

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

IN RE:	X	
	X	
TMTR HOLDINGS, LLC	X	CASE NO. 17-52797-CAG
	X	
DEBTOR	X	CHAPTER 11

**MOTION OF TMTR HOLDINGS, LLC FOR AUTHORIZATION TO SELL REAL  
PROPERTY FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES**

**THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO  
YOUR INTERESTS.**

**IF NO TIMELY RESPONSE IS FILED WITHIN TWENTY-ONE (21)  
DAYS FROM THE DATE OF SERVICE, THE RELIEF REQUESTED  
HEREIN MAY BE GRANTED WITHOUT A HEARING BEING HELD.**

**A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE  
HELD.**

TO THE HONORABLE CRAIG A. GARGOTTA, JUDGE,  
UNITED STATES BANKRUPTCY COURT:

NOW COMES, TMTR Holdings, LLC, Debtor-in-Possession in the above styled and  
numbered Chapter 11 bankruptcy case, and files this its Motion For Authorization to Sell Real  
Property Free and Clear of All Liens, Claims and Encumbrances, and in support thereof would  
respectfully show the Court the following:

1. On December 5, 2017, TMTR Holdings, LLC (hereinafter called "Debtor") filed its  
voluntary Petition for Relief under Chapter 11 of the United States Bankruptcy Code in the United

States Bankruptcy Court for the Western District of Texas, San Antonio Division. The Debtor continues to operate as a Debtor-in-Possession in this case.

2. The asset proposed to be sold is the real property and improvements described as 475 Bayside Drive, Port Aransas, TX 78373. The real property is a single family residence located in the Island Moorings Subdivision in Port Aransas, Texas.

3. The Debtor proposes to sell the real property for the cash sales price in the amount of \$950,000.00 to Thomas G. Herrlich and Lisa M. Herrlich (not related to the Debtor). The sale is scheduled to close on or before January 29, 2018.

4. The Debtor believes that the proposed sales price approximates the real property's market value in the context of such a sale, and is a reasonable value based upon the asset proposed to be sold and its marketability. The house suffered damages in the recent hurricane season (Harvey), and the buyers are purchasing the home as is, with the buyers to complete all repairs. The Debtor is keeping the balance of the insurance proceeds.

5. The real property is subject to a mortgage lien to New First National Bank in the approximate amount of \$830,000.00. All outstanding ad valorem taxes, including the Nueces County ad valorem taxes (including 2017), will be paid in full from the sale. The ad valorem taxes are in the projected amount of \$46,379.75.

6. The Debtor is requesting permission to pay all reasonable closing costs, including real estate commissions (5%), directly at closing. The net proceeds from the sale will be paid to New First National Bank through cross-collateralization provisions on other debts owed to New First National Bank by the Debtor and a related Debtor (Double Rafter H Construction Company, LLC), in partial satisfaction of the outstanding balances owed on cross-collateralized debts of the Debtor.

7. The Debtor is requesting that the sale to Thomas G. Herrlich and Lisa M. Herrlich be free and clear of all liens, claims and encumbrances pursuant to §363 of the U.S. Bankruptcy Code. The liens of New First National Bank and the local ad valorem taxing authorities (Nueces County) will automatically attach to the net sales proceeds based upon their pre-petition priority, and paid through closing.

8. A copy of the Residential Contract is attached hereto as Exhibit "A".

9. A copy of the Order uploaded with this Motion is attached hereto.

WHEREFORE, PREMISES CONSIDERED, Debtor requests that the Court authorize it to sell free and clear of all liens, claims and encumbrances pursuant to §363 of the U.S. Bankruptcy Code the real property (475 Bayside Drive, Port Aransas, TX 78373) for the cash sales price in the amount of \$950,000.00 to Thomas G. Herrlich and Lisa M. Herrlich pursuant to the terms set forth above, and for such other and further relief to which the Debtor may show itself entitled.

Date: December 15, 2017.

Respectfully submitted,



WILLIAM R. DAVIS, JR.  
State Bar No. 05565500  
LANGLEY & BANACK, INC.  
745 E. Mulberry, Suite 900  
San Antonio, TX 78212  
(210) 736-6600

Attorneys for Debtor

CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2017, a true and correct copy of the above and foregoing instrument was mailed, first class, postage prepaid to the attached notice list.



WILLIAM R. DAVIS, JR.

Label Matrix for local noticing  
0542-5  
Case 17-52797-cag  
Western District of Texas  
San Antonio  
Fri Dec 15 10:52:50 CST 2017

TMTR Holdings, LLC  
P.O. Box 1083  
Pleasanton, TX 78064-1043

U.S. BANKRUPTCY COURT  
615 E. HOUSTON STREET, ROOM 597  
SAN ANTONIO, TX 78205-2055

Atascosa County  
1001 Oak St.  
Jourdanton, TX 78026-2849

Atascosa County  
c/o Don Stecker  
711 Navarro, Suite 300  
San Antonio, TX 78205-1749

Bexar County  
c/o Don Stecker  
711 Navarro, Suite 300  
San Antonio, TX 78205-1749

Bexar County Tax Assessor  
P.O. Box 839950  
San Antonio, TX 78283-3950

Dependabill Solutions  
P.O. Box 935135  
Atlanta, GA 31193-5135

Internal Revenue Service  
P.O. Box 7346  
Philadelphia, PA 19101-7346

Linebarger Goggan Blair & Sampson  
David G. Aelvoet  
711 Navarro, Suite 300  
San Antonio, TX 78205-1749

McMullen County  
c/o Don Stecker  
711 Navarro, Suite 300  
San Antonio, TX 78205-1749

New First National Bank  
10301 N E Zac Lentz Pkwy.  
Victoria, TX 77904-3132

NewFirst National Bank  
c/o Richard T. Chapman  
PO Box 1969  
Victoria, TX 77902-1969

Nueces County  
P.O. Box 2810  
Corpus Christi, TX 78403-2810

Nueces County  
c/o Diane W. Sanders  
Linebarger Goggan Blair & Sampson, LLP  
P.O. Box 17428  
Austin, TX 78760-7428

