

CITY COUNCIL AGENDA STATEMENT



Meeting Date: February 11, 2020

To: Honorable Mayor and City Councilmembers

From: George Garrett, Planning Director

Through: Chuck Lindsey, City Manager

Agenda Item: **Resolution 2020-15**, Approving The Assignment Of The Contract For Purchase For Property Located At 7931 Overseas Highway, Marathon, Florida (Owned By IMBY Inc - RE No. 00347290-000000) From Habitat For Humanity Of The Middle Keys To The City Of Marathon; Approving The Purchase Of Said Property From IMBY Inc., As Previously Approved By the City Council: Approving The Receipt Of \$800,000 From the Monroe County Land Authority To Assist In the Purchase Of IMBY Inc. And The Appropriation of \$150,000 From The City's Affordable Housing Fund, Summing To A Purchase Price Of \$950,000; And Providing Direction To Staff To Bring Back To The City Council A Long Term Lease Agreement Between The City and Habitat For Humanity Of The Middle Keys For The Use, Redevelopment And/Or Construction Of Eleven Affordable Residential Units; Management Of The Property, And Limited Commercial Use Of The Property.

BACKGROUND & JUSTIFICATION:

On May 22, 2018, the City Council approved an eleven (11) unit affordable housing project for IMBY, Inc. Seven (7) of the units exist as the old Anchor Inn Hotel and will be upgraded and converted and four (4) are to be constructed as part of the expanding project. Approved as Resolutions 2018-46 & 47.

The City attempted to provide the necessary eleven (11) affordable allocations through an Interlocal Agreement (ILA) with the County. That effort failed. Approved as Resolution 2018-61. The City ultimately approved the provision of eleven (11) affordable housing allocations using its own limited pool of affordable allocations. Approved as Resolution 2018-84.

As assistance to Habitat For Humanity, the City has sought the purchase of the property through the Monroe County Land Authority (Similar efforts have been undertaken for a Habitat For Humanity project on 51st Street, Gulf). Requested as Resolution 2019-72. With Habitat For Humanity, the City has attended two Land Authority Advisory Committee meetings and the County Commission meeting in early December in support of the project. Through the Advisory Committee, we obtained a recommendation that the County Commission provide \$600,000 of the required \$950,000 purchase price. At the County Commission meeting in December of 2019, the City was able to obtain approval to provide \$800,000 toward the purchase price. At all stages, this has been a team effort with Habitat For Humanity and Christine Todd Young, the Monroe County Land Authority, and the County Commission

At the City Council meeting of January 14, 2020, Council authorized conceptually, the purchase of the IMBY Inc. property to then be leased to Habitat For Humanity in a long term agreement to redevelop and construct a total eleven (11) affordable residential units.

CONSISTENCY CHECKLIST:

Yes

No

1. Comprehensive Plan
2. Other – 2010 Sewer Mandate

 X

 X

FISCAL NOTE:

This resolution approves the purchase of a \$950,000 property for affordable housing. This purchase will be funded from an appropriation of \$150,000 from the City's Affordable Housing Fund, and an \$800,000 contribution from the Monroe County Land Authority.

RECOMMENDATION:

Approval of Resolution

Sponsored by: Lindsey

**CITY OF MARATHON, FLORIDA
RESOLUTION 2020-15**

A RESOLUTION OF THE CITY OF MARATHON, FLORIDA, APPROVING THE ASSIGNMENT OF THE CONTRACT FOR PURCHASE FOR PROPERTY LOCATED AT 7931 OVERSEAS HIGHWAY, MARATHON, FLORIDA (OWNED BY IMBY INC. - RE NO. 00347290-000000) FROM HABITAT FOR HUMANITY OF THE MIDDLE KEYS TO THE CITY OF MARATHON, FLORIDA; APPROVING THE PURCHASE OF SAID PROPERTY FROM IMBY INC., AS PREVIOUSLY APPROVED BY THE CITY COUNCIL: APPROVING THE RECEIPT OF \$800,000 FROM THE MONROE COUNTY LAND AUTHORITY TO ASSIST IN THE PURCHASE OF IMBY INC. AND THE APPROPRIATION OF \$150,000 FROM THE CITY'S AFFORDABLE HOUSING FUND, SUMMING TO A PURCHASE PRICE OF \$950,000; AND PROVIDING DIRECTION TO STAFF TO BRING BACK TO THE CITY COUNCIL A LONG TERM LEASE AGREEMENT BETWEEN THE CITY AND HABITAT FOR HUMANITY OF THE MIDDLE KEYS FOR THE USE, REDEVELOPMENT AND/OR CONSTRUCTION OF ELEVEN AFFORDABLE RESIDENTIAL UNITS; MANAGEMENT OF THE PROPERTY, AND LIMITED COMMERCIAL USE OF THE PROPERTY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, On May 22, 2018, the City Council approved an eleven (11) unit affordable housing project for IMBY, Inc. Seven (7) of the units exist as the old Anchor Inn Hotel and four (4) were to be constructed as part of the expanding project. Approved as Resolutions 2018-46 & 47; and

