

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

In Re: CLEAR LAKE DEVELOPMENT, LLC

CHAPTER 11  
NO.: 17-50392-EE

APPLICATION TO SELL REAL  
PROPERTY FREE AND CLEAR OF LIENS  
(16 Acres, § 10, South of Spring Lake Subdivision)

COMES NOW, CLEAR LAKE DEVELOPMENT, LLC, Debtor in the above styled and numbered Chapter 11 case, by and through undersigned counsel, and files this its Application to Sell Real Property Free and Clear of Liens, pursuant to 11 U.S.C. § 363 (the “**Application**”), and would respectfully show unto the Court as follows:

1. The Debtor filed a petition for relief under Chapter 11 of the Bankruptcy Code on March 6, 2017, in the above styled and numbered cause.

2. This Court has jurisdiction pursuant to 11 U.S.C. § 1334, and this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(N).

3. At the time of the filing of the Petition the Debtor was the owner of a parcel of real property located in Stone County, Mississippi, consisting of 16 acres, (the “**Property**”), said Property being part of Stone County Tax Parcel No. 092-10-001.005, and being more particularly described as:

Beginning at the Southwest corner of Lot 26, Spring Lake Subdivision, Phase 1, Stone County, Mississippi; thence North 69 degrees 44 minutes 05 seconds East along the south line of Spring Lake Subdivision, Phase 1, a distance of 574.08 feet to an iron rod; thence continue along South line of Springs Lake Subdivision, Phase 1, North 52 degrees 23 minutes 17 seconds East a distance of 80.00 feet to a Point; thence South 06 degrees 24 minutes 00 seconds East a distance of 340.00 feet to a Point; thence South 27 degrees 00 minutes 00 seconds East a distance of 220.00 feet to a Point; thence South a distance of 457.00 feet to a Point; thence South 77 degrees 20 minutes 38 seconds West a distance of 776.14 feet to a Point; thence North 00 degrees 46 minutes 02 seconds West a distance of 902.42 feet to a Point; thence North 01 degrees 46 minutes 45 seconds West a distance of 410.67 feet to a Point on the South margin of Clear Lake Drive; thence North 68 degrees 26 minutes 42 seconds East along the South margin of Clear Lake Drive a distance of 48.71 feet to a Point; thence South 32 degrees 28 minutes 21 seconds West a distance of 28.14 feet to a Point; thence South 01 degrees 46 minutes 45 seconds East a distance of 393.86 feet to the Point of Beginning: containing 16.00 acres or 696998.33 square feet more or less.

AND ALSO: 60 ft. Ingress Egress Easement

Beginning at the Southeast corner of Lot 25, Spring Lake Subdivision, Phase 1, Stone County, Mississippi; thence North 01 degrees 46 minutes 45 seconds West a distance of 409.91 feet to a Point on the South margin of Clear Lake Drive; thence North 68 degrees 26 minutes 42 seconds East a distance of 63.76 feet along the South margin of Clear Lake Drive to a Point; thence South 01 degrees 46 minutes 45 seconds East a distance of 431.48 feet to a Point; thence South 00 degrees 46 minutes 02 seconds East a distance of 892.92 feet to a Point; thence South 89 degrees 13 minutes 58 seconds West a distance of 60.00 feet to a Point; thence North 00 degrees 46 minutes 02 seconds West a distance of 891.86 to the Point of Beginning: containing 1.81 acres or 78779.88 square feet more or less.

4. The Debtor has entered into a Contract for the Sale and Purchase of Real Estate (the "**Contract**") as to the Property, with **Sheila R. Richard**, for a sale price of \$32,000.00. A copy of the Contract is attached hereto as **Exhibit "A"** and incorporated herein. Sheila R. Richard is a good faith purchaser as contemplated by 11 U.S.C. § 363(m).

5. Whitney Bank d/b/a Hancock Bank ("**Hancock Bank**") holds a promissory note (the "**Note**") and first deed of trust (the "**Deed of Trust**") secured by the Property and other land. Said Note and Deed of Trust are dated November 17, 2015 and the Deed of Trust is recorded in land records of Stone County at Deed of Trust Book 393, Page 296.

6. The Debtor proposes to pay all of the net proceeds of the sale of the Property (as defined herein) to Hancock Bank to pay down the amount due on the Note.

7. Property taxes are due to Stone County for tax year 2015 in amount of approximately \$165.00 which will be paid at or prior to closing<sup>1</sup>.

8. Property taxes are due to Stone County for tax year 2016 in amount of approximately \$121.65 which will be paid at closing<sup>2</sup>.

9. Property taxes are projected to be due to Stone County for the tax year 2017 for the time prior to closing that the Property is owned by the Debtor during 2017, which are estimated to be in the approximate amount of \$200.00<sup>3</sup>.

10. The Debtor has agreed that the following expenses, charges and fees should be paid

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<sup>1</sup> All property taxes are expected to be paid prior to closing on the Property in a transaction for the sale of 40 acres, a portion of which is part of Tax Parcel No. 092-10-001.005.

<sup>2</sup> See Footnote No. 1.

<sup>3</sup> See Footnote No. 1.

from the proceeds of the sale if not paid prior to closing.

- a. Proration of the County *ad valorem* taxes for the current year of approximately \$200.00, if not paid prior to closing.
- b. Payment of county *ad valorem* taxes for tax year 2016, in the amount of approximately \$121.65, if not paid prior to closing.
- c. Payment or redemption of county *ad valorem* taxes for tax year 2015, in the amount of approximately \$165.00, if not paid prior to closing.
- d. Estimated fees due to the U.S. Trustee as quarterly fees pursuant to 28 USC 1930 as a result of completion of this sale of \$2,925.00, if not paid or withheld prior to closing<sup>4</sup>.
- e. Payment to Hancock Bank of 100% of the net proceeds of sale (“**Net Proceeds**”). Net Proceeds shall be defined, for the purpose of this Application to Sell Real Property Free and Clear of Liens to mean: the purchase price, less real estate commissions; ad valorem taxes paid by Seller; proration’s, title curative costs required by the Contract, cost of survey, any title insurance premium and/or binders required to be paid by the Seller, and an estimated amount that will become due to the U.S. Trustee as quarterly fees pursuant to 28 USC 1930 as a result of completion of the sale.
- f. Real Estate commission to Joel L. Carter and J. Carter Real Estate, LLC, in amount of 6% of the sale price of \$5,040.00. Joel L. Carter and J. Carter Real Estate have been employed by the Debtor as approved by the Court via Order entered on May 16, 2017 (Doc. 86).
- g. Paydown of the Note in amount of the Net Proceeds to Hancock Bank.