Nueces County Water  
315 S. 9th St.  
Port Aransas, TX 78373-5207

Richard T. Chapman, Jr.  
Anderson Smith Null & Stofer  
P.O. Box 1969  
Victoria, TX 77902-1969

Riverside Residence  
Owners Association  
P.O. Box 803555  
Dallas, TX 75380-3555

United States Attorney  
Taxpayer Division  
601 N.W. Loop 410 Suite 600  
San Antonio, TX 78216-5512

United States Attorney General  
950 Pennsylvania Ave., NW  
Washington, DC 20530-0001

United States Trustee - SA12  
US Trustee's Office  
615 E Houston, Suite 533  
PO Box 1539  
San Antonio, TX 78295-1539

William R. Davis Jr  
Langley & Banack, Inc  
745 E Mulberry Ave, Suite 900  
San Antonio, TX 78212-3141

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)Riverside Residence Owners Association  
P.O. Box 803555  
Dallas, TX 75380-3555

End of Label Matrix  
Mailable recipients 21  
Bypassed recipients 1  
Total 22



TEXAS ASSOCIATION OF REALTORS®  
**AMENDMENT TO LISTING**

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**AMENDMENT TO LISTING AGREEMENT BETWEEN THE UNDERSIGNED PARTIES  
 CONCERNING THE PROPERTY AT  
 475 Bayside Drive, Port Aransas, TX 78373**

"Owner" means the seller or landlord of the above-referenced Property.

Effective December 10, 2017, Owner and Broker amend the above-referenced Listing as follows:

- ☐ A. The Listing Price in Paragraph 3 of the Listing is changed to: \$ \_\_\_\_\_.
- ☒ B. The date the Listing ends in Paragraph 4 of the Listing is changed to: February 28, 2018.
- ☐ C. Owner instructs Broker to cease marketing the Property on \_\_\_\_\_ and to resume marketing the Property on: ☐ (1) receipt of further instructions from Owner; or ☐ (2) \_\_\_\_\_.

The Listing is not terminated and remains in effect for all other purposes.

- ☐ D. Paragraph(s) \_\_\_\_\_ are changed as follows:

**RE/MAX Coastal Living**

Broker's (Company's) Printed Name 436531 License No.

Seller or Landlord \_\_\_\_\_ Date

**TMTR Holdings LLC**

By: \_\_\_\_\_  
 Broker's Associate's Signature Date

Seller or Landlord \_\_\_\_\_ Date

**TMTR Holdings LLC**

(TAR-1404) 1-7-04

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PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

11-2-2015

# ONE TO FOUR FAMILY RESIDENTIAL CONTRACT (RESALE)

NOTICE: Not For Use For Condominium Transactions

1. **PARTIES:** The parties to this contract are TMTR HOLDINGS LLC  
(Seller) and THOMAS G. HERRLICH, LISA M. HERRLICH (Buyer).  
Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.
2. **PROPERTY:** The land, improvements and accessories are collectively referred to as the "Property".
  - A. **LAND:** Lot 38 Block 1, MUSTANG BEACH UNIT 1  
Addition, City of PORT ARANSAS, County of NUECES,  
Texas, known as 475 BAYSIDE DR. 78373  
(address/zip code), or as described on attached exhibit.
  - B. **IMPROVEMENTS:** The house, garage and all other fixtures and improvements attached to the above-described real property, including without limitation, the following **permanently installed and built-in items**, if any: all equipment and appliances, valances, screens, shutters, awnings, wall-to-wall carpeting, mirrors, ceiling fans, attic fans, mail boxes, television antennas, mounts and brackets for televisions and speakers, heating and air-conditioning units, security and fire detection equipment, wiring, plumbing and lighting fixtures, chandeliers, water softener system, kitchen equipment, garage door openers, cleaning equipment, shrubbery, landscaping, outdoor cooking equipment, and all other property owned by Seller and attached to the above described real property.
  - C. **ACCESSORIES:** The following described related accessories, if any: window air conditioning units, stove, fireplace screens, curtains and rods, blinds, window shades, draperies and rods, door keys, mailbox keys, above ground pool, swimming pool equipment and maintenance accessories, artificial fireplace logs, and controls for: (i) garage doors, (ii) entry gates, and (iii) other improvements and accessories.
  - D. **EXCLUSIONS:** The following improvements and accessories will be retained by Seller and must be removed prior to delivery of possession: \_\_\_\_\_
3. **SALES PRICE:**
  - A. Cash portion of Sales Price payable by Buyer at closing ..... \$ 190,000.00
  - B. Sum of all financing described in the attached: ☒ Third Party Financing Addendum,  
☐ Loan Assumption Addendum, ☐ Seller Financing Addendum ..... \$ 760,000.00
  - C. Sales Price (Sum of A and B) ..... \$ 950,000.00
4. **LICENSE HOLDER DISCLOSURE:** Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: N/A
5. **EARNEST MONEY:** Upon execution of this contract by all parties, Buyer shall deposit \$ 9,500.00 as earnest money with FIRST TITLE COMPANY, as escrow agent, at 200 S. ALISTER, PORT ARANSAS, TX (address). Buyer shall deposit additional earnest money of \$ N/A with escrow agent within N/A days after the effective date of this contract. If Buyer fails to deposit the earnest money as required by this contract, Buyer will be in default.
6. **TITLE POLICY AND SURVEY:**
  - A. **TITLE POLICY:** Seller shall furnish to Buyer at ☒ Seller's ☐ Buyer's expense an owner policy of title insurance (Title Policy) issued by FIRST TITLE COMPANY (Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:
    - (1) Restrictive covenants common to the platted subdivision in which the Property is located.
    - (2) The standard printed exception for standby fees, taxes and assessments.
    - (3) Liens created as part of the financing described in Paragraph 3.
    - (4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located.

