# PURCHASE AND SALE AGREEMENT

For property located at:

813 NW 7 Terrace

Hallandale Beach, Florida 33009

Parcel ID 5142-21-34-0210

Dated as of December 11, 2014

Between

Ms. Norma Covington

And

The City of Hallandale Beach

# PURCHASE AND SALE AGREEMENT

**THIS PURCHASE AND SALE AGREEMENT** ("Agreement") is dated as of September, 2013, by and between Ms. Norma Covington. ("Seller") and The City of Hallandale Beach ("Purchaser").

In consideration of the mutual covenants and promises herein set forth, the parties agree as follows:

1. **Purchase and Sale.** Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller, for the Contract Price, that certain real property located in Broward County, Florida, as more particularly described in Exhibit "A" attached hereto (the "Property").

2. **Real Property Address:** 813 NW 7 Terrace, Hallandale Beach, Florida 33009

3. **Legal Description:** THOMPSON & STIRRUP ADD 32-3 B LOT 21 BLK 1 of the Public Records of Broward County, Florida Folio 5142-21-34-0210.

4. **Purchase Price and Payment:** The Purchase Price is payable by Purchaser in US Currency. No contingencies for financing.

**a. TOTAL PURCHASE PRICE: Ninety-Two Thousand and 00/100 ($92,000) Dollars**

**b. PAYMENT:**

Deposit Paid to Escrow Agent _____ upon expiration of due diligence period; _____ to be paid by wire transfer pursuant to the wire transfer instructions provided by seller.

Balance of Total Purchase Price (to be paid by wire transfer at Closing): pursuant to the following wiring instructions:

Total Purchase Price will be adjusted and, if applicable, increased by expenses, costs and prorations at Closing. This Contract is NOT CONTINGENT upon financing, title appraisal and survey review or any other matters not identified in Sections 5 and 11 below. Any deposits made shall be applied to the Total Purchase Price at Closing.

5. **Deposit:**

The Deposit shall be held in escrow by , as Escrow Agent ("Escrow Agent"). The Deposit shall be applied to the Purchase Price at closing.

6. **Time for Acceptance of Offer and Counteroffers: Effective Date:**

a. If this offer is not executed by and delivered to all parties OR FACT OF EXECUTION communicated in writing between the parties on or before _____, the deposit will, at Purchaser's option, be returned and this offer withdrawn. Unless otherwise stated the time of acceptance of any counteroffer shall be conditioned on the approval of the Mayor and City Commission of the Purchaser's and Seller agrees to afford Purchaser a reasonable amount of time to secure the approval and disapproval of the governing body. All counteroffers must be in writing.

b. The date of Contract ("Effective Date") will be the date when the last one of the Purchaser and Seller has signed or initialed this offer or the final counteroffer. If such dated is not otherwise set forth in this Contract, then the Effective Date shall be the date determined above for acceptance of this offer or, if applicable, the final counteroffer.

7. **Condition Precedent to Closing:**

a. Closing shall only take place after this Agreement has been approved by the Purchaser's Mayor and City Commission. After approved, closing must take place on or before .

b. **Title Evidence.** The obligation of each the Seller and Purchaser to consummate the transaction contemplated hereunder is conditioned upon the Seller (or one of its

affiliates) being the title holder in fee simple of the Property at the time of Closing. In the event that the Seller is not the titleholder in fee simple at the time of Closing, the Escrow Agent shall return Purchaser's Deposit to Purchaser and the parties shall have no further rights, claims, liabilities, or obligations under this Agreement. At least five (5) days before Closing a title insurance commitment with legible copies of instruments listed as exceptions attached thereto ("Title Commitment") and after Closing, an owner's policy of title insurance shall be obtained by

_____Seller, at Seller's expense and delivered to Purchaser or Purchaser's Attorney; or

_____ Purchaser, at Purchaser's expense.

8. **Inspections/Due Diligence.** The Purchaser shall have twenty (20) days from Effective Date of this Agreement to conduct its due diligence concerning the Property ("Due Diligence Period"). Reasonable access to the facility for quiet inspections, and information to conduct any due diligence Purchaser deems necessary for the purchase contemplated herein will be provided upon reasonable notice to Seller and during normal business hours. All property inspections shall be done quietly without interruption to or interference with, then existing business operations. All property inspections and all due diligence are the sole responsibility of Purchaser and all costs associated with same, shall be paid for by Purchaser. Purchaser acknowledges that the property and any/all improvements are sold strictly in "AS IS/WHERE IS" condition, Seller is not responsible for any repairs, Seller shall make no repairs, and repairs are not a condition to the Contract. Purchaser understands that Seller will not be making any further work towards finalizing permits or obtaining zoning approvals or any certificates of occupancy.