11. Hancock Bank shall be required to execute a partial release of the Deed of Trust describing the Property upon receipt of the Net Proceeds as set out above.

12. The sale contemplated by this Application should release the Property from all existing liens and transfer such lien to the proceeds of sale.

**WHEREFORE**, Debtor prays that this Court will enter the Order authorizing the sale of the above stated real property by the Debtor to Jonathan Adams and Heidi Adams pursuant to the

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<sup>4</sup> This amount is expected to be paid from the sale of the 40 acres referred to in Footnote No. 1.

Contract, provided that payment is to be made in the following manner:

- a. Proration of the County *ad valorem* taxes for the current year of approximately \$200.00, if not paid prior to closing.
- b. Payment of county *ad valorem* taxes for tax year 2016, in the amount of approximately \$121.65, if not paid prior to closing.
- c. Payment of county *ad valorem* taxes for tax year 2015, in the amount of approximately \$165.00, if not paid prior to closing.
- d. Reserve to the Debtor the sum of \$2,925.00 to be applied to the quarterly fees that will become due to the U. S. Trustee pursuant to 28 USC 1930, as a result of this transaction, to be deposited in a separate account and to be used only to pay said U. S. Trustee fees absent further order of the Court, if not paid or withheld prior to closing.
- e. Paydown of the Note in amount of the Net Proceeds to Hancock Bank.

The Debtor further prays that the Court authorize that the Property be sold free and clear of all liens; and enter an order that the Net Proceeds of sale be substituted as collateral for the Property (as defined above) pursuant to 11 U.S.C. § 363(f), and that the Property be conveyed free and clear of encumbrances, including but not limited to all taxes due to Stone County and the Deed of Trust to Hancock Bank.

The Debtor further prays that the Court make a finding that the purchaser is a good faith purchaser as contemplated by 11 U.S.C. §363(m).

The Debtor further prays that it be granted such other, further and general relief to which it may be entitled.

Respectfully submitted this the 12<sup>th</sup> day of June, 2017.

**CLEAR LAKE DEVELOPMENT, LLC., Debtor**

/s/ Patrick A. Sheehan

Patrick A. Sheehan, Counsel for Debtor

CERTIFICATE OF SERVICE

I, the undersigned PATRICK A. SHEEHAN, hereby certifies that on this day, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to the following: Christopher James Steiskal, Sr., United States Trustee, at [christopher.j.steiskal@usdoj.gov](mailto:christopher.j.steiskal@usdoj.gov) and the United States Trustee at [USTPRegion05.JA.ECF@usdoj.gov](mailto:USTPRegion05.JA.ECF@usdoj.gov); I further certify that I have this day mailed, postage prepaid, a true and correct copy of the above Motion to the list of creditors attached hereto.

This the 12<sup>th</sup> day of June, 2017.

/s/ Patrick A. Sheehan  
PATRICK A. SHEEHAN

Sheehan Law Firm, PLLC  
429 Porter Avenue  
Ocean Springs, MS 39564  
(228) 875-0572 / fax (228) 875-0895  
MS Bar No. 6747

CONTRACT FOR THE SALE AND PURCHASE OF REAL ESTATE

This form is provided as a courtesy to the parties only. It is not required to be used in this transaction and may not fit the needs, goals and purposes of the parties. The Mississippi Association of REALTORS® makes no statement or warranty as to this form, its contents or use, and the parties, by their use of this form, acknowledge said facts and agree that neither the Mississippi Association of REALTORS® nor any member thereof shall be liable to any party or person for its contents or use. If any party to this transaction does not fully understand it, or has any question, the party should seek advice from a competent legal professional before signing.

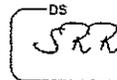
- 1. PARTIES. Buyer(s) Sheila R. Richard
2. Seller(s)
3. Buyer(s) agree to buy and Seller(s) agree(s) to sell, the herein described property on the terms and conditions set forth herein.
4. 2. PROPERTY. Description: approx. 16 ACRES off Clear Lake Rd to be determined by Survey see exhibit "A"
5. by Survey see exhibit "A"
6. in Perkinston MS. 39573 Stone County, MS
7. (street address) (city/town/zip code)
8. together with the following items: N/A
9.
10. all items permanently attached, unless specifically excluded herein. The Property is further
11. described as tax parcel # Seller to provide see exhibit "A" in the public records of the county
12. within which the property is located, the exact legal description to be determined by survey (if warranted or agreed).
13. Mineral Rights: Seller(s) will transfer [X] ANY [ ] NONE [ ] OTHER (%) of mineral rights
14. which it possesses in the real property to the Buyer(s).
15. 3. PURCHASE PRICE: Buyer will pay a total price of \$ 32,000.00/100 as follows:
16. Cash Down Payment at Closing (subject to adjustments and pro-rations) \$
17. Balance: \$ payable as (check one)
18. (A) [X] Cash
19. (B) [ ] New Loan (check appropriate boxes): [ ] FHA [ ] VA [ ] CONV [ ] Other:
20. [ ] Adjustable [ ] Fixed
21. 4. EARNEST MONEY. A sum of \$ 500.00/100 upon 3 days from acceptance (cash [ ] check [X]) is to be deposited with
22. Coldwell Banker, Alfonso [Broker/Trustee], who shall hold it in trust, presuming clearance
23. of check. Upon acceptance of the Contract, earnest money deposit and down payment received by above named Broker/Trustee
24. shall be deposited in a federally insured escrow account and shall remain in that account until the transaction has been consummated
25. or terminated. In any event of failure to close, Broker/Trustee has authority to provide the earnest money to the rightfully entitled
26. party based upon the terms of the Contract. In the event the Broker/Trustee cannot determine by the terms of the Contract which
27. party is rightfully entitled to the earnest money, the Broker/Trustee shall interplead the funds.
28. 5. CONTINGENCIES.
29. (A) No Waste. This Contract is conditioned upon delivery of the Property and any and all improvements in their present condition,
30. reasonable wear and tear excepted. Seller(s) shall preserve the Property in its present general condition, normal wear and tear
31. excepted, and shall not permit the Property to suffer waste avoidable by the reasonable exercise of due care. Any material change to
32. the Property shall be disclosed in accordance with the Mississippi Real Estate Brokers License Law of 1954, as amended, allowing
33. for termination of the offer as prescribed by law (see Miss. Code Ann., Sec. 89-1-503).
34. (B) Loan. Contract is contingent upon Buyer(s) being approved for a loan sufficient to close, provided that Buyer(s) makes timely
35. application and good faith efforts to secure a loan prior to Closing. Within seven (7) calendar days after the Effective Date of the
36. Contract, Buyer(s) will make application in proper form for the loan(s), shall cooperate with parties to obtain approval(s), diligently
37. and timely pursue the same in good faith, execute all documents and furnish all information and documents required, and make
38. timely payment of any costs of obtaining such loan approval. Failure of the Buyer(s) to make timely application for loan and
39. exercise good faith efforts to facilitate its approval shall entitle the Seller(s) at its option to (A) excuse the failure and proceed with
40. the transaction on such terms as the parties may agree to in writing in the form of an amendment to the Contract; OR (B) declare the
41. Contract void and refund to Buyer(s) the earnest money deposit. OR (C) treat the failure as a Breach by Buyer(s) under paragraph 10
42. hereof.
43. (C) Appraisal. [ ] Applicable [X] Not Applicable (Check One)
44. If applicable, Property must appraise at or above Purchase Price or Buyer(s) shall not be obligated to complete the purchase of the



