

ORDERED.

Dated: September 03, 2019



Catherine Peek McEwen
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
www.flmb.uscourts.gov

In re: Chapter 11
JOSEPH A. BRENNICK, Case No. 8:18-bk-7874-CPM
Debtor.

_____ /

**ORDER GRANTING AMENDED MOTION FOR AUTHORITY
TO SELL REAL PROPERTY FREE AND CLEAR OF LIENS
(302 W. Main St.)**

THIS CASE came before the Court for hearing on August 29, 2019, at 9:30 a.m. for consideration of the *Amended Motion for Authority to Sell Real Property Free and Clear of Liens (302 W. Main St.)* (Doc. No. 188) (the “**Motion**”)¹. Based upon the record before it, the Court finds that Wauchula State Bank consents to the proposed sale, that the proposed sale was negotiated in good faith and at arm’s length between the parties, that the terms and conditions of the proposed sale, including the purchase price, are fair and reasonable, and that the notice of the Motion and of the hearing complied with the Bankruptcy Code, the Federal Rules of Bankruptcy

¹ Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed to them in the Motion.

Procedure, and the Local Rules of this Court. For the foregoing reasons and for the additional reasons stated orally and recorded in open court, which shall constitute the decision of the Court, it is

ORDERED:

1. The Motion is granted.
2. The Debtor is authorized to sell the Real Property, as more particularly identified on the attached **Exhibit A**, to Avanti Construction Group, Inc. (the “**Purchaser**”) in accordance with the terms of the Contract by and between the Debtor, as seller, and the Purchaser, as buyer, free and clear of any and all liens, claims, encumbrances and interests, pursuant to § 363 of the Bankruptcy Code.
3. The Purchaser shall pay \$70,000.00 (the “**Purchase Price**”) in cash at the closing of the purchase and sale transaction as contemplated by the Contract (the “**Closing**”) in accordance with the terms of the Contract and this Order.
4. The Seller shall be responsible for certain Closing Costs as further detailed in the Contract, which shall be paid from the proceeds from the sale at the Closing.
5. In addition, the Seller shall be authorized to pay any brokers’ fees contemplated by the Contract, in a total amount not to exceed 6% (the “**Broker Fees**”), which shall be paid directly from the proceeds from the sale at the Closing.
6. The remainder of the proceeds after payment of the Closing Costs and the Broker Fees (the “**Net Proceeds**”) shall be distributed to Wauchula State Bank. The payment received by Wauchula State Bank shall be applied to reduce Wauchula State Bank’s secured claim.
7. The IRS’ federal tax liens, if any, attach to the Debtor’s beneficial interest in the net sale proceeds to the same extent, validity, and priority as existed prepetition.

8. Ordinary and necessary pro-rations will be applied at the Closing pursuant to the terms of the Contract, including pro-rations for 2019 real estate taxes, and for any income and expenses from the Real Property.

9. Pursuant to §§ 105(a) and 363(f) of the Bankruptcy Code, upon the Closing of the transaction contemplated by the Contract, the Property shall be transferred to the Purchaser free and clear of all clear of all liens, claims, encumbrances, and interests, and debts arising in any way in connection with any acts of the Debtor, claims (as defined in §101(5) of the Bankruptcy Code), obligations, demands, guaranties, options, rights, contractual commitments, restrictions, interests and matters of any kind and nature arising prior to the date the sale closes (the “**Closing Date**”) or relating to acts occurring prior to the Closing Date, and whether imposed by agreement understanding, law, equity or otherwise.

10. This Order is and shall be binding upon and govern the acts of all entities including without limitation, all filing agents, filing officers, title agents, recorders of mortgages, recorders of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state if title in or to any of the Real Property.

11. The Debtor, as seller, and the Purchaser, as buyer, are authorized and directed to execute and deliver all documents and to take all appropriate actions necessary to evidence and consummate the Closing and the transactions contemplated by such sale. The Debtor may enter into any non-material amendment or modification to the Contract that is not adverse to the estate without the need of further notice and hearing or Court order.