If Purchaser delivers a written notice to Seller prior to the expiration of the Due Diligence Period that Purchaser does not intend to proceed with the transaction contemplated by this Agreement, then this Agreement shall not remain in full

force and effect and the parties shall be released from all obligations and liabilities under this Agreement.

Purchaser, to the extent permitted by law, hereby agrees to indemnify, defend and hold Seller harmless from and against any debts, dues, claims, allegations, liens, lawsuits, damaged and liabilities caused by or arising from Purchaser and/or its agents or contractors in performing such inspections and investigations. Should any damages occur due to Purchaser's inspections, Purchaser at Purchaser's expense shall return the property in the same condition prior to the performance of any inspections.

**Disclosures.** The Seller, the Seller's Representatives and/or Brokers make no representations or warranties expressed or implied as to condition, zoning, licensing, use, etc. of the property. It shall be the sole responsibility of Purchaser to check with the appropriate governmental entities to determine any and all feasibility and use for Purchaser's own contemplated use of the Property. This clause shall survive the closing or any termination of this Contract Agreement.

9. **Property Condition, Representations, Warranties and Disclosures.** Purchaser acknowledges and agrees that the sale contemplated hereunder and the conveyance to Purchaser of the Property is subject to all of the following terms and conditions:

**AS IS/WHERE IS WITH ALL FAULTS**

PURCHASER ACKNOWLEDGES AND AGREES THAT UPON CLOSING SELLER SHALL SELL AND CONVEY TO PURCHASER AND PURCHASER SHALL ACCEPT THE PROPERTY AS IS/WHERE IS, WITH ALL FAULTS AND DEFECTS, IF ANY. PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER HAS NOT MADE, AND SPECIFICALLY NEGATES AND DISCLAIMS, ANY REPRESENTATIONS, WARRANTIES, COVENANTS OR AGREEMENTS OF ANY KIND OR CHARACTER REGARDING ANY ASPECT OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION: (A)

THE VALUE, NATURE, QUALITY OR PHYSICAL CONDITION THEREOF, (B) THE INCOME TO BE DERIVED THEREFROM, (C) THE SUITABILITY OF THE PROPERTY FOR ANY ACTIVITY OR USE WHICH PURCHASER OR ANY TENANT MAY CONDUCT THEREON (D) THE COMPLIANCE OF THE PROPERTYOR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, € THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (F) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY, OR (G) COMPLIANCE OF THE PROPERTY WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE EXISTENCE THEREIN, THEREON OR THEREUNDER OF HAZARDOUS MATERIALS. ADDITIONALLY, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NO PERSON ACTING ON BEHALF OF SELLER IS AUTHORIZED TO MAKE, AND BY EXECUTION HEREOF PURCHASER ACKNOWLEDGES THAT NO PERSON HAS MADE, ANY REPRESENTATION, WARRANTY, COVENANT OR AGREEMENT REGARDING THE PROPERTY OR THE TRANSACTIONS CONTEMPLATED HEREIN. PURCHASER ACKNOWLEDGES THAT, HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, PURCHASER IS RELYING SOLELY ON ITS OWN INVESTIGATIONS AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER, OTHER THAN INFORMATION EXPRESSLY REQUIRED TO BE PROVIDED BY SELLER, HEREUNDER. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW THE SALE PROVIDED FOR HEREIN THIS SECTION SHALL SURVIVE THE CLOSING OR ANY TERMINATION OF THIS AGREEMENT. FURTHERMORE, EXCEPT FOR ANY CLAIM THE PURCHASER MAY HAVE AS A RESULT OF THE BREACH BY THE

SELLER OF ANY TERM, CONDITION, WARRANTY OF SELLER SET FORTH HEREIN, PURCHASER DOES HEREBY RELEASE AND FOREVER DISCHARGE SELLER, ITS RELATED ENTITIES, GENERAL PARTNERS, LIMITED PARTNERS, SHAREHOLDERS, OFFICERS, EMPLOYEES, LEGAL REPRESENTATIVES, BROKERS AND AGENTS AND ASSIGNS, FROM ANY AND ALL ACTIONS, CAUSES OF ACTION, CLAIMS AND DEMANDS FOR, UPON OR BY REASON OF ANY DAMAGE, LOSS OR INJURY WHICH HERETOFORE HAVE BEEN OR WHICH HEREAFTERMAY BE SUSTAINED BY PURCHASER RESULTING FROM OR ARISING OUT OF THE PRESENCE OF ANY HAZARDOUS MATERIALS OR OTHER ENVIRONMENTAL CONTAMINATION ON OR IN THE VICINITY OF THE PROPERTY, INCLUDING THE SOIL AND/OR GROUNDWATER (HEREINAFTER REFERRED TO AS THE "CLAIMS"). THIS RELEASE APPLIES TO ALL SUCH CLAIMS WHETHER THE ACTIONS CAUSING THE PRESENCE OF HAZARDOUS MATERIALS ON OR IN THE VICINITY OF THE PROPERTY OCCURRED BEFORE OR AFTER THE CLOSING. THIS STATUTORY OR COMMON LAW CLAIMS THE PURCHASER MAY HAVE AGAINST THE SELLER OR OTHERS AS OUTLINED IN ABOVE PARAGRAPH. THE PROVISIONS OF ANY STATE, FEDERAL, OR LOCAL LAW OR STATUTE PROVIDING IN SUBSTANCE THAT RELEASES SHALL NOT EXTEND TO CLAIMS, DEMANDS, INJURIES OR DAMAGES WHICH ARE UNKNOWN OR UNSUSPECTED TO EXIST AT THE TIME, TO THE PERSON EXECUTING SUCH RELEASE, ARE HEREBY EXPRESSLY WAIVED.