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45. Property and all Earnest Money shall be refunded to Buyer(s), except when Buyer(s) have failed to secure a timely appraisal in good  
 46. faith. Failure of Buyer(s) to make good faith efforts to secure a timely appraisal shall constitute a Breach of this Contract.
47. (D) Warranty And Inspections. (Select One):
48.  Sale Without Warranty; No Home Inspection. Buyer(s) has/have inspected the property and find(s) same to be in  
 49. satisfactory condition and DO(ES) NOT wish to secure a home inspection. Buyer(s) accept(s) the Property in its condition as of the  
 50. Effective Date of this Contract, and acknowledge(s) that neither Seller(s) nor Listing Broker nor Seller Broker or salespersons  
 51. associated with this transaction have made any warranty, express, implied or otherwise, as to the Property, except such express  
 52. warranties as the parties agree to in writing attached hereto, which shall survive Closing.
53. OR
54.  Home Inspection. Buyer(s) shall, at Buyer(s) expense, arrange for a Mississippi licensed home inspector(s) to conduct an  
 55. inspection (or inspections) for the purpose of evaluating non-cosmetic systems (roof, plumbing, heating, air conditioning, electrical,  
 56. appliances, pools, spas, treatment systems or other systems) to determine if they are in proper working order. Buyer(s), or any  
 57. designee, and Buyer's home inspector shall have the right to enter the Property at reasonable hours, with twenty-four (24) hours  
 58. prior notice, and conduct inspections for purposes of this paragraph. On the designated inspection date(s), Seller(s) shall provide  
 59. unlimited access to the Property, and shall see that all utilities are on at the time of the inspection. In the event of failure of Seller(s)  
 60. to make proper provision for properly noticed inspection(s), Seller(s) shall be responsible to Buyer(s) for reasonable loss or expense  
 61. incurred by Buyer(s) as a result of a failed or partial inspection, including the cost of necessitated secondary inspections.
62. (1) If a timely (as defined herein) Home Inspection Report reveals material deficiencies that have not previously been disclosed on  
 63. the Property Condition Disclosure Statement ("PCDS") in accordance with Sections 89-1-501 through 89-1-527 of the  
 64. Mississippi Code of 1972 and which require amendment of the PCDS, Buyer(s) shall identify such material deficiencies to  
 65. Seller(s) in writing together with a copy of relevant portions of the Home Inspection Report and Seller and Buyer shall comply  
 66. with Sections 89-1-501 through 89-1-527 of the Mississippi Code of 1972 with regard to such disclosures, including Buyer's  
 67. option to rescind this contract as set forth in Section 89-1-503 of the Mississippi Code of 1972, as amended.
68. (2) If a timely (as defined herein) Home Inspection Report reveals non-cosmetic deficiencies that do not require amendment of the  
 69. PCDS, Buyer(s) shall identify such non-cosmetic deficiencies to Seller(s) in writing together with a copy of relevant portions of  
 70. the Home Inspection Report. Upon receipt of such written notice, Seller(s) agree(s) to pay for repairs of such non-cosmetic  
 71. items up to but not to exceed an aggregate total of \$ 0 (if blank not completed, amount is zero), and  
 72. Buyer(s) agree to accept such payment as Seller(s)' sole obligation under this paragraph to the extent such repairs do not exceed  
 73. such amount; if such repairs exceed this amount or if the blank is not completed, Buyer(s) and Seller(s) shall have three (3)  
 74. business days in which to perform any due diligence concerning said repairs and, if they should agree, to amend this Contract  
 75. concerning such repairs. Should Buyer(s) and Seller(s) not be in agreement as to how such repairs shall be handled at the end of  
 76. said three (3) business day due diligence period, Buyer(s) shall have an additional three (3) business days to terminate this  
 77. Contract and receive a refund of any Earnest Money OR to accept the Seller's payment (if any) and proceed to Closing. Failure  
 78. of the Buyer(s) to make its election to terminate this Contract as set forth herein (TIME BEING OF THE ESSENCE) shall  
 79. constitute a waiver by Buyer(s) of such right and the parties shall proceed to Closing.
80. (3) The foregoing notwithstanding, if Buyer(s) do/does not have property inspected OR give(s) written notice with copies of  
 81. relevant portions of the Home Inspection Report as required above within ten (10) business days of the Effective Date of this  
 82. Contract, then Buyer(s) agree(s) to accept the property without repairs and with no warranties or representations from Seller(s)  
 83. or their agent(s) or representative(s), and the parties shall proceed to Closing.
84. (E) Final Walk-Through Inspection. Irrespective of the election made above, Buyer(s) retain(s) the right to perform a final walk-  
 85. through Inspection of the Property prior to Closing to verify the terms of the Contract have been fulfilled.
86. (F) Wood Destroying Insect Report. (check one)  Buyer(s)  Seller(s) shall, at their expense, furnish within N/A  
 87. calendar days before Closing approved FHA/VA Wood Destroying Insect Report ("WDIR") from a licensed termite company  
 88. indicating that Property shows no evidence of termite or other wood-destroying insect infestation. If such infestation constitutes  
 89. material damage, Buyer(s) can, within three (3) calendar days of receipt thereof, declare the Contract null and void and have its  
 90. earnest money refunded. Additionally, when infestation is found on the subject Property, Seller(s) can at its option either furnish a  
 91. warranty of approved treatment and correct any structural damage caused by such infestation OR deem said repairs as cost  
 92. prohibitive and declare the contract null and void, refunding Buyer(s)' earnest money. Parties acknowledge that Listing and Selling  
 93. Broker(s), salespersons associated with this transaction, Lender, and attorney(s) have the right to rely solely on the WDIR at Closing.  
 94. In the event damage is found thereafter, Buyer(s) release(s) Listing and Selling Broker(s), salespersons associated with this  
 95. transaction, Lender, and attorney(s) from any liability. Both Buyer and Seller acknowledge that the Broker(s) shall not recommend  
 96. any pest control company or in any way warrant the inspection or treatment made by the company or any other person, and is in no  
 97. way responsible for damage attributable to wood destroying insects or related repairs. Cost of the WDIR (check one)  IS  
 98.  IS NOT included in Seller's Closing Costs under Section 6(D).