12. The Court finds that the Debtor and the Purchaser have acted in good faith, the terms and conditions of the Contract are fair and reasonable and have been negotiated and agreed upon in good faith on the part of the Debtor and the Purchaser, that the Purchaser does not have any affiliation with the Debtor or its officers, directors or affiliates, and the Purchaser is an arm's length purchaser who is purchasing the Property in good faith within the meaning of § 363(m) of the Bankruptcy Code.

13. The terms and provisions of this Order shall be binding upon the Debtor, the estate, all creditors, the Purchaser, and all other parties in interest and the respective successors and assigns of each of the foregoing.

14. The notice given by the Debtor of the Motion and the hearing thereon complied with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules of this Court.

15. This Court shall retain jurisdiction to (a) enforce and implement the terms and provisions of the Contract, this Order, and each of the agreements, documents, and instruments executed in connection the proposed sale; (b) compel the Debtor to execute documents necessary to transfer title to the Property to the Purchaser; (c) compel delivery of the Purchase Price to the Debtor under the Contract and this Order; (d) compel delivery of the net sale proceeds to Wauchula State Bank and the Debtor's and/or Purchaser's brokers; (e) resolve any dispute, controversy, or claim arising out of or relating to the sale of the Real Property; and (f) protect the Purchaser against all liens, claims, interest or encumbrances against or in the Real Property.

16. Notwithstanding Bankruptcy Rule 6004(g), and 6006(d) and 7062, this Order is effective and enforceable immediately upon entry and there is no reason for delay in the implementation of this Order.

Attorney Amy Denton Harris is directed to serve a copy of this order on interested parties who are non-CM/ECF users and to file a proof of service within 3 days of entry of the order.

EXHIBIT A



Vacant Land Contract

1* **1. Sale and Purchase:** _____ Joseph A Brennick _____ ("Seller")
 2* and _____ Avanti Construction Group, Inc. a Florida Corporation _____ ("Buyer")
 3 (the "parties") agree to sell and buy on the terms and conditions specified below the property ("Property")
 4 described as:
 5* Address: _____ 302 Main St. W Wauchula, FL, 33873
 6* Legal Description: LOTS 1 & 2 BLK 18 CARLTON & MCEWEN ADD OR89P71 89P427 121P84 194P127
 7 593P167 DC-600P410411P412 WILL&ORDER-600P413P417 600P425 601P16 641P543 643P118 710P71
 8 WAUCHULA RES 2007-03
 9 _____
 10 _____
 11* SEC 4 /TWP 34 /RNG 25 of Hardee County, Florida. Real Property ID No.: 0434250260000180001
 12* including all improvements existing on the Property and the following additional property: _____
 13 _____

14* **2. Purchase Price:** (U.S. currency) \$ 70,000.00
 15 All deposits will be made payable to "Escrow Agent" named below and held in escrow by:
 16* Escrow Agent's Name: _____ Wauchula Abstract & Title Company
 17* Escrow Agent's Contact Person: _____ Marcus Conerly
 18* Escrow Agent's Address: _____ 123 9th Ave S Wauchula FL 33873
 19* Escrow Agent's Phone: _____ 8637739054
 20* Escrow Agent's Email: _____ mconerly@wauchulaabstract.com

21 (a) Initial deposit (\$0 if left blank) (Check if applicable)
 22* accompanies offer
 23* will be delivered to Escrow Agent within 3 days (3 days if left blank)
 24* after Effective Date \$ 1,000.00
 25 (b) Additional deposit will be delivered to Escrow Agent (Check if applicable)
 26* within _____ days (10 days if left blank) after Effective Date
 27* within _____ days (3 days if left blank) after expiration of Feasibility Study Period \$ _____
 28* (c) Total Financing (see Paragraph 5) (express as a dollar amount or percentage) \$ _____
 29* (d) Other: \$ _____
 30 (e) Balance to close (not including Buyer's closing costs, prepaid items, and prorations)
 31* to be paid at closing by wire transfer or other Collected funds \$ 69,000.00