**10. Title.**

(a) It is understood and agreed that this property is being sold and purchased subject to the restrictions and limitations of record common to the neighborhood and subject to any easement for public utilities, which may be of record, or may become liens through pending litigation before consummation of contract. Conveyance of the Property shall be by Special

Warranty Deed. The Title Insurance Policy and any and all title-related charges shall be provided by Seller at Seller's sole cost and expense. The Seller makes no representations as to the status of the title to the property except that the Property is sold free and clear of any liens, claims, encumbrances or other interests except as identified herein. Any disputes or claims shall attach to the sale proceeds and not to the property.

(b) **Prorations.** Real estate taxes shall be prorated as of the dates of Closing. In the event the taxes for the year of closing are unknown, the tax proration will be based upon the taxes for the prior year without any post-closing proration or adjustment with due allowance made for maximum allowable discount, homestead and other exemptions. There shall be no re-prorations upon rendition of the current year's tax bill or re-prorations of any kind after closing. The provisions of this paragraph shall survive the closing. There shall be no other prorations other than those set forth herein.

**11. Default Provisions.**

**(a) Default by Seller.** If at any time prior to the Closing Date, Seller is in default in the performance of any of Seller's obligation under this Agreement and such default is not cured within thirty (30) calendar days after written notice thereof from Purchaser to Seller (or some date agreed upon by the parties in excess of thirty (30) days), then Purchaser shall have an option of terminating this Agreement. Purchaser specifically waives the right to seek monetary damages reason, including because it (or its affiliate) fails to obtain title to the Property, Seller shall NOT be deemed in default, and this Agreement shall automatically terminate at which time the Escrow Agent shall return Purchaser's Deposit to Purchaser and the parties shall have no further rights, claims, liabilities, or obligations under this Agreement. If Seller obtains title to the Property, and for any reason Seller fails, refuses, neglects or is unable to perform this Contract, the sole have the option of terminating this Agreement, at which time the Escrow Agent shall return Purchaser's Deposit to Purchaser and the parties shall have no further rights, claims, liabilities, or obligation under this Agreement.

**(b) Default by Purchaser/Failure to Close.** In the event of a default of Purchaser's obligations herein including the failure to close once obligated to do so hereunder, the Deposit shall be paid to Seller as liquidated damages for said default. At that time, the parties shall have no further rights, claims, liabilities, or obligations under this Agreement. Seller and Purchaser acknowledge and agree that Seller's actual damages in the event of such default by Purchaser are difficult to ascertain and the Deposit represents the parties' best current estimate of such damage to Seller.

12. **Closing Costs.** Seller shall bear the closing costs related to Title Insurance as identified in the Preliminary HUD attached as Exhibit "B". All other closing costs and fees, including but not limited to brokerage commission and recording fees, even if not presently represented on the Preliminary HUD shall be the responsibility of the Purchaser. In the event Seller incurs any closing costs in excess of those identified on the Preliminary HUD, the Purchase Price shall be adjusted accordingly. Notwithstanding the above, each party shall pay its own legal fees.

13. **Closing.** The Closing shall take place on or before _____.
At the time of Closing the Seller shall execute and deliver to Purchaser a Special Warranty Deed. The Purchaser shall deliver or cause to be delivered to Seller the balance owed on the Purchase Price and a copy of the resolution authorizing the purchase of the Property.
Seller and Purchaser shall each execute counterpart closing statements and such other documents as are reasonably necessary to consummate this transaction.