DS  
TGH UMH

TAR 1601 Initialed for identification by Buyer \_\_\_\_\_ and Seller \_\_\_\_\_

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(Address of Property)

- (5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
- (6) The standard printed exception as to marital rights.
- (7) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
- (8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements: ☐ (i) will not be amended or deleted from the title policy; or ☒ (ii) will be amended to read, "shortages in area" at the expense of ☐ Buyer ☒ Seller.
- B. COMMITMENT: Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or 3 days before the Closing Date, whichever is earlier. If, due to factors beyond Seller's control, the Commitment and Exception Documents are not delivered within the time required, Buyer may terminate this contract and the earnest money will be refunded to Buyer.
- C. SURVEY: The survey must be made by a registered professional land surveyor acceptable to the Title Company and Buyer's lender(s). (Check one box only)
- ☒ (1) Within 5 days after the effective date of this contract, Seller shall furnish to Buyer and Title Company Seller's existing survey of the Property and a Residential Real Property Affidavit promulgated by the Texas Department of Insurance (T-47 Affidavit). If Seller fails to furnish the existing survey or affidavit within the time prescribed, Buyer shall obtain a new survey at Seller's expense no later than 3 days prior to Closing Date. If the existing survey or affidavit is not acceptable to Title Company or Buyer's lender(s), Buyer shall obtain a new survey at ☒ Seller's ☐ Buyer's expense no later than 3 days prior to Closing Date.
- ☐ (2) Within N/A days after the effective date of this contract, Buyer shall obtain a new survey at Buyer's expense. Buyer is deemed to receive the survey on the date of actual receipt or the date specified in this paragraph, whichever is earlier.
- ☐ (3) Within N/A days after the effective date of this contract, Seller, at Seller's expense shall furnish a new survey to Buyer.
- D. OBJECTIONS: Buyer may object in writing to defects, exceptions, or encumbrances to title: disclosed on the survey other than items 6A(1) through (7) above; disclosed in the Commitment other than items 6A(1) through (8) above; or which prohibit the following use or activity: **SINGLE FAMILY RESIDENCE**. Buyer must object the earlier of (i) the Closing Date or (ii) 5 days after Buyer receives the Commitment, Exception Documents, and the survey. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived by Buyer. Provided Seller is not obligated to incur any expense, Seller shall cure the timely objections of Buyer or any third party lender within 15 days after Seller receives the objections and the Closing Date will be extended as necessary. If objections are not cured within such 15 day period, this contract will terminate and the earnest money will be refunded to Buyer unless Buyer waives the objections.
- E. TITLE NOTICES:
- (1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.
- (2) MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION(S): The Property ☒ is ☐ is not subject to mandatory membership in a property owners association(s). If the Property is subject to mandatory membership in a property owners association(s), Seller notifies Buyer under §5.012, Texas Property Code, that, as a purchaser of property in the residential community identified in Paragraph 2A in which the Property is located, you are obligated to be a member of the property owners association(s). Restrictive covenants governing the use and occupancy of the Property and all dedicatory instruments governing the establishment, maintenance, and operation of this residential community have been or will be recorded in the Real Property Records of the county in which the Property is located. Copies of the restrictive covenants and dedicatory instrument may be obtained from the county clerk. You are obligated to pay assessments to the property owners association(s). The amount of the assessments is subject to



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**change. Your failure to pay the assessments could result in enforcement of the association's lien on and the foreclosure of the Property.**

Section 207.003, Property Code, entitles an owner to receive copies of any document that governs the establishment, maintenance, or operation of a subdivision, including, but not limited to, restrictions, bylaws, rules and regulations, and a resale certificate from a property owners' association. A resale certificate contains information including, but not limited to, statements specifying the amount and frequency of regular assessments and the style and cause number of lawsuits to which the property owners' association is a party, other than lawsuits relating to unpaid ad valorem taxes of an individual member of the association. These documents must be made available to you by the property owners' association or the association's agent on your request.

If Buyer is concerned about these matters, the TREC promulgated Addendum for Property Subject to Mandatory Membership in a Property Owners Association(s) should be used.

- (3) STATUTORY TAX DISTRICTS: If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.
- (4) TIDE WATERS: If the Property abuts the tidally influenced waters of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum containing the notice promulgated by TREC or required by the parties must be used.
- (5) ANNEXATION: If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.
- (6) PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER: Notice required by §13.257, Water Code: The real property, described in Paragraph 2, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned Buyer hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in Paragraph 2 or at closing of purchase of the real property.
- (7) PUBLIC IMPROVEMENT DISTRICTS: If the Property is in a public improvement district, §5.014, Property Code, requires Seller to notify Buyer as follows: As a purchaser of this parcel of real property you are obligated to pay an assessment to a municipality or county for an improvement project undertaken by a public improvement district under Chapter 372, Local Government Code. The assessment may be due annually or in periodic installments. More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the municipality or county levying the assessment. The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of your property.
- (8) TRANSFER FEES: If the Property is subject to a private transfer fee obligation, §5.205, Property Code, requires Seller to notify Buyer as follows: The private transfer fee obligation may be governed by Chapter 5, Subchapter G of the Texas Property Code.
- (9) PROPANE GAS SYSTEM SERVICE AREA: If the Property is located in a propane gas system service area owned by a distribution system retailer, Seller must give Buyer written notice as required by §141.010, Texas Utilities Code. An addendum containing the notice approved by TREC or required by the parties should be used.
- (10) NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as

TAR 1601

Initialed for identification by Buyer \_\_\_\_\_ and Seller \_\_\_\_\_

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475 BAYSIDE DR.  
PORT ARANSAS, TX 78373

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a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

**7. PROPERTY CONDITION:**

A. ACCESS, INSPECTIONS AND UTILITIES: Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. Any hydrostatic testing must be separately authorized by Seller in writing. Seller at Seller's expense shall immediately cause existing utilities to be turned on and shall keep the utilities on during the time this contract is in effect.

B. SELLER'S DISCLOSURE NOTICE PURSUANT TO §5.008, TEXAS PROPERTY CODE (Notice):

(Check one box only)

- ☐ (1) Buyer has received the Notice.
- ☒ (2) Buyer has not received the Notice. Within 5 days after the effective date of this contract, Seller shall deliver the Notice to Buyer. If Buyer does not receive the Notice, Buyer may terminate this contract at any time prior to the closing and the earnest money will be refunded to Buyer. If Seller delivers the Notice, Buyer may terminate this contract for any reason within 7 days after Buyer receives the Notice or prior to the closing, whichever first occurs, and the earnest money will be refunded to Buyer.
- ☐ (3) The Seller is not required to furnish the notice under the Texas Property Code.