WHEREAS, The City attempted to provide the necessary eleven (11) affordable allocations through an ILA with the County. That effort failed. Approved by the City as Resolution 2018-61; and

WHEREAS, the City ultimately approved the provision of eleven (11) affordable housing allocations using its own limited pool of affordable allocations. Approved as Resolution 2018-84; and

WHEREAS, Habitat For Humanity is seeking to purchase the project and holds a contract for sale on the property; and

WHEREAS, as assistance to Habitat For Humanity, the City has sought the purchase of the property through the Monroe County Land Authority (MCLA). Similar efforts have been undertaken for a Habitat For Humanity project on 51st Street, Gulf. Requested as Resolution 2019-72; and

WHEREAS, with Habitat For Humanity, the City has attended two Land Authority Advisory Council meetings and the County Commission meeting in early December in support of the project. Through the Advisory Committee, the City obtained a recommendation that the County Commission provide \$600 thousand of the required \$950 thousand purchase price. At the County Commission meeting in December, the City was able to obtain approval for the MCLA to provide \$800 thousand of the purchase price. At all stages, this has been a team effort with Habitat For humanity and Christine Todd Young, the MCLA, and the County Commission; and

WHEREAS, The City of Marathon supports all viable efforts to construct needed affordable housing within the City of Marathon;

WHEREAS, the City wishes to support the efforts of Habitat For Humanity to acquire the IMBY, Inc. property as an affordable / workforce housing project and has agreed to provide the remaining funds through the City's Affordable Housing Fund in the amount of \$150,00 to complete the IMBY Inc. purchase,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City agrees to the assignment of the contract for purchase between IMBY Inc. and Habitat For Humanity Of The Middle Keys to the City of Marathon as the new purchaser in place of Habitat For Humanity.

Section 3. Through this Resolution, the City accepts receipt of \$800,000 from the Monroe County Land Authority to assist in the purchase of IMBY Inc. pursuant to the direction of the Monroe County Board of County Commissioners sitting as the Land Authority.

Section 4. The City shall appropriate funds in the amount of \$150,000 from The City's Affordable Housing Fund, summing to a purchase price of \$950,000 for the purchase of IMBY Inc.

Section 5. Staff is directed in the best of its ability to consummate the purchase of property located at 7931 Overseas Highway, Marathon, Florida from IMBY Inc. at the purchase price of \$950,000 utilizing Thomas W. Wright as the Closing Agent for the City.

Section 6. Staff is directed to bring back to the City Council a long term lease agreement between the City And Habitat For Humanity Of The Middle Keys for the use, redevelopment and/or construction of eleven affordable residential units; management of the property, and limited commercial use of the property solely for the use of Habitat For Humanity Of The Middle Keys.

Section 7. The City Clerk shall forward a certified copy of this Resolution to the Monroe County Land Authority and Chair of the Board of County Commissioners.

Section 8. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11TH DAY OF FEBRUARY, 2020.

THE CITY OF MARATHON, FLORIDA

Steve Cook, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(City Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:

City Attorney

Commercial Contract

1 **1. PARTIES AND PROPERTY:** Habitat for Humanity of the Middle Keys, Inc. ("Buyer")

2 agrees to buy and IMBY, Inc. a Florida Corporation ("Seller")

3 agrees to sell the property at:

4 Street Address: 7931 Overseas Highway, Marathon, FL 33050

6 Legal Description: LTS 29-30 ATLANTIC SHORES PB3-5 KEY VACA


8 and the following Personal Property: 11 Affordable Allocations provided to the property pursuant to City of Marathon

9 Resolution 2019-84

10 (all collectively referred to as the "Property") on the terms and conditions set forth below.

11 **2. PURCHASE PRICE:**

\$ 950,000

12 (a) Deposit held in escrow by: Wolfe/Stevens  \$ 5,000
13 ("Escrow Agent") (checks are subject to actual and final collection)

14 Escrow Agent's address: 2955 Overseas Highway, Marathon FL Phone: 305 743-9858

15 (b) Additional deposit to be made to Escrow Agent

16 within ___ days (3 days, if left blank) after completion of Due Diligence Period or
17 within 3 ___ days after Effective Date \$ _____

18 (c) Additional deposit to be made to Escrow Agent

19 within ___ days (3 days, if left blank) after completion of Due Diligence Period or
20 within ___ days after Effective Date \$ _____

21 (d) Total financing (see Paragraph 5) \$ _____

22 (e) Other \$ _____

23 (f) All deposits will be credited to the purchase price at closing.

24 Balance to close, subject to adjustments and prorations, to be paid
25 via wire transfer. \$ 945,000

26 For the purposes of this paragraph, "completion" means the end of the Due Diligence Period or upon delivery of
27 Buyer's written notice of acceptability.