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99. (G) Pre-Closing Loss. In the event of damage to the Property or improvements before Closing by virtue of causes beyond the parties' control, such as fire, flood, war, acts of God or other causes, Seller(s) shall, within three (3) calendar days of a loss or as soon thereafter as reasonably possible, notify Buyer(s) in writing of said damage, at which time Buyer(s) may, at Buyer's option:

102. (1) cancel this contract and be entitled to the return of earnest money deposits; OR

103. (2) waive any objection and proceed to Closing on the terms set forth in this Contract; OR

104. (3) seek to reach suitable agreement with Seller(s) as to repair(s), extension of the Closing date and/or other adjustments to the Contract as may be agreed upon by the parties. Failure of the parties to reach a suitable agreement within five (5) calendar days after election by Buyer(s) to proceed under this option (3) shall automatically and without further notice cancel this Contract and entitle Buyer(s) to the return of earnest money deposits.

108. **6. CLOSING.**

109. (A) **Deadline to Close.** Closing to be within 60 Days of acceptance if mutually agreed to in writing by the parties (subject to the provisions of Section 9(G) hereof).

111. (B) **Title And Conveyance.** At Closing, Seller shall deliver to Buyer a  General Warranty Deed  Special Warranty Deed

112.  Assignment of Lease  Quitclaim Deed vesting title to the Property in (write names clearly):

113. Sheila R. Richards with rights of Survivorship to Tiler R. Richards + Karsen Goldson

114. and a certificate of title prepared by an attorney upon whose certificate title insurance may be obtained from a title insurance company acceptable to Buyer(s) and qualified to do and doing business in the State of Mississippi. Seller(s) shall, prior to or at Closing, satisfy and pay all outstanding mortgages, deeds of trust, special liens, taxes or special assessments, escrow amount of Property Owner's Association or Condominium fees affecting the subject property which are not specifically assumed by Buyer(s) herein. Title shall be Good, marketable and insurable, subject only to the following items recorded in the Chancery Clerk's Office of said county: easements without encroachments, applicable zoning ordinances, protective covenants and prior mineral reservations; otherwise Buyer(s), at its option, may either (A) if defects cannot be cured by designated Closing date, cancel this Contract, in which case any earnest money deposit shall be refunded to Buyer; (B) accept title as is and proceed to Closing; or (C) if the defects are of such character that they can be remedied by legal action within a reasonable time, permit Seller(s) such reasonable time to perform this curative work at Seller(s)' expense. In the event curative work is performed by Seller(s), the time specified herein for Closing shall be extended for a reasonable period necessary for such cure, said period not to exceed thirty (30) days unless agreed to in writing by the parties.

126. (C) **Proration.** All taxes, rents, utility and other assessments and appropriate condominium or Property Owner's Association fees are to be prorated as of the Closing date for the year of the sale.

128. (D) **Closing Costs.** At Closing, Seller agrees to pay up to \$ 0 toward total costs of sale not covered by other provisions of this Contract (subject to applicable law; does not include Compensation to Brokers, Seller's repair costs (if any), cure of title defects under paragraph 6(B), or prorated items under paragraph 6(C)).

131. (E) **Possession.** Possession shall be delivered to Buyer(s) (check one):

132.  Upon completion of Closing and full funding

133.  By separate *Possession Addendum* attached and made a part of this Contract

134. **7. DISCLOSURES.**

135. (A) **Multiple Listing Service ("MLS").** The Selling Broker is a participant of the GCR Multiple Listing Service and the sales information will be provided to the MLS to be published and disseminated to its Participants.

137. (B) **Property Condition Disclosure Statement ("PCDS").** (Select One):

138.  NO Property Condition Disclosure Statement is required in accordance with Sections 89-1-501 et seq. of the Mississippi Code, as amended.

140. OR

141.  Buyer(s) acknowledge(s) receipt of the Property Condition Disclosure Statement in accordance with Sections 89-1-501 et seq. of the Mississippi Code, as amended.

143. OR

144.  The Property Condition Disclosure Statement is to be delivered after the Buyer has made an offer, in accordance with Sections 89-1-501 et seq. of the Mississippi Code, as amended. Upon delivery, the Buyer may terminate any resulting real estate contract, including this Contract, or withdraw any offer for a time period of three (3) days after the delivery in person or five (5) days after the delivery by deposit in mail. Such termination or withdrawal shall be without penalty and any deposit or Earnest Money shall be promptly refunded.