32* (f) (Complete only if purchase price will be determined based on a per unit cost instead of a fixed price.) The
 33* unit used to determine the purchase price is lot acre square foot other (specify): _____
 34* prorating areas of less than a full unit. The purchase price will be \$ _____ per unit based on a
 35* calculation of total area of the Property as certified to Seller and Buyer by a Florida licensed surveyor in
 36* accordance with Paragraph 7(c). The following rights of way and other areas will be excluded from the
 37* calculation: _____

38 **3. Time for Acceptance; Effective Date:** Unless this offer is signed by Seller and Buyer and an executed copy
 39* delivered to all parties on or before June 21, 2019, this offer will be withdrawn and Buyer's deposit, if
 40* any, will be returned. The time for acceptance of any counter offer will be 3 days after the date the counter offer is
 41* delivered. The "Effective Date" of this contract is the date on which the last one of the Seller and Buyer
 42* has signed or initialed and delivered this offer or the final counter offer.

43* **4. Closing Date:** This transaction will close on August 23, 2019 ("Closing Date"), unless specifically
 44* extended by other provisions of this contract. The Closing Date will prevail over all other time periods including,
 45* but not limited to, Financing and Feasibility Study periods. However, if the Closing Date occurs on a Saturday,
 46* Sunday, or national legal holiday, it will extend to 5:00 p.m. (where the Property is located) of the next business
 47* day. In the event insurance underwriting is suspended on Closing Date and Buyer is unable to obtain property
 48* insurance, Buyer may postpone closing for up to 5 days after the insurance underwriting suspension is lifted. If
 49* this transaction does not close for any reason, Buyer will immediately return all Seller provided documents and
 50* other items.

Buyer JCC () and Seller JP () acknowledge receipt of a copy of this page, which is 1 of 7 pages.

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5. **Financing: (Check as applicable)**

(a) Buyer will pay cash for the Property with no financing contingency.

(b) This contract is contingent on Buyer qualifying for and obtaining the commitment(s) or approval(s) specified below ("Financing") within _____ days after Effective Date (Closing Date or 30 days after Effective Date, whichever occurs first, if left blank) ("Financing Period"). Buyer will apply for Financing within _____ days after Effective Date (5 days if left blank) and will timely provide any and all credit, employment, financial, and other information required by the lender. If Buyer, after using diligence and good faith, cannot obtain the Financing within the Financing Period, either party may terminate this contract and Buyer's deposit(s) will be returned.

(1) **New Financing:** Buyer will secure a commitment for new third party financing for \$ _____ or _____% of the purchase price at (Check one) a fixed rate not exceeding _____% an adjustable interest rate not exceeding _____% at origination (a fixed rate at the prevailing interest rate based on Buyer's creditworthiness if neither choice is selected). Buyer will keep Seller and Broker fully informed of the loan application status and progress and authorizes the lender or mortgage broker to disclose all such information to Seller and Broker.

(2) **Seller Financing:** Buyer will execute a first second purchase money note and mortgage to Seller in the amount of \$ _____, bearing annual interest at _____% and payable as follows: _____
The mortgage, note, and any security agreement will be in a form acceptable to Seller and will follow forms generally accepted in the county where the Property is located; will provide for a late payment fee and acceleration at the mortgagee's option if Buyer defaults; will give Buyer the right to prepay without penalty all or part of the principal at any time(s) with interest only to date of payment; will be due on conveyance or sale; will provide for release of contiguous parcels, if applicable; and will require Buyer to keep liability insurance on the Property, with Seller as additional named insured. Buyer authorizes Seller to obtain credit, employment, and other necessary information to determine creditworthiness for the financing. Seller will, within 10 days after Effective Date, give Buyer written notice of whether or not Seller will make the loan.