14. **Notices.** Any notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given if delivered by telefax with written confirmation of receipt by the sender, hand delivered, overnight commercial courier service, or mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope, and addressed as follows:

**If to Purchaser:** City of Hallandale Beach, Florida
Attn: City Manager: Renee C. Miller
400 South Federal Highway
Hallandale Beach, Florida 33009
(954) 457-1300
Fax: (954) 457-1454

**With Copy to:** V. Lynn Whitfield, Esq
City Attorney
400 South Federal Highway
Hallandale Beach, Florida 33009
(954) 457-1325
Fax (954) 457-1660

**If to Seller:**

**With Copy to:**

Notices personally delivered or sent by overnight courier or facsimile received prior to 5:00 PM shall be deemed given on the date of receipt. Notices mailed in accordance with the foregoing shall be deemed given five (5) days after deposit in the U.S. mail.

15. **WAIVER OF TRIAL BY JURY. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION**

**(INCLUDING BUT NOT LIMITED TO ANY CLAIMS, CROSS-CLAIMS, OR THIRD PARTY CLAIMS) ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREIN, EACH PARTY HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF ANY PARTY OR THEIR COUNSEL HAS REPRESENTED EXPRESSLY OR OTHERWISE, THAT THE PARTIES WOULD NOT; IN THE EVENT OF SUCH LITIGATION SEEK TO CHALLENGE THIS WAIVER OR RIGHT TO JURY TRIAL PROVISION. EACH PARTY ACKNOWLEDGES TO THE OTHER THAT IT HAS BEEN INDUCED TO EXECUTE THIS AGREEMENT, BY, INTER ALIA, THE PROVISIONS OF THIS PARAGRAPH.**

**16. Miscellaneous Provisions.**

**(a) Applicable Law, Personal Jurisdiction and Venue.** This Agreement shall be construed and governed in accordance with the laws of the State of Florida. All parties to this Agreement hereby irrevocably consent to personal jurisdiction in Florida and Broward County, Florida and venue for all proceedings in connection with this Agreement shall be in Broward County, Florida except where otherwise provided herein. All of the parties to this Agreement have participated fully in the negotiation and preparation hereof, and accordingly this Agreement shall not be more strictly construed against any one of the parties hereto.

**(b)** In the event any term or provision of this Agreement be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

**(c)** In the event of any litigation between the parties under this Agreement, the prevailing party shall be entitled to reasonable attorneys' and paralegal fees and court costs at all trial and appellate levels.

(d) **Interpretation.** In construing this Agreement, the singular shall be held to include the plural, the plural shall including the singular, the use of any gender shall include every other and all genders, and captions and paragraph headings shall be disregarded.

(e) All of the exhibits attached to this Agreement are incorporated in, and made a part of, this Agreement.

(f) **Time of the Essence.** Time shall be of the essence for each and every provision hereof. All time periods shall be computed in calendar days. In the event that any time period ends on a Saturday, Sunday or nationally recognized legal holiday, said time period shall automatically extended to the next business day.

(g) **Radon Gas.** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your public health unit. Purchaser may have an appropriately licensed person test the Property for radon at Purchaser's expense.

(h) **Flood Zone.** Purchaser is advised to verify by survey and with appropriate government agencies which flood zone the Property is in, whether flood insurance is required the Property is in a Special Flood Hazard Area or Coastal High Hazard Area and the buildings are built below the minimum flood elevation, Purchaser accepts the existing elevation of the buildings and zone designation of the Property.

(i) **Inspection.** Purchaser acknowledges that there is no further inspection period after the Inspection Period previously outlined in this Agreement.

(j) **Representations of Third Parties.** Except as expressly set forth in this Agreement, no person acting on behalf of Seller is authorized to make, and by execution hereof Purchaser acknowledges that no person has made, directly or indirectly, any representation, warranty, covenant or agreement regarding the Property or the transaction contemplated herein. Purchaser acknowledges that,

having been given the opportunity to inspect the property, Purchaser is relying solely on Purchaser's investigation and not on any information provided or to be provided by Seller, other than information expressly required to be provided by Seller hereunder, in entering into this Agreement and concluding the Purchase hereunder.

17. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties, and there are no other agreements, representations or warranties other than as set forth herein. This Agreement may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought. This Agreement shall be binding upon the parties hereto and their respective successors.

18. **Assignment.** This Agreement is NOT assignable by Purchaser. Seller may not assign its rights under this Agreement without written permission from Purchaser.

19. **Effective Date.** The "Effective Date" of this Agreement is the date which the last of the parties initials or signs the Agreement

**EXECUTED** as of the date first above written in several counterparts, each of which shall be deemed an original, but all constituting only one Agreement.

WITNESS:

**SELLER:**

WITNESS:

**PURCHASER: City of Hallandale Beach**

_____

_____

**City Manager**

_____

Date: _____

Approved as to form and legal sufficiency:

V. Lynn Whitfield, Esq.
City Attorney