C. SELLER'S DISCLOSURE OF LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS is required by Federal law for a residential dwelling constructed prior to 1978.

D. ACCEPTANCE OF PROPERTY CONDITION: "As Is" means the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract. Buyer's agreement to accept the Property As Is under Paragraph 7D(1) or (2) does not preclude Buyer from inspecting the Property under Paragraph 7A, from negotiating repairs or treatments in a subsequent amendment, or from terminating this contract during the Option Period, if any.

(Check one box only)

- ☒ (1) Buyer accepts the Property As Is.
- ☐ (2) Buyer accepts the Property As Is provided Seller, at Seller's expense, shall complete the the following specific repairs and treatments:

(Do not insert general phrases, such as "subject to inspections" that do not identify specific repairs and treatments.)

E. LENDER REQUIRED REPAIRS AND TREATMENTS: Unless otherwise agreed in writing, neither party is obligated to pay for lender required repairs, which includes treatment for wood destroying insects. If the parties do not agree to pay for the lender required repairs or treatments, this contract will terminate and the earnest money will be refunded to Buyer. If the cost of lender required repairs and treatments exceeds 5% of the Sales Price, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

F. COMPLETION OF REPAIRS AND TREATMENTS: Unless otherwise agreed in writing: (i) Seller shall complete all agreed repairs and treatments prior to the Closing Date; and (ii) all required permits must be obtained, and repairs and treatments must be performed by persons who are licensed to provide such repairs or treatments or, if no license is required by law, are commercially engaged in the trade of providing such repairs or treatments. At Buyer's election, any transferable warranties received by Seller with respect to the repairs and treatments will be transferred to Buyer at Buyer's expense. If Seller fails to complete any agreed repairs and treatments prior to the Closing Date, Buyer may exercise remedies under Paragraph 15 or extend the Closing Date up to 5 days if necessary for Seller to complete the repairs and treatments.

G. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.

H. RESIDENTIAL SERVICE CONTRACTS: Buyer may purchase a residential service contract from a residential service company licensed by TREC. If Buyer purchases a residential service contract, Seller shall reimburse Buyer at closing for the cost of the residential service contract in an amount not exceeding \$ 495.00. Buyer should review any residential service contract for the scope of coverage, exclusions and limitations. The purchase of a residential service contract is optional. Similar coverage may be purchased from various companies authorized to do business in Texas.

8. BROKERS' FEES: All obligations of the parties for payment of brokers' fees are contained in separate written agreements.

TAR 1601 Initialed for identification by Buyer [Signature] and Seller [Signature]

Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 [www.zipLogix.com](http://www.zipLogix.com)

TREC NO. 20-13

475 Bayside

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**9. CLOSING:**

- A. The closing of the sale will be on or before January 29, 2018, or within 7 days after objections made under Paragraph 6D have been cured or waived, whichever date is later (Closing Date). If either party fails to close the sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.
- B. At closing:
- (1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6 and furnish tax statements or certificates showing no delinquent taxes on the Property.
  - (2) Buyer shall pay the Sales Price in good funds acceptable to the escrow agent.
  - (3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the sale and the issuance of the Title Policy.
  - (4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing the payment of any loans assumed by Buyer and assumed loans will not be in default.
  - (5) If the Property is subject to a residential lease, Seller shall transfer security deposits (as defined under §92.102, Property Code), if any, to Buyer. In such an event, Buyer shall deliver to the tenant a signed statement acknowledging that the Buyer has acquired the Property and is responsible for the return of the security deposit, and specifying the exact dollar amount of the security deposit.

**10. POSSESSION:**

- A. Buyer's Possession: Seller shall deliver to Buyer possession of the Property in its present or required condition, ordinary wear and tear excepted: ☒ upon closing and funding ☐ according to a temporary residential lease form promulgated by TREC or other written lease required by the parties. Any possession by Buyer prior to closing or by Seller after closing which is not authorized by a written lease will establish a tenancy at sufferance relationship between the parties. Consult your insurance agent prior to change of ownership and possession because insurance coverage may be limited or terminated. The absence of a written lease or appropriate insurance coverage may expose the parties to economic loss.

B. Leases:

- (1) After the Effective Date, Seller may not execute any lease (including but not limited to mineral leases) or convey any interest in the Property without Buyer's written consent.
- (2) If the Property is subject to any lease to which Seller is a party, Seller shall deliver to Buyer copies of the lease(s) and any move-in condition form signed by the tenant within 7 days after the Effective Date of the contract.

**11. SPECIAL PROVISIONS:** (Insert only factual statements and business details applicable to the sale. TREC rules prohibit license holder from adding factual statements or business details for which a contract addendum, lease or other form has been promulgated by TREC for mandatory use.) **BUYER WILL PURCHASE HOME "AS IS" AND COMPLETE ALL REPAIRS.**

**12. SETTLEMENT AND OTHER EXPENSES:**

A. The following expenses must be paid at or prior to closing:

(1) Expenses payable by Seller (Seller's Expenses):

- (a) Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.
- (b) Seller shall also pay an amount not to exceed \$ 0.00 to be applied in the following order: Buyer's Expenses which Buyer is prohibited from paying by FHA, VA, Texas Veterans Land Board or other governmental loan programs, and then to other Buyer's Expenses as allowed by the lender.

- (2) Expenses payable by Buyer (Buyer's Expenses): Appraisal fees; loan application fees; origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; Private

TAR 1601 Initialed for identification by Buyer [Signature] and Seller [Signature]

TREC NO. 20-13

Contract Concerning

PORT ARANSAS, TX 78373

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(Address of Property)

Mortgage Insurance Premium (PMI), VA Loan Funding Fee, or FHA Mortgage Insurance Premium (MIP) as required by the lender; and other expenses payable by Buyer under this contract.