(3) **Mortgage Assumption:** Buyer will take title subject to and assume and pay existing first mortgage to LN# _____ in the approximate amount of \$ _____ currently payable at \$ _____ per month, including principal, interest, taxes and insurance, and having a fixed other (describe) _____ interest rate of _____% which will will not escalate upon assumption. Any variance in the mortgage will be adjusted in the balance due at closing with no adjustment to purchase price. Buyer will purchase Seller's escrow account dollar for dollar. If the interest rate upon transfer exceeds _____% or the assumption/transfer fee exceeds \$ _____, either party may elect to pay the excess, failing which this contract will terminate; and Buyer's deposit(s) will be returned. If the lender disapproves Buyer, this contract will terminate; and Buyer's deposit(s) will be returned.

6. **Assignability: (Check one)** Buyer may assign and thereby be released from any further liability under this contract, may assign but not be released from liability under this contract, or may not assign this contract.

7. **Title:** Seller has the legal capacity to and will convey marketable title to the Property by statutory warranty deed special warranty deed other (specify) _____, free of liens, easements, and encumbrances of record or known to Seller, but subject to property taxes for the year of closing; covenants, restrictions, and public utility easements of record; existing zoning and governmental regulations; and (list any other matters to which title will be subject) _____ provided there exists at closing no violation of the foregoing.

(a) **Title Evidence:** The party who pays for the owner's title insurance policy will select the closing agent and pay for the title search, including tax and lien search if performed, and all other fees charged by closing agent. Seller will deliver to Buyer, at

(Check one) Seller's Buyer's expense and

(Check one) within _____ days after Effective Date at least 30 days before Closing Date,

(Check one) (1) a title insurance commitment by a Florida licensed title insurer setting forth those matters to be discharged by Seller at or before closing and, upon Buyer recording the deed, an owner's policy in the amount of the purchase price for fee simple title subject only to the exceptions stated above. If Buyer is paying for the owner's title insurance policy and Seller has an owner's policy, Seller will deliver a copy to Buyer within 15 days after Effective Date.

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(2) an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an existing firm. However, if such an abstract is not available to Seller, then a prior owner's title policy acceptable to the proposed insurer as a base for reissuance of coverage may be used. The prior policy will include copies of all policy exceptions and an update in a format acceptable to Buyer from the policy effective date and certified to Buyer or Buyer's closing agent together with copies of all documents recited in the prior policy and in the update. If such an abstract or prior policy is not available to Seller, then (1) above will be the title evidence.

(b) **Title Examination:** After receipt of the title evidence, Buyer will, within _____ days (10 days if left blank) but no later than Closing Date, deliver written notice to Seller of title defects. Title will be deemed acceptable to Buyer if (i) Buyer fails to deliver proper notice of defects or (ii) Buyer delivers proper written notice and Seller cures the defects within _____ days (30 days if left blank) ("Cure Period") after receipt of the notice. If the defects are cured within the Cure Period, closing will occur within 10 days after receipt by Buyer of notice of such cure. Seller may elect not to cure defects if Seller reasonably believes any defect cannot be cured within the Cure Period. If the defects are not cured within the Cure Period, Buyer will have 10 days after receipt of notice of Seller's inability to cure the defects to elect whether to terminate this contract or accept title subject to existing defects and close the transaction without reduction in purchase price.

(c) **Survey:** Buyer may, at Buyer's expense, have the Property surveyed and must deliver written notice to Seller, within 5 days after receiving survey but not later than 5 days before Closing Date, of any encroachments on the Property, encroachments by the Property's improvements on other lands, or deed restriction or zoning violations. Any such encroachment or violation will be treated in the same manner as a title defect and Seller's and Buyer's obligations will be determined in accordance with Paragraph 7(b).

(d) **Ingress and Egress:** Seller warrants that the Property presently has ingress and egress.

8. **Property Condition:** Seller will deliver the Property to Buyer at closing in its present "as is" condition, with conditions resulting from Buyer's Inspections and casualty damage, if any, excepted. Seller will not engage in or permit any activity that would materially alter the Property's condition without the Buyer's prior written consent.