149. (C) **Equal Housing Opportunity.** In accordance with the federal Fair Housing Law, it is illegal to block bust or to discriminate against any person because of race, color, religion, sex, handicap, familial status or national origin in the sale or rental of housing or residential lots, in advertising the sale or rental of housing, in the financing of housing or in the providing of real estate brokerage services.

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153. (D) Privacy. Signature of Buyer(s) on this Contract is authorization by Buyer(s) to the mortgage company processing a loan  
 154. application to examine the credit worthiness of Buyer(s). Signature of Seller(s) of this Contract is authorization to any mortgage  
 155. company to release any information pertinent to the mortgage secured by the Property to foforesaid brokers or salespersons and the  
 156. closing attorney.

157. (E) Lead-Based Paint Disclosure. Every buyer of any interest in residential property on which a residential dwelling was built  
 158. prior to 1978 is notified that such subject property may present exposure to lead from lead-based paint that may place young  
 159. children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage,  
 160. including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses  
 161. a particular risk to pregnant women. The Seller of any interest in residential real property is required to provide the Buyer with any  
 162. information on lead-based paint hazards from risk assessments or inspections in the Seller's possession and notify the Buyer of any  
 163. unknown lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to  
 164. purchase.

165. 8. BROKERS AND SALESPERSONS.

166. (A) The Brokers and Salespersons involved in the transaction associated with this Contract are as follows:

167. Selling Brokerage Coldwell Banker, Alfonso Selling Agent Kelly Moses  
 168. Selling Brokerage Address: 9153 Lorraine Rd. Gpt. ms. 39503  
 169. Selling Broker License No. B-5609 Selling Agent License No. S-25625  
 170. Business Phone 228-287-1000 Business Phone \_\_\_\_\_  
 171. Email: Kelly@kellymoses.com Facsimile: \_\_\_\_\_

172. Listing Brokerage J. Carter - Co. Listing Agent Jake Carter  
 173. Listing Brokerage Address: \_\_\_\_\_  
 174. Listing Broker License No. \_\_\_\_\_ Listing Agent License No. \_\_\_\_\_  
 175. Business Phone 228-731-3881 Business Phone 228-860-6359  
 176. Email: jcarter610@hotma. com Facsimile: \_\_\_\_\_

177. (B) Agency Relationship. (Check One):

178.  The Listing Firm, the Selling Firm, and their salespersons represent the Seller(s) as their Client. The Buyer(s) is/are the  
 179. customer.

180.  The Listing Firm and its salespersons represent the Seller(s). The Selling Firm and its salespersons represent the Buyer(s).

181.  The Listing Firm and its salespersons represent both Seller(s) and the Buyer(s) as dual agents by mutual agreement and all  
 182. parties have signed and understand the Dual Agency Confirmation form provided to them by the Listing Firm.

183.  The Selling Firm and its salespersons represent the Buyer(s). The Seller(s) is/are not represented and is/are a customer.

184. (C) Compensation. The parties under this Contract or through any other negotiated agreement agree to pay as per listing agreement  
 185. or prior offer of cooperation and compensation. If Broker(s) collect(s) this compensation or any part thereof through legal action,  
 186. the defaulting party agrees to pay court costs including reasonable attorney fees. Compensation due hereunder is deemed earned,  
 187. due and payable upon presentation of a buyer ready, willing and able to purchase on terms acceptable to Seller(s), though Broker  
 188. agrees to accept payment at Closing as an accommodation to the parties.

189. (D) No Reliance. Neither party shall be bound by any terms, conditions, oral statements, warranties or representations not herein  
 190. contained. Seller(s) and Buyer(s) acknowledge that neither of them have relied upon any statement, representation or omission made  
 191. or documentation provided by the other party or the Broker(s) and salesperson(s) and their representatives relating to this transaction  
 192. including, but not limited to, value of the Property, condition of the Property, the decision to sell or purchase the Property, the terms  
 193. or condition of sale, tax or legal considerations or liability, size or condition of the Property, the presence or lack thereof of UFFI  
 194. insulation, the presence of or lack thereof of Exterior Insulated Finish Systems (E.I.F.S.), previous flooding, effect of or location  
 195. within Mississippi State Tidelands or Federal wetlands, presence of expansive soils, or the presence or absence or enforceability of  
 196. acceleration clauses or tax or balloon notes.

197. (E) Liability. Broker's liability to Buyer(s) and Seller(s) in this transaction shall not exceed the amount it has received as  
 198. compensation.

199. 9. GENERAL.

200. (A) Agreement Complete. This Contract incorporates all prior agreements between the parties, contains the entire and final  
 201. agreement of the parties and cannot be changed except by their written mutual consent. Neither party shall be bound by any terms,  
 202. conditions, oral statements, warranties or representations not herein contained.

203. (B) Read And Understood. Each party acknowledges and hereby affirms that it has read and understands this Contract.

204. (C) Assignment. This Contract shall not be assignable by either party without consent of the other party.

205. (D) Effective Date. For purposes of this contract the Effective Date is the date the last necessary party signs.

206. (E) Notices. Any notices required or permitted to be given under this Contract shall be delivered by hand or mailed by certified or

Page 4 of 6



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 F1 - Contract for the Sale and Purchase of Real Estate

DS  
 SRR

Rev. Date 09/2016

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DocuSign Envelope ID: 787772CE-A91E-4F79-AE49-BD591C2E5605

207. registered mail, return receipt requested, in a postage prepaid envelope or by nationally recognized overnight carrier service; by  
208. facsimile with receipt acknowledgement (if the fax number is listed below); or by email (if the email address is listed below), at  
209. Sender's option, and addressed as follows:

210. If to Seller(s):

211. Address: \_\_\_\_\_

212. Facsimile: \_\_\_\_\_

213. Email: \_\_\_\_\_

214. If to Buyer(s):

215. Address: 9153 Lorraine Rd. Gpt. Ms. 39503

216. Facsimile: \_\_\_\_\_

217. Email: Kelly@Kellymoses.com

218. (F) Survival Of Contract. All express representations, warranties and covenants shall survive termination of the Contract or  
219. Closing unless specified to the contrary. All other contractual obligations shall terminate at Closing.