- B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas Veterans Land Board or other governmental loan program regulations.
13. **PRORATIONS:** Taxes for the current year, interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year.
14. **CASUALTY LOSS:** If any part of the Property is damaged or destroyed by fire or other casualty after the effective date of this contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds, if permitted by Seller's insurance carrier, and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.
15. **DEFAULT:** If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If Seller fails to comply with this contract, Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.
16. **MEDIATION:** It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.
17. **ATTORNEY'S FEES:** A Buyer, Seller, Listing Broker, Other Broker, or escrow agent who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.
18. **ESCROW:**
- A. **ESCROW:** The escrow agent is not (i) a party to this contract and does not have liability for the performance or nonperformance of any party to this contract, (ii) liable for interest on the earnest money and (iii) liable for the loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as escrow agent.
- B. **EXPENSES:** At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If no closing occurs, escrow agent may: (i) require a written release of liability of the escrow agent from all parties, (ii) require payment of unpaid expenses incurred on behalf of a party, and (iii) only deduct from the earnest money the amount of unpaid expenses incurred on behalf of the party receiving the earnest money.
- C. **DEMAND:** Upon termination of this contract, either party or the escrow agent may send a release of earnest money to each party and the parties shall execute counterparts of the release and deliver same to the escrow agent. If either party fails to execute the release, either party may make a written demand to the escrow agent for the earnest money. If only one party makes written demand for the earnest money, escrow agent shall promptly provide a copy of the demand to the other party. If escrow agent does not receive written objection to the demand from the other party within 15 days, escrow agent may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors. If escrow agent complies with the provisions of this paragraph, each party hereby releases escrow agent from all adverse claims related to the disbursement of the earnest money.

TAR 1601 Initialed for identification by Buyer \_\_\_\_\_ and Seller \_\_\_\_\_

TREC NO. 20-13

Contract Concerning 475 BAYSIDE DR. Page 7 of 9 11-2-2015  
PORT ARANSAS, TX 78373  
 (Address of Property)

- D. DAMAGES: Any party who wrongfully fails or refuses to sign a release acceptable to the escrow agent within 7 days of receipt of the request will be liable to the other party for (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- E. NOTICES: Escrow agent's notices will be effective when sent in compliance with Paragraph 21. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.
19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.
20. FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by applicable law or if Seller fails to deliver an affidavit to Buyer that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.
21. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by fax or electronic transmission as follows:

To Buyer at:

108 BLACK DIAMOND

PORTLAND, TX 78374

Phone: (361)765-8595

Fax: \_\_\_\_\_

E-mail: LHERRLICH@GMAIL.COM

To Seller at:

P O BOX 9

TILDEN, TX 78072

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part of this contract are (Check all applicable boxes):

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Third Party Financing Addendum   | <input type="checkbox"/> Environmental Assessment, Threatened or Endangered Species and Wetlands Addendum  |
| <input type="checkbox"/> Seller Financing Addendum   | <input type="checkbox"/> Seller's Temporary Residential Lease  |
| <input checked="" type="checkbox"/> Addendum for Property Subject to Mandatory Membership in a Property Owners Association | <input type="checkbox"/> Short Sale Addendum   |
| <input type="checkbox"/> Buyer's Temporary Residential Lease   | <input checked="" type="checkbox"/> Addendum for Property Located Seaward of the Gulf Intracoastal Waterway  |
| <input type="checkbox"/> Loan Assumption Addendum  | <input type="checkbox"/> Addendum for Seller's Disclosure of Information on Lead-based Paint and Lead-based Paint Hazards as Required by Federal Law |
| <input type="checkbox"/> Addendum for Sale of Other Property by Buyer  | <input type="checkbox"/> Addendum for Property in a Propane Gas System Service Area  |
| <input type="checkbox"/> Addendum for Reservation of Oil, Gas and Other Minerals   | <input checked="" type="checkbox"/> Other (list): <u>MUD, Brokerage,</u>   |
| <input type="checkbox"/> Addendum for "Back-Up" Contract   | _____  |
| <input checked="" type="checkbox"/> Addendum for Coastal Area Property   | _____  |

TAR 1601 Initialed for identification by Buyer TGH and Seller LMH

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TREC NO. 20-13

475 Bayside

Contract Concerning 475 BAYSIDE DR. Page 8 of 9 11-2-2015  
PORT ARANSAS, TX 78373  
 (Address of Property)

**23. TERMINATION OPTION:** For nominal consideration, the receipt of which is hereby acknowledged by Seller, and Buyer's agreement to pay Seller \$ 100.00 (Option Fee) within 3 days after the effective date of this contract, Seller grants Buyer the unrestricted right to terminate this contract by giving notice of termination to Seller within 10 days after the effective date of this contract (Option Period). Notices under this paragraph must be given by 5:00 p.m. (local time where the Property is located) by the date specified. If no dollar amount is stated as the Option Fee or if Buyer fails to pay the Option Fee to Seller within the time prescribed, this paragraph will not be a part of this contract and Buyer shall not have the unrestricted right to terminate this contract. If Buyer gives notice of termination within the time prescribed, the Option Fee will not be refunded; however, any earnest money will be refunded to Buyer. The Option Fee ☒ will ☐ will not be credited to the Sales Price at closing. Time is of the essence for this paragraph and strict compliance with the time for performance is required.

**24. CONSULT AN ATTORNEY BEFORE SIGNING:** TREC rules prohibit real estate license holders from giving legal advice. READ THIS CONTRACT CAREFULLY.

Buyer's  
Attorney is: \_\_\_\_\_

Seller's  
Attorney is: \_\_\_\_\_

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

E-mail: \_\_\_\_\_

EXECUTED the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (EFFECTIVE DATE).  
 (BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)

DocuSigned by:

*Thomas G. Herrlich*

Buyer THOMAS G. HERRLICH

Seller TMTR HOLDINGS LLC

DocuSigned by:

*Lisa M. Herrlich*

Buyer LISA M. HERRLICH

Seller

The form of this contract has been approved by the Texas Real Estate Commission. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000. (<http://www.trec.texas.gov>) TREC NO. 20-13. This form replaces TREC NO. 20-12.

Contract Concerning

475 BAYSIDE DR.  
**PORT ARANSAS, TX 78373**  
 (Address of Property)

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11-2-2015

**BROKER INFORMATION**

(Print name(s) only. Do not sign)

**Whitten Real Estate****0458785**

Other Broker Firm

License No.

**RE/MAX COASTAL LIVING**

Listing Broker Firm

License No.

represents

☒ Buyer only as Buyer's agent

represents

☐ Seller and Buyer as an intermediary☐ Seller as Listing Broker's subagent☒ Seller only as Seller's agent**Christi Williams****0616706**

Associate's Name

License No.