(a) **Inspections:** (Check (1) or (2))

(1) **Feasibility Study:** Buyer will, at Buyer's expense and within 45 days (30 days if left blank) ("Feasibility Study Period") after Effective Date and in Buyer's sole and absolute discretion, determine whether the Property is suitable for Buyer's intended use. During the Feasibility Study Period, Buyer may conduct a Phase 1 environmental assessment and any other tests, analyses, surveys, and investigations ("Inspections") that Buyer deems necessary to determine to Buyer's satisfaction the Property's engineering, architectural, and environmental properties; zoning and zoning restrictions; subdivision statutes; soil and grade; availability of access to public roads, water, and other utilities; consistency with local, state, and regional growth management plans; availability of permits, government approvals, and licenses; and other inspections that Buyer deems appropriate. If the Property must be rezoned, Buyer will obtain the rezoning from the appropriate government agencies. Seller will sign all documents Buyer is required to file in connection with development or rezoning approvals. Seller gives Buyer, its agents, contractors, and assigns, the right to enter the Property at any time during the Feasibility Study Period for the purpose of conducting Inspections, provided, however, that Buyer, its agents, contractors, and assigns enter the Property and conduct Inspections at their own risk. Buyer will indemnify and hold Seller harmless from losses, damages, costs, claims, and expenses of any nature, including attorneys' fees, expenses, and liability incurred in application for rezoning or related proceedings, and from liability to any person, arising from the conduct of any and all Inspections or any work authorized by Buyer. Buyer will not engage in any activity that could result in a construction lien being filed against the Property without Seller's prior written consent. If this transaction does not close, Buyer will, at Buyer's expense, (i) repair all damages to the Property resulting from the Inspections and return the Property to the condition it was in before conducting the Inspections and (ii) release to Seller all reports and other work generated as a result of the Inspections.

Before expiration of the Feasibility Study Period, Buyer must deliver written notice to Seller of Buyer's determination of whether or not the Property is acceptable. Buyer's failure to comply with this notice requirement will constitute acceptance of the Property as suitable for Buyer's intended use in its "as is" condition. If the Property is unacceptable to Buyer and written notice of this fact is timely delivered to Seller, this contract will be deemed terminated, and Buyer's deposit(s) will be returned.

(2) **No Feasibility Study:** Buyer is satisfied that the Property is suitable for Buyer's purposes, including being satisfied that either public sewerage and water are available to the Property or the Property will be approved for the installation of a well and/or private sewerage disposal system and that existing zoning

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and other pertinent regulations and restrictions, such as subdivision or deed restrictions, concurrency, growth management, and environmental conditions, are acceptable to Buyer. This contract is not contingent on Buyer conducting any further investigations.

(b) **Government Regulations:** Changes in government regulations and levels of service which affect Buyer's intended use of the Property will not be grounds for terminating this contract if the Feasibility Study Period has expired or if Paragraph 8(a)(2) is selected.

(c) **Flood Zone:** Buyer is advised to verify by survey, with the lender, and with appropriate government agencies which flood zone the Property is in, whether flood insurance is required, and what restrictions apply to improving the Property and rebuilding in the event of casualty.

(d) **Coastal Construction Control Line ("CCCL"):** If any part of the Property lies seaward of the CCCL as defined in Section 161.053, Florida Statutes, Seller will provide Buyer with an affidavit or survey as required by law delineating the line's location on the Property, unless Buyer waives this requirement in writing. The Property being purchased may be subject to coastal erosion and to federal, state, or local regulations that govern coastal property, including delineation of the CCCL, rigid coastal protection structures, beach nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida Department of Environmental Protection, including whether there are significant erosion conditions associated with the shore line of the Property being purchased.

Buyer waives the right to receive a CCCL affidavit or survey.

9. **Closing Procedure; Costs:** Closing will take place in the county where the Property is located and may be conducted by mail or electronic means. If title insurance insures Buyer for title defects arising between the title binder effective date and recording of Buyer's deed, closing agent will disburse at closing the net sale proceeds to Seller (in local cashier's check if Seller requests in writing at least 5 days before closing) and brokerage fees to Broker as per Paragraph 19. In addition to other expenses provided in this contract, Seller and Buyer will pay the costs indicated below.