220. (G) Time Is Of The Essence. Time is of the essence as to all time periods and deadlines stated in this Contract, and delay in  
221. performance is not excused unless expressly excused in writing signed by all parties. The foregoing or any other provision in this  
222. Contract notwithstanding, any unavoidable delay necessitated by applicable law or regulations shall extend any affected deadline by  
223. no more than the actual number of days of delay necessitated by such law or regulation.

224. 10. BREACH. Specific performance is the essence of this Contract, except as otherwise specifically provided for herein and as  
225. further delineated below, and **TIME IS OF THE ESSENCE.**

226. In the event of breach of this Contract by Buyer(s), Seller(s) may, at its/their option (A) accept the earnest money deposit as  
227. liquidated damages and this Contract shall be null and void; OR (B) file suit in any court of competent jurisdiction for damages; OR  
228. (C) file suit in any court of competent jurisdiction for specific performance and any damages. If Seller elects to proceed under (A)  
229. or (B) in this section, or if Seller(s) proceed(s) under (C) and is/are unsuccessful in a suit for specific performance but receive(s) an  
230. award of the earnest money deposit and/or damages, Listing Broker shall retain or be paid one-half (1/2) of the earnest money  
231. deposit amount or damages awarded as their compensation, not to exceed the full compensation due under the Listing Agreement. If  
232. Seller(s) elects to proceed under option (C) and secure(s) specific performance, Listing Broker shall be paid the full compensation  
233. due under the Listing Agreement.

234. In the event of breach of this Contract by Seller(s), Buyer(s) may at its/their option (A) accept the refund of its earnest money  
235. deposit as liquidated damages and this Contract shall be null and void; OR (B) file suit in any court of competent jurisdiction for  
236. damages, less credit for earnest money returned to Buyer(s); OR (C) file suit in any court of competent jurisdiction for specific  
237. performance and any damages. In the event of Seller(s)' breach, Listing Broker shall be paid the full compensation due under the  
238. Listing Agreement, unless this Contract requires Buyer(s) to pay all or any portion of said compensation. If it becomes necessary to  
239. ensure the performance of this Contract for either party to initiate litigation, then the non-prevailing party agrees to pay reasonable  
240. attorney fees and court costs in connection therewith to the prevailing party.

241. 11. SPECIAL PROVISIONS. (If none, write "NONE" below):

242. (1) Seller to provide a survey + parcel # for the "2"8 acres

243. parcels totaling 16 Acres - one survey combining both parcels

244. to one

245. (2) Contingent upon Buyer Satisfying herself with water

246. table + well depth for lot within 10 days of acceptance

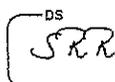
247. \_\_\_\_\_

248. \_\_\_\_\_

249. \_\_\_\_\_

250. \_\_\_\_\_

251. \_\_\_\_\_



252. 12. EXPIRATION OF OFFER. This offer expires at 6:00 o'clock  AM  PM, Central Standard Time (CST) on

253. 5/31/17 [date] if not accepted, countered or rejected by Seller(s) by that time.

254. 13. ATTACHMENTS. (Check All That Apply):

- 255.  Dual Agency Confirmation  Lead Based Paint Disclosure
- 256.  Mandatory Arbitration Addendum  Option Agreement
- 257.  Pre-Closing Repair/Improvement Addendum  Back Up Agreement Contingency
- 258.  Right of First Refusal Addendum  VA/FHA Disclosures (as required)
- 259.  Pre-Closing Possession Addendum  Other \_\_\_\_\_
- 260.  Post-Closing Possession Addendum

261. 14. SIGNATURE BLOCKS.

262. Signed this the 5/24/2017 day of 08:08 AM CDT, at \_\_\_\_\_, at \_\_\_\_\_  a.m.  p.m., and a copy hereof received:

263. BUYER Steve R. Richard BUYER \_\_\_\_\_  
DocuSigned by: Steve R. Richard  
D5D5E4094EB7454

264. Phone 228-861-4060 Phone \_\_\_\_\_

265. The foregoing offer is accepted this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_  a.m.  p.m.,

266. and a copy hereof received:

267. SELLER \_\_\_\_\_ SELLER \_\_\_\_\_

268. Phone \_\_\_\_\_ Phone \_\_\_\_\_

269. A copy of this *acceptance* has been received this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_  a.m.  p.m.

270. BUYER \_\_\_\_\_ BUYER \_\_\_\_\_

271. The Sellers have countered this offer subject to the terms of the attached Counter Offer No. \_\_\_\_\_ this the \_\_\_\_\_

272. day of 5/30/2017, \_\_\_\_\_, at \_\_\_\_\_  a.m.  p.m., and a copy hereof received:

273. SELLER Clay Gutierrez SELLER \_\_\_\_\_  
DocuSigned by: Clay Gutierrez  
7BB65A026C494F8...

274. The Sellers have received a copy of this offer and rejected same and make no counter offer this the \_\_\_\_\_ day of \_\_\_\_\_

275. \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_  a.m.  p.m., and a copy of this rejection has been delivered

276. to Buyer(s).