Listing Associate's Name

License No.

**Addie Belcher****466098**

Licensed Supervisor of Associate

License No.

**MARCUS STARKEY**

Licensed Supervisor of Listing Associate

License No.

**136 S. Cut Off Rd****(361)749-4352**

Other Broker's Address

Fax

**121 CUT OFF RD**

Listing Broker's Office Address

Fax

**Port Aransas****TX 78373**

City

State

Zip

**PORT ARANSAS**

City

**TX****78373**

State

Zip

**clw4114@gmail.com**

Associate's Email Address

**(361)445-2258**

Phone

**MARCUSSTARKEY@REMAX.NET**

Listing Associate's Email Address

**(361)815-2300**

Phone

Selling Associate's Name

License No.

Licensed Supervisor of Selling Associate

License No.

Selling Associate's Office Address

Fax

City

State

Zip

Selling Associate's Email Address

Phone

Listing Broker has agreed to pay Other Broker 2.500% of the total sales price when the Listing Broker's fee is received. Escrow agent is authorized and directed to pay other Broker from Listing Broker's fee at closing.

**OPTION FEE RECEIPT**

Receipt of \$ \_\_\_\_\_ (Option Fee) in the form of \_\_\_\_\_ is acknowledged.

Seller or Listing Broker

Date

**CONTRACT AND EARNEST MONEY RECEIPT**

Receipt of ☐ Contract and ☐ \$ \_\_\_\_\_ Earnest Money in the form of \_\_\_\_\_ is acknowledged.

Escrow Agent: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Email Address \_\_\_\_\_

Address \_\_\_\_\_

Phone: \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip \_\_\_\_\_

Fax: \_\_\_\_\_

TAR 1601

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TREC NO. 20-13

475 Bayside



PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

12-05-2011

**ADDENDUM FOR  
PROPERTY LOCATED SEAWARD OF THE  
GULF INTRACOASTAL WATERWAY  
(SECTION 61.025, TEXAS NATURAL RESOURCES CODE)  
TO CONTRACT CONCERNING THE PROPERTY AT**

**475 BAYSIDE DR., PORT ARANSAS, TX 78373**

(Address of Property)

**DISCLOSURE NOTICE CONCERNING LEGAL AND ECONOMIC RISKS OF PURCHASING  
COASTAL REAL PROPERTY NEAR A BEACH**

**WARNING: THE FOLLOWING NOTICE OF POTENTIAL RISKS OF ECONOMIC LOSS TO YOU AS THE PURCHASER OF COASTAL REAL PROPERTY IS REQUIRED BY STATE LAW.**

- READ THIS NOTICE CAREFULLY. DO NOT SIGN THIS CONTRACT UNTIL YOU FULLY UNDERSTAND THE RISKS YOU ARE ASSUMING.
- BY PURCHASING THIS PROPERTY, YOU MAY BE ASSUMING ECONOMIC RISKS OVER AND ABOVE THE RISKS INVOLVED IN PURCHASING INLAND REAL PROPERTY.
- IF YOU OWN A STRUCTURE LOCATED ON COASTAL REAL PROPERTY NEAR A GULF COAST BEACH, IT MAY COME TO BE LOCATED ON THE PUBLIC BEACH BECAUSE OF COASTAL EROSION AND STORM EVENTS.
- AS THE OWNER OF A STRUCTURE LOCATED ON THE PUBLIC BEACH, YOU COULD BE SUED BY THE STATE OF TEXAS AND ORDERED TO REMOVE THE STRUCTURE.
- THE COSTS OF REMOVING A STRUCTURE FROM THE PUBLIC BEACH AND ANY OTHER ECONOMIC LOSS INCURRED BECAUSE OF A REMOVAL ORDER WOULD BE SOLELY YOUR RESPONSIBILITY.

The real property described in this contract is located seaward of the Gulf Intracoastal Waterway to its southernmost point and then seaward of the longitudinal line also known as 97 degrees, 12', 19" which runs southerly to the international boundary from the intersection of the centerline of the Gulf Intracoastal Waterway and the Brownsville Ship Channel. If the property is in close proximity to a beach fronting the Gulf of Mexico, the purchaser is hereby advised that the public has acquired a right of use or easement to or over the area of any public beach by prescription, dedication, or presumption, or has retained a right by virtue of continuous right in the public since time immemorial, as recognized in law and custom.

The extreme seaward boundary of natural vegetation that spreads continuously inland customarily marks the landward boundary of the public easement. If there is no clearly marked natural vegetation line, the landward boundary of the easement is as provided by Sections 61.016 and 61.017, Natural Resources Code.

Much of the Gulf of Mexico coastline is eroding at rates of more than five feet per year. Erosion rates for all Texas Gulf property subject to the open beaches act are available from the Texas General Land Office.

State law prohibits any obstruction, barrier, restraint, or interference with the use of the public easement, including the placement of structures seaward of the landward boundary of the easement. OWNERS OF STRUCTURES ERECTED SEAWARD OF THE VEGETATION LINE (OR OTHER APPLICABLE EASEMENT BOUNDARY) OR THAT BECOME SEAWARD OF THE VEGETATION LINE AS A RESULT OF PROCESSES SUCH AS SHORELINE EROSION ARE SUBJECT TO A LAWSUIT BY THE STATE OF TEXAS TO REMOVE THE STRUCTURES.

The purchaser is hereby notified that the purchaser should: (1) determine the rate of shoreline erosion in the vicinity of the real property; and (2) seek the advice of an attorney or other qualified person before executing this contract or instrument of conveyance as to the relevance of these statutes and facts to the value of the property the purchaser is hereby purchasing or contracting to purchase.

*Thomas G. Herrlich*

**Buyer THOMAS G. HERRLICH**

*Lisa M. Herrlich*

**Buyer LISA M. HERRLICH**

**Seller TMTR HOLDINGS LLC**

**Seller**

This form has been approved by the Texas Real Estate Commission for use with similarly approved or promulgated contract forms. Such approval relates to this form only. TREC forms are intended for use only by trained real estate licensees. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not suitable for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, 512-936-3000 (<http://www.trec.texas.gov>) TREC No. 34-4. This form replaces TREC No. 34-3.