(a) **Seller Costs:**

- Taxes on deed
- Recording fees for documents needed to cure title
- Title evidence (if applicable under Paragraph 7)
- Other: _____

(b) **Buyer Costs:**

- Taxes and recording fees on notes and mortgages
- Recording fees on the deed and financing statements
- Loan expenses
- Title evidence (if applicable under Paragraph 7)
- Lender's title policy at the simultaneous issue rate
- Inspections
- Survey
- Insurance
- Other: _____

(c) **Prorations:** The following items will be made current and prorated as of the day before Closing Date: real estate taxes (including special benefit tax liens imposed by a CDD), interest, bonds, assessments, leases, and other Property expenses and revenues. If taxes and assessments for the current year cannot be determined, the previous year's rates will be used with adjustment for any exemptions.

(d) **Special Assessment by Public Body:** Regarding special assessments imposed by a public body, Seller will pay (i) the full amount of liens that are certified, confirmed, and ratified before closing and (ii) the amount of the last estimate of the assessment if an improvement is substantially completed as of Effective Date but has not resulted in a lien before closing; and Buyer will pay all other amounts. If special assessments may be paid in installments, Seller Buyer (Buyer if left blank) will pay installments due after closing. If Seller is checked, Seller will pay the assessment in full before or at the time of closing. Public body does not include a Homeowners' or Condominium Association.

(e) **PROPERTY TAX DISCLOSURE SUMMARY:** BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR FURTHER INFORMATION.

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- 220 (f) **Foreign Investment in Real Property Tax Act ("FIRPTA"):** If Seller is a "foreign person" as defined by
 221 FIRPTA, Seller and Buyer will comply with FIRPTA, which may require Seller to provide additional cash at
 222 closing.
- 223 (g) **1031 Exchange:** If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneously with
 224 closing or after) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party will
 225 cooperate in all reasonable respects to effectuate the Exchange including executing documents, provided,
 226 however, that the cooperating party will incur no liability or cost related to the Exchange and that the closing
 227 will not be contingent upon, extended, or delayed by the Exchange.
- 228 **10. Computation of Time:** Calendar days will be used when computing time periods, except time periods of 5 days
 229 or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal
 230 holidays specified in 5 U.S.C. 6103(a). Any time period ending on a Saturday, Sunday, or national legal holiday
 231 will extend until 5:00 p.m. (where the Property is located) of the next business day. **Time is of the essence in**
 232 **this contract.**
- 233 **11. Risk of Loss; Eminent Domain:** If any portion of the Property is materially damaged by casualty before closing
 234 or Seller negotiates with a governmental authority to transfer all or part of the Property in lieu of eminent domain
 235 proceedings or an eminent domain proceeding is initiated, Seller will promptly inform Buyer. Either party may
 236 terminate this contract by written notice to the other within 10 days after Buyer's receipt of Seller's notification,
 237 and Buyer's deposit(s) will be returned, failing which Buyer will close in accordance with this contract and
 238 receive all payments made by the governmental authority or insurance company, if any.
- 239 **12. Force Majeure:** Seller or Buyer will not be required to perform any obligation under this contract or be liable to
 240 each other for damages so long as the performance or non-performance of the obligation is delayed, caused, or
 241 prevented by an act of God or force majeure. An "act of God or "force majeure" is defined as hurricanes,
 242 earthquakes, floods, fire, unusual transportation delays, wars, insurrections, and any other cause not reasonably
 243 within the control of Seller or Buyer and which by the exercise of due diligence the non-performing party is
 244 unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended for
 245 the period that the act of God or force majeure is in place. However, in the event that such act of God or force
 246 majeure event continues beyond 30 days, either party may terminate this contract by delivering written notice to
 247 the other; and Buyer's deposit(s) will be returned.
- 248 **13. Notices:** All notices will be in writing and delivered to the parties and Broker by mail, personal delivery, or
 249 electronic means. Buyer's failure to timely deliver written notice to Seller, when such notice is required by
 250 this contract, regarding any contingency will render that contingency null and void, and this contract will
 251 be construed as if the contingency did not exist. Any notice, document, or item delivered to or received
 252 by an attorney or licensee (including a transactions broker) representing a party will be as effective as if
 253 delivered to or received by that party.
- 254 **14. Complete Agreement; Persons Bound:** This contract is the entire agreement between Seller and Buyer.
 255 Except for brokerage agreements, no prior or present agreements will bind Seller, Buyer, or Broker
 256 unless incorporated into this contract. Modifications of this contract will not be binding unless in writing, signed
 257 or initialed, and delivered by the party to be bound. Electronic signatures will be acceptable and binding. This
 258 contract, signatures, initials, documents referenced in this contract, counterparts, and written modifications
 259 communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be
 260 binding. Handwritten or typewritten terms inserted in or attached to this contract prevail over preprinted terms. If
 261 any provision of this contract is or becomes invalid or unenforceable, all remaining provisions will continue to be
 262 fully effective. Seller and Buyer will use diligence and good faith in performing all obligations under this contract.
 263 This contract will not be recorded in any public record. The terms "Seller," "Buyer," and "Broker" may be singular
 264 or plural. This contract is binding on the heirs, administrators, executors, personal representatives, and assigns, if
 265 permitted, of Seller, Buyer, and Broker.
- 266 **15. Default and Dispute Resolution:** This contract will be construed under Florida law. This Paragraph will survive
 267 closing or termination of this contract.
- 268 (a) **Seller Default:** If Seller fails, neglects, or refuses to perform Seller's obligations under this contract, Buyer
 269 may elect to receive a return of Buyer's deposit(s) without thereby waiving any action for damages resulting
 270 from Seller's breach and may seek to recover such damages or seek specific performance. Seller will also
 271 be liable for the full amount of the brokerage fee.