277. SELLER \_\_\_\_\_ SELLER \_\_\_\_\_

278. A copy of this *rejection* has been received this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_  a.m.  p.m.

279. BUYER \_\_\_\_\_ BUYER \_\_\_\_\_

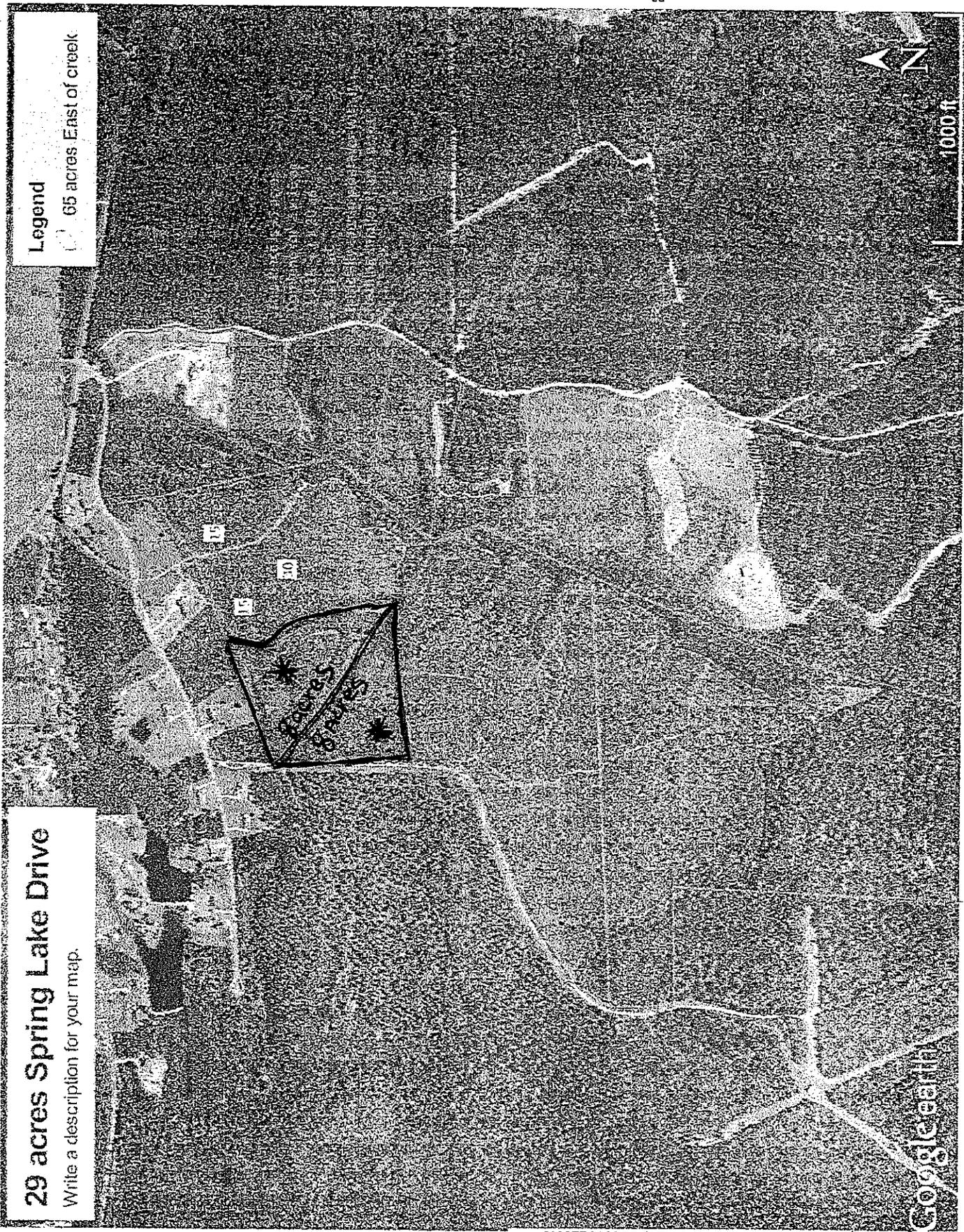
DS  
16

DS  
SR

exhibit "A"

Legend  
65 acres East of creek

29 acres Spring Lake Drive  
Write a description for your map.



Google Earth



## WORKING WITH A REAL ESTATE BROKER

\*\*THIS IS NOT A LEGALLY BINDING CONTRACT\*\*

Approved 01/2003 By  
MS Real Estate Commission  
P. O. Box 12685  
Jackson, MS 39232

### GENERAL

Before you begin working with any real estate agent, you should know whom the agent represents in the transaction. Mississippi real estate licensees are required to disclose which party they represent in a transaction and to allow a party the right to choose or refuse among the various agency relationships.

There are several types of relationships that are possible and you should understand these at the time a broker or salesperson provides specific assistance to you in a real estate transaction.

The purpose of the Agency Disclosure is to document an acknowledgement that the consumer has been informed of various agency relationships, which are available in a real estate transaction.

For the purpose of this disclosure, the term seller and/or buyer will also include those other acts specified in Section 73-35-3 (1) of the Miss. Code. "...list, sell, purchase, exchange, rent, lease, manage, or auction any real estate, or the improvements thereon including options."

### SELLER'S AGENT

A seller can enter into a "listing agreement" with a real estate firm authorizing the firm and its agent(s) to represent the seller in finding a buyer for his property. A licensee who is engaged by and acts as the agent of the Seller only is known as a Seller's Agent. A Seller's agent has the following duties and obligations:

To the Seller:

- \* The fiduciary duties of loyalty, confidentiality, obedience, disclosure, full accounting and the duty to use skill, care and diligence.

To the Buyer and Seller:

- \* A duty of honesty and fair dealing.
- \* A duty to disclose all facts known to the Seller's agent materially affecting the value of the property which are not known to, or readily observable by, the parties in a transaction.

### BUYER'S AGENT

A buyer may contract with an agent or firm to represent him/her. A licensee who is engaged by and acts as the agent of the Buyer only is known as the Buyer's Agent.

If a Buyer wants an agent to represent him in purchasing a property, the buyer can enter into a Buyer's Agency Agreement with the agent. A Buyer's Agent has the following duties and obligations:

To the Buyer:

- \* The fiduciary duties of loyalty, confidentiality, obedience, disclosure, full accounting and the duty to use skill, care and diligence.

To the Seller and Buyer:

- \* A duty of honesty and fair dealing.

### DISCLOSED DUAL AGENT

A real estate agent or firm may represent more than one party in the same transaction. A Disclosed Dual Agent is a licensee who, with the informed written consent of the Seller and Buyer, is engaged as an agent for both Seller and Buyer.

As a disclosed dual agent, the licensee shall not represent the interests of one party to the exclusion or detriment of the interests of the other party. A disclosed dual agent has all the fiduciary duties to the Seller and Buyer that a Seller's or Buyer's agent has except the duties of full disclosure and undivided loyalty.

A Disclosed Dual Agent may not disclose:

- (a) To the Buyer that the Seller will accept less than the asking or listed price, unless otherwise instructed in writing by the Seller.
- (b) To the Seller that the Buyer will pay a price greater than the price submitted in a written offer to the Seller, unless otherwise instructed in writing by the Buyer.
- (c) The motivation of any party for selling, buying, or leasing a property, unless otherwise instructed in writing by the respective party, or
- (d) That a Seller or Buyer will agree to financing terms other than those offered, unless otherwise instructed in writing by the respective party.