(TAR-1916) 12-05-2011

Whitten Real Estate, Inc., 136 Cut Off Rd Port Aransas, TX 78373  
Christi Williams

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Phone: (361)749-0001

Fax:

TREC No. 34-4

475 Bayside





PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

12-05-2011

**ADDENDUM FOR  
COASTAL AREA PROPERTY**  
(SECTION 33.135, TEXAS NATURAL RESOURCES CODE)

**TO CONTRACT CONCERNING THE PROPERTY AT**

**475 BAYSIDE DR., PORT ARANSAS, TX 78373**

(Address of Property)

**NOTICE REGARDING COASTAL AREA PROPERTY**

1. The real property described in and subject to this contract adjoins and shares a common boundary with the tidally influenced submerged lands of the state. The boundary is subject to change and can be determined accurately only by a survey on the ground made by a licensed state land surveyor in accordance with the original grant from the sovereign. The owner of the property described in this contract may gain or lose portions of the tract because of changes in the boundary.
2. The seller, transferor, or grantor has no knowledge of any prior fill as it relates to the property described in and subject to this contract except: \_\_\_\_\_
3. State law prohibits the use, encumbrance, construction, or placing of any structure in, on, or over state-owned submerged lands below the applicable tide line, without proper permission.
4. The purchaser or grantee is hereby advised to seek the advice of an attorney or other qualified person as to the legal nature and effect of the facts set forth in this notice on the property described in and subject to this contract. Information regarding the location of the applicable tide line as to the property described in and subject to this contract may be obtained from the surveying division of the General Land Office in Austin.

DocuSigned by:

Thomas G. Herrlich

Buyer

DE11E76553474D9...

THOMAS G. HERRLICH

Lisa M. Herrlich

Buyer

C74F75E88A3F494...

LISA M. HERRLICH

Seller

TMTR HOLDINGS LLC

Seller

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(TAR-1915) 12-05-2011

TREC No. 33-2



PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

11-2-2015

**THIRD PARTY FINANCING ADDENDUM****TO CONTRACT CONCERNING THE PROPERTY AT****475 BAYSIDE DR.****PORT ARANSAS**

(Street Address and City)

A. TYPE OF FINANCING AND DUTY TO APPLY AND OBTAIN APPROVAL: Buyer shall apply promptly for all financing described below and make every reasonable effort to obtain approval for the financing, including but not limited to furnishing all information and documents required by Buyer's lender. (Check applicable boxes):

☒ 1. Conventional Financing:

☒ (a) A first mortgage loan in the principal amount of \$ 760,000.00 (excluding any financed PMI premium), due in full in 30 year(s), with interest not to exceed 5.000 % per annum for the first 30 year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed 1.000 % of the loan.

☐ (b) A second mortgage loan in the principal amount of \$ N/A (excluding any financed PMI premium), due in full in N/A year(s), with interest not to exceed N/A % per annum for the first N/A year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed N/A % of the loan.

☐ 2. Texas Veterans Loan: A loan(s) from the Texas Veterans Land Board of \$ N/A for a period in the total amount of N/A years at the interest rate established by the Texas Veterans Land Board.

☐ 3. FHA Insured Financing: A Section N/A FHA insured loan of not less than \$ N/A (excluding any financed MIP), amortizable monthly for not less than N/A years, with interest not to exceed N/A % per annum for the first N/A year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed N/A % of the loan.

☐ 4. VA Guaranteed Financing: A VA guaranteed loan of not less than \$ N/A (excluding any financed Funding Fee), amortizable monthly for not less than N/A years, with interest not to exceed N/A % per annum for the first N/A year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed N/A % of the loan.

☐ 5. USDA Guaranteed Financing: A USDA-guaranteed loan of not less than \$ N/A (excluding any financed Funding Fee), amortizable monthly for not less than N/A years, with interest not to exceed N/A % per annum for the first N/A year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed N/A % of the loan.

☐ 6. Reverse Mortgage Financing: A reverse mortgage loan (also known as a Home Equity Conversion Mortgage loan) in the original principal amount of \$ N/A (excluding any financed PMI premium or other costs), with interest not to exceed N/A % per annum for the first N/A year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed N/A % of the loan. The reverse mortgage loan ☐ will ☐ will not be an FHA insured loan.

Initialed for identification by Buyer TCH and Seller UMA  
TAR 1901

TREC NO. 40-7  
11-2-2015

475 BAYSIDE DR., PORT ARANSAS, TX 78373

(Address of Property)

B. APPROVAL OF FINANCING: Approval for the financing described above will be deemed to have been obtained when Buyer Approval and Property Approval are obtained.

1. Buyer Approval:

☒ This contract is subject to Buyer obtaining Buyer Approval. If Buyer cannot obtain Buyer Approval, Buyer may give written notice to Seller within 21 days after the effective date of this contract and this contract will terminate and the earnest money will be refunded to Buyer. If Buyer does not terminate the contract under this provision, the contract shall no longer be subject to the Buyer obtaining Buyer Approval. Buyer Approval will be deemed to have been obtained when (i) the terms of the loan(s) described above are available and (ii) lender determines that Buyer has satisfied all of lender's requirements related to Buyer's assets, income and credit history.

☐ This contract is not subject to Buyer obtaining Buyer Approval.

2. Property Approval: Property Approval will be deemed to have been obtained when the Property has satisfied lender's underwriting requirements for the loan, including but not limited to appraisal, insurability, and lender required repairs. If Property Approval is not obtained, Buyer may terminate this contract by giving notice to Seller before closing and the earnest money will be refunded to Buyer.

3. **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

C. SECURITY: Each note for the financing described above must be secured by vendor's and deed of trust liens.

D. FHA/VA REQUIRED PROVISION: If the financing described above involves FHA insured or VA financing, it is expressly agreed that, notwithstanding any other provision of this contract, the purchaser (Buyer) shall not be obligated to complete the purchase of the Property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise: (i) unless the Buyer has been given in accordance with HUD/FHA or VA requirements a written statement issued by the Federal Housing Commissioner, Department of Veterans Affairs, or a Direct Endorsement Lender setting forth the appraised value of the Property of not less than \$ 0.00 ; or (ii) if the contract purchase price or cost exceeds the reasonable value of the Property established by the Department of Veterans Affairs.