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272 (b) **Buyer Default:** If Buyer fails, neglects, or refuses to perform Buyer's obligations under this contract,
273 including payment of deposit(s), within the time(s) specified, Seller may elect to recover and retain the
274 deposit(s), paid and agreed to be paid, for the account of Seller as agreed upon liquidated damages,
275 consideration for execution of this contract, and in full settlement of any claims, whereupon Seller and Buyer
276 will be relieved from all further obligations under this contract; or Seller, at Seller's option, may proceed in
277 equity to enforce Seller's rights under this contract.

278 16. **Attorney's Fees; Costs:** In any litigation permitted by this Contract, the prevailing party shall be entitled to
279 recover from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting
280 the litigation. This Paragraph 16 shall survive Closing or termination of this Contract.

281 17. **Escrow Agent; Closing Agent:** Seller and Buyer authorize Escrow Agent and closing agent (collectively
282 "Agent") to receive, deposit, and hold funds and other items in escrow and, subject to Collection, disburse them
283 upon proper authorization and in accordance with Florida law and the terms of this contract, including disbursing
284 brokerage fees. "Collection" or "Collected" means any checks tendered or received have become actually and
285 finally collected and deposited in the account of Agent. The parties agree that Agent will not be liable to any
286 person for misdelivery of escrowed items to Seller or Buyer, unless the misdelivery is due to Agent's willful
287 breach of this contract or gross negligence. If Agent interpleads the subject matter of the escrow, Agent will pay
288 the filing fees and costs from the deposit and will recover reasonable attorneys' fees and costs to be paid from the
289 escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party.