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DocuSign Envelope ID: 787772CE-A91E-4F79-AE49-BD591C2E5605

IMPORTANT NOTICE!

"Customer" shall mean that person not represented in a real estate transaction. It may be the buyer, seller, landlord or tenant.

A Buyer may decide to work with a firm that is acting for the Seller (a Seller's Agent or subagent). If a Buyer does not enter into a Buyer Agency Agreement with the firm that shows him properties, that firm and its agents may show the buyer properties as an agent or subagent working on the seller's behalf. Such a firm represents the Seller (not the Buyer) and must disclose that fact to the Buyer.

When it comes to the price and terms of an offer, the Seller's Agent will ask you to decide how much to offer for any property and upon what terms and conditions. They can explain your options to you, but the final decision is yours, as they cannot give you legal or financial advice. They will attempt to show you property in the price range and category you desire so that you will have information on which to base your decision.

The Seller's Agent will present to the Seller any written offer that you ask them to present. You should keep to yourself any information that you do not want the Seller to know (i.e. the price you are willing to pay, other terms you are willing to accept, and your motivation for buying). The Seller's agent is required to tell all such information to the Seller. You should not furnish the Seller's agent anything you do not want the Seller to know. If you desire, you may obtain the representation of an attorney or another real estate agent, or both.

THIS IS NOT A CONTRACT. THIS IS AN ACKNOWLEDGEMENT OF DISCLOSURE

The below named Licensee has informed me that brokerage services are being provided me as a:

- Client (Seller's or Landlord's Agent)
- Client (Buyer's or Tenants Agent)
- Client (Disclosed Dual Agent)
- Customer (Not as my Agent)

By signing below, I acknowledge that I received this informative document and explanation prior to the exchange of confidential information which might affect the bargaining position in a real estate transaction involving me.

SRR

(Client)

Kelly A. Moses

(Licensee)

5/05/17

(Date)

Caldwell Banker

(Company)

(Customer)

Alfonso

(Customer)

LICENSEE - Provide a copy of disclosure acknowledgement to all parties and retain signed original for your files.

SELLER'S COUNTER OFFER # \_\_\_\_\_

This form is provided as a courtesy to the parties only. It is not required to be used in this transaction and may not fit the needs, goals and purposes of the parties. The Mississippi Association of REALTORS® makes no statement or warranty as to this form, its contents or use, and the parties, by their use of this form, acknowledge said facts and agree that neither the Mississippi Association of REALTORS® nor any member thereof shall be liable to any party or person for its contents or use. If any party to this transaction does not fully understand it, or has any question, the party should seek advice from a competent legal professional before signing.

1 The offer to purchase the real property commonly known as:  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 made by and between \_\_\_\_\_ Sheila R. Richard \_\_\_\_\_ Buyer(s)  
5 and \_\_\_\_\_ Clay Guitierrez \_\_\_\_\_ Seller(s)  
6 dated \_\_\_\_\_, is not acceptable in its present form but the following counter offer is hereby submitted:  
7 1) price to be \$35,200.00  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_

17 OTHER TERMS: All other terms shall remain the same.  
18 EXPIRATION: This counter offer shall expire unless a copy thereof with Buyer's written acceptance is delivered to Seller or its  
19 agent by: \_\_\_\_\_ May 29, 2017 \_\_\_\_\_ (date).

20 Signed this the 26th day of \_\_\_\_\_ May \_\_\_\_\_, 2017, at \_\_\_\_\_  a.m.  p.m., and a copy hereof received:  
21 SELLER \_\_\_\_\_ Clay Guitierrez \_\_\_\_\_ SELLER \_\_\_\_\_  
22 Clear Lake Development, LLC  
23 A copy of this Counter Offer # \_\_\_\_\_ has been received this the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_  a.m.  p.m.  
24 BUYER \_\_\_\_\_ BUYER \_\_\_\_\_

24 The foregoing Counter Offer # \_\_\_\_\_ is accepted this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_  a.m.  
25  p.m., and a copy hereof received:  
26 BUYER \_\_\_\_\_ BUYER \_\_\_\_\_  
27 A copy of this acceptance has been received this the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_  a.m.  p.m.  
28 SELLER \_\_\_\_\_ SELLER \_\_\_\_\_

29 The Buyers have countered this Counter Offer subject to the terms of the attached Buyer's Counter Offer # \_\_\_\_\_ this the \_\_\_\_\_  
30 day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_  a.m.  p.m., and a copy hereof received:  
31 BUYER \_\_\_\_\_ BUYER \_\_\_\_\_

32 The Buyers have rejected this Counter Offer and make no counter offer this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at  
33 \_\_\_\_\_  a.m.  p.m., and a copy hereof received:  
34 BUYER \_\_\_\_\_ BUYER \_\_\_\_\_  
35 A copy of this rejection has been received this \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_  a.m.  p.m.  
36 SELLER \_\_\_\_\_ SELLER \_\_\_\_\_



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F14 Seller's Counter Offer

Rev. Date 2/2010

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**In Re: CLEAR LAKE DEVELOPMENT, LLC**

**CHAPTER 11  
NO.: 17-50392-EE**

**ORDER**

THIS CAUSE having come before the Court for consideration of the Application To Sell Real Property Free and Clear of Liens, (Dkt # ) filed by the Debtor, CLEAR LAKE DEVELOPMENT, LLC, and no written objection having been filed within twenty-one (21) days, it is therefore,

ORDERED AND ADJUDGED that the Application To Sell Real Property Free and Clear of Liens (Dkt. # ) be and hereby is approved.

SO ORDERED.

##END OF ORDER##

---

**EDWARD ELLINGTON  
UNITED STATES BANKRUPTCY JUDGE**

Submitted by:  
Patrick A. Sheehan, MS Bar No. 6747  
Sheehan Law Firm, PLLC  
492 Porter Avenue  
Ocean Springs, MS 39564  
Ph.:228-875-0572 / Fax: 228-875-0895  
[pat@sheehanlawfirm.com](mailto:pat@sheehanlawfirm.com)