(1) The Buyer shall have the privilege and option of proceeding with consummation of the contract without regard to the amount of the appraised valuation or the reasonable value established by the Department of Veterans Affairs.

(2) If FHA financing is involved, the appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value or the condition of the Property. The Buyer should satisfy himself/herself that the price and the condition of the Property are acceptable.

(3) If VA financing is involved and if Buyer elects to complete the purchase at an amount in excess of the reasonable value established by the VA, Buyer shall pay such excess amount in cash from a source which Buyer agrees to disclose to the VA and which Buyer represents will not be from borrowed funds except as approved by VA. If VA reasonable value of the Property is less than the Sales Prices, Seller may reduce the Sales Price to an amount equal to the VA reasonable value and the sale will be closed at the lower Sales Price with proportionate adjustments to the down payment and the loan amount.

E. AUTHORIZATION TO RELEASE INFORMATION:

(1) Buyer authorizes Buyer's lender to furnish to Seller or Buyer or their representatives information relating to the status of the approval for the financing.

(2) Seller and Buyer authorize Buyer's lender, title company, and escrow agent to disclose and furnish a copy of the closing disclosures provided in relation to the closing of this sale to the parties' respective brokers and sales agents identified on the last page of the contract.

Buyer THOMAS G. HERRLICH

Seller TMTR HOLDINGS LLC

Buyer LISA M. HERRLICH

Seller

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PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

08-18-2014

**ADDENDUM FOR PROPERTY SUBJECT TO  
MANDATORY MEMBERSHIP IN A PROPERTY  
OWNERS ASSOCIATION**  
(NOT FOR USE WITH CONDOMINIUMS)  
**ADDENDUM TO CONTRACT CONCERNING THE PROPERTY AT**

**475 BAYSIDE DR.****PORT ARANSAS**

(Street Address and City)

(Name of Property Owners Association, (Association) and Phone Number)

**A. SUBDIVISION INFORMATION:** "Subdivision Information" means: (i) a current copy of the restrictions applying to the subdivision and bylaws and rules of the Association, and (ii) a resale certificate, all of which are described by Section 207.003 of the Texas Property Code.

(Check only one box):

- ☐ 1. Within 10 days after the effective date of the contract, Seller shall obtain, pay for, and deliver the Subdivision Information to the Buyer. If Seller delivers the Subdivision Information, Buyer may terminate the contract within 3 days after Buyer receives the Subdivision Information or prior to closing, whichever occurs first, and the earnest money will be refunded to Buyer. If Buyer does not receive the Subdivision Information, Buyer, as Buyer's sole remedy, may terminate the contract at any time prior to closing and the earnest money will be refunded to Buyer.
- ☐ 2. Within \_\_\_\_\_ days after the effective date of the contract, Buyer shall obtain, pay for, and deliver a copy of the Subdivision Information to the Seller. If Buyer obtains the Subdivision Information within the time required, Buyer may terminate the contract within 3 days after Buyer receives the Subdivision Information or prior to closing, whichever occurs first, and the earnest money will be refunded to Buyer. If Buyer, due to factors beyond Buyer's control, is not able to obtain the Subdivision Information within the time required, Buyer may, as Buyer's sole remedy, terminate the contract within 3 days after the time required or prior to closing, whichever occurs first, and the earnest money will be refunded to Buyer.
- ☐ 3. Buyer has received and approved the Subdivision Information before signing the contract. Buyer ☐ does ☐ does not require an updated resale certificate. If Buyer requires an updated resale certificate, Seller, at Buyer's expense, shall deliver it to Buyer within 10 days after receiving payment for the updated resale certificate from Buyer. Buyer may terminate this contract and the earnest money will be refunded to Buyer if Seller fails to deliver the updated resale certificate within the time required.
- ☐ 4. Buyer does not require delivery of the Subdivision Information.

The title company or its agent is authorized to act on behalf of the parties to obtain the Subdivision Information ONLY upon receipt of the required fee for the Subdivision Information from the party obligated to pay.

- B. MATERIAL CHANGES.** If Seller becomes aware of any material changes in the Subdivision Information, Seller shall promptly give notice to Buyer. Buyer may terminate the contract prior to closing by giving written notice to Seller if: (i) any of the Subdivision Information provided was not true; or (ii) any material adverse change in the Subdivision Information occurs prior to closing, and the earnest money will be refunded to Buyer.
- C. FEES:** Except as provided by Paragraphs A, D and E, Buyer shall pay any and all Association fees or other charges associated with the transfer of the Property not to exceed \$ \_\_\_\_\_ and Seller shall pay any excess.
- D. DEPOSITS FOR RESERVES:** Buyer shall pay any deposits for reserves required at closing by the Association.
- E. AUTHORIZATION:** Seller authorizes the Association to release and provide the Subdivision Information and any updated resale certificate if requested by the Buyer, the Title Company, or any broker to this sale. If Buyer does not require the Subdivision Information or an updated resale certificate, and the Title Company requires information from the Association (such as the status of dues, special assessments, violations of covenants and restrictions, and a waiver of any right of first refusal), ☐ Buyer ☐ Seller shall pay the Title Company the cost of obtaining the information prior to the Title Company ordering the information.

**NOTICE TO BUYER REGARDING REPAIRS BY THE ASSOCIATION:** The Association may have the sole responsibility to make certain repairs to the Property. If you are concerned about the condition of any part of the Property which the Association is required to repair, you should not sign the contract unless you are satisfied that the Association will make the desired repairs.

*Thomas G. Herrlich*

Buyer **THOMAS G. HERRLICH**

*Lisa M. Herrlich*

Buyer **LISA M. HERRLICH**Seller **TMTR HOLDINGS LLC**

Seller

The form of this addendum has been approved by the Texas Real Estate Commission for use only with similarly approved or promulgated forms of contracts. Such approval relates to this contract form only. TREC forms are intended for use only by trained real estate licensees. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (www.trec.texas.gov) TREC No. 36-8. This form replaces TREC No. 36-7.

(TAR-1922) 08-18-2014

TREC NO. 36-8