290 18. **Professional Advice; Broker Liability:** Broker advises Seller and Buyer to verify all facts and representations
291 that are important to them and to consult an appropriate professional for legal advice (for example, interpreting
292 this contract, determining the effect of laws on the Property and this transaction, status of title, foreign investor
293 reporting requirements, the effect of property lying partially or totally seaward of the CCCL, etc.) and for tax,
294 property condition, environmental, and other specialized advice. Buyer acknowledges that Broker does not reside
295 in the Property and that all representations (oral, written, or otherwise) by Broker are based on Seller
296 representations or public records. Buyer agrees to rely solely on Seller, professional inspectors, and
297 government agencies for verification of the Property condition and facts that materially affect Property
298 value. Seller and Buyer respectively will pay all costs and expenses, including reasonable attorneys' fees at all
299 levels, incurred by Broker and Broker's officers, directors, agents, and employees in connection with or arising
300 from Seller's or Buyer's misstatement or failure to perform contractual obligations. Seller and Buyer hold
301 harmless and release Broker and Broker's officers, directors, agents, and employees from all liability for loss or
302 damage based on (i) Seller's or Buyer's misstatement or failure to perform contractual obligations; (ii) the use or
303 display of listing data by third parties, including, but not limited to, photographs, images, graphics, video
304 recordings, virtual tours, drawings, written descriptions, and remarks related to the Property; (iii) Broker's
305 performance, at Seller's or Buyer's request, of any task beyond the scope of services regulated by Chapter 475,
306 Florida Statutes, as amended, including Broker's referral, recommendation, or retention of any vendor; (iv)
307 products or services provided by any vendor; and (v) expenses incurred by any vendor. Seller and Buyer each
308 assume full responsibility for selecting and compensating their respective vendors. This Paragraph will not relieve
309 Broker of statutory obligations. For purposes of this Paragraph, Broker will be treated as a party to this contract.
310 This Paragraph will survive closing.

311 19. **Commercial Real Estate Sales Commission Lien Act:** If the Property is commercial real estate as defined by
312 Section 475.701, Florida Statutes, the following disclosure will apply: The Florida Commercial Real Estate Sales
313 Commission Lien Act provides that when a broker has earned a commission by performing licensed services
314 under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the
315 broker's commission. The broker's lien rights under the act cannot be waived before the commission is earned.

316 20. **Brokers:** The brokers named below are collectively referred to as "Broker." **Instruction to closing agent:**
317 Seller and Buyer direct closing agent to disburse at closing the full amount of the brokerage fees as specified in
318 separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the
319 extent Broker has retained such fees from the escrowed funds. This Paragraph will not be used to modify any
320 MLS or other offer of compensation made by Seller or Seller's Broker to Buyer's Broker.

321* (a) Jim See Realty Inc. (Seller's Broker)
322* will be compensated by Seller Buyer both parties pursuant to a listing agreement other
323* (specify):

324* (b) Lambert Realty Company Inc. (Buyer's Broker)
325* will be compensated by Seller Buyer both parties Seller's Broker pursuant to a MLS offer of
326* compensation other (specify):

Buyer JCC () and Seller JB () acknowledge receipt of a copy of this page, which is 6 of 7 pages.

327* **21. Additional Terms:** _____
 328 _____
 329 _____
 330 _____
 331 _____
 332 _____
 333 _____
 334 _____
 335 _____
 336 _____
 337 _____
 338 _____
 339 _____
 340 _____
 341 _____
 342 _____

COUNTER-OFFER/REJECTION

344* Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and
 345 deliver a copy of the acceptance to Seller).
 346* Seller rejects Buyer's offer

347 **This is intended to be a legally binding contract. If not fully understood, seek the advice of an attorney before**
 348 **signing.**

349* **Buyer:** Juan Carlos Curci **Date:** 6/14/2019

350* **Print name:** Juan Carlos Curci

351* **Buyer:** _____ **Date:** _____

352* **Print name:** _____

353 **Buyer's address for purpose of notice:**

354* **Address:** 3050 University Parkway Sarasota FL, 34243

355* **Phone:** 9417043094 **Fax:** _____ **Email:** Curci@avanticenter.com

356* **Seller:** *Joseph Banned* **Date:** _____

357* **Print name:** _____

358* **Seller:** _____ **Date:** _____

359* **Print name:** _____

360 **Seller's address for purpose of notice:**

361* **Address:** 5115 County Rd 675 Apt 466 Myakka City, FL 34251

362* **Phone:** _____ **Fax:** _____ **Email:** _____

363* **Effective Date:** _____ **(The date on which the last party signed or initialed and delivered the**
 364 **final offer or counter offer.)**

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