other person or entity, with terms and conditions acceptable to Seller, Seller shall provide Purchaser herein notice of same. Purchaser shall have ten (10) days from notice of the foregoing that it wishes to purchase the subject property on the same terms and conditions as offered by another buyer. If Purchaser herein does not agree to purchase the subject Property in accordance with said terms and conditions, then Seller shall have the right to proceed to sell the subject property to the subsequent buyer and this Agreement shall be null and void, at which time any and all deposits placed by Purchaser herein shall be returned to Purchaser.

IN WITNESS WHEREOF, the Parties have hereunto set their hands on the day and year below indicated.

SELLER:

Downtown Station LLC

By: _____

Robert M. Harris AS Pres. etc.

Date: November 7, 2014

Name: _____

Robert M. Harris as president

Its: _____

President

PURCHASER:

Beneficial Development 14 LLC

By: _____

Don Paxton

Date: November 14, 2014

Name: _____

Don Paxton

Its: _____

MANAGER

ESCROW ACKNOWLEDGMENT

The undersigned acknowledges receipt of the Five thousand Dollars \$5,000
(\$ 5,000.00 earnest money deposit this 25th day of November, 2014 and
agrees to hold such funds in accordance with the terms of this Agreement.

ESCROW AGENT:

BROAD AND CASSEL

By: Jacqueline Best
Jacqueline S. Best

Exhibit "A"

Attached

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Ex. A

Parcel ID: 074510-0000
39-2S-26E
LAVILLA HARTS MAP
E 47.23FT LOT 2 BLK 101



Parcel ID: 074509-0000
39-2S-26E
LAVILLA HARTS MAP
W 57FT LOT 2 BLK 101



Parcel ID: 074508-0000
39-2S-26E .253
LAVILLA HARTS MAP
LOT 1 BLK 101