28 **3. TIME FOR ACCEPTANCE; EFFECTIVE DATE; COMPUTATION OF TIME:** Unless this offer is signed by **Seller**
29 and **Buyer** and an executed copy delivered to all parties on or before 07/19/2019, this offer
30 will be withdrawn and the **Buyer's** deposit, if any, will be returned. The time for acceptance of any counter offer will be
31 3 days from the date the counter offer is delivered. **The "Effective Date" of this Contract is the date on which the**
32 **last one of the Seller and Buyer has signed or initialed and delivered this offer or the final counter offer or**
33 **_____.** Calendar days will be used when computing time periods, except time periods of 5
34 days or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal
35 holidays. Any time period ending on a Saturday, Sunday, or national legal holiday will extend until 5:00 p.m. of the next
36 business day. **Time is of the essence in this Contract.**

37 **4. CLOSING DATE AND LOCATION:**

38 (a) **Closing Date:** This transaction will be closed on See Additional terms (Closing Date), unless
39 specifically extended by other provisions of this Contract. The Closing Date will prevail over all other time periods
40 including, but not limited to, Financing and Due Diligence periods. In the event insurance underwriting is suspended

Buyer  () and Seller  () acknowledge receipt of a copy of this page, which is Page 1 of 8 Pages.

41 on Closing Date and **Buyer** is unable to obtain property insurance, **Buyer** may postpone closing up to 5 days after
42 the insurance underwriting suspension is lifted.

43 **(b) Location:** Closing will take place in Monroe County, Florida. (If left blank, closing will take place in the
44 county where the property is located.) Closing may be conducted by mail or electronic means.

45 **5. THIRD PARTY FINANCING:**

46 **BUYER'S OBLIGATION:** On or before _____ days (5 days if left blank) after Effective Date, **Buyer** will apply for third
47 party financing in an amount not to exceed _____% of the purchase price or \$_____, with a fixed
48 interest rate not to exceed _____% per year with an initial variable interest rate not to exceed _____%, with points or
49 commitment or loan fees not to exceed _____% of the principal amount, for a term of _____ years, and amortized
50 over _____ years, with additional terms as follows:

51 _____
52 **Buyer** will timely provide any and all credit, employment, financial and other information reasonably required by any
53 lender. **Buyer** will use good faith and reasonable diligence to (i) obtain Loan Approval within _____ days (45 days if left
54 blank) from Effective Date (Loan Approval Date), (ii) satisfy terms and conditions of the Loan Approval, and (iii) close
55 the loan. **Buyer** will keep **Seller** and Broker fully informed about loan application status and authorizes the mortgage
56 broker and lender to disclose all such information to **Seller** and Broker. **Buyer** will notify **Seller** immediately upon
57 obtaining financing or being rejected by a lender. **CANCELLATION:** If **Buyer**, after using good faith and reasonable
58 diligence, fails to obtain Loan Approval by Loan Approval Date, **Buyer** may within _____ days (3 days if left blank)
59 deliver written notice to **Seller** stating **Buyer** either waives this financing contingency or cancels this Contract.
60 If **Buyer** does neither, then **Seller** may cancel this Contract by delivering written notice to **Buyer** at any time thereafter.
61 Unless this financing contingency has been waived, this Contract shall remain subject to the satisfaction, by closing, of
62 those conditions of Loan Approval related to the Property. **DEPOSIT(S) (for purposes of Paragraph 5 only):** If **Buyer**
63 has used good faith and reasonable diligence but does not obtain Loan Approval by Loan Approval Date and
64 thereafter either party elects to cancel this Contract as set forth above or the lender fails or refuses to close on or
65 before the Closing Date without fault on **Buyer's** part, the Deposit(s) shall be returned to **Buyer**, whereupon both
66 parties will be released from all further obligations under this Contract, except for obligations stated herein as surviving
67 the termination of this Contract. If neither party elects to terminate this Contract as set forth above or **Buyer** fails to use
68 good faith or reasonable diligence as set forth above, **Seller** will be entitled to retain the Deposit(s) if the transaction
69 does not close. For purposes of this Contract, "Loan Approval" means a statement by the lender setting forth the terms
70 and conditions upon which the lender is willing to make a particular mortgage loan to a particular buyer. Neither a pre-
71 approval letter nor a prequalification letter shall be deemed a Loan Approval for purposes of this Contract.

72 **6. TITLE:** **Seller** has the legal capacity to and will convey marketable title to the Property by statutory warranty
73 deed special warranty deed other _____, free of liens, easements and
74 encumbrances of record or known to **Seller**, but subject to property taxes for the year of closing; covenants,
75 restrictions and public utility easements of record; existing zoning and governmental regulations; and (list any other
76 matters to which title will be subject) _____

77 _____;
78 provided there exists at closing no violation of the foregoing and none of them prevents **Buyer's** intended use of the
79 Property as zoned _____.

80 **(a) Evidence of Title:** The party who pays the premium for the title insurance policy will select the closing agent
81 and pay for the title search and closing services. **Seller** will, at (check one) **Seller's** **Buyer's** expense and
82 within _____ days after Effective Date or at least 20 _____ days before Closing Date deliver to **Buyer** (check one)
83 (i) a title insurance commitment by a Florida licensed title insurer setting forth those matters to be discharged by
84 **Seller** at or before Closing and, upon **Buyer** recording the deed, an owner's policy in the amount of the purchase
85 price for fee simple title subject only to exceptions stated above. If **Buyer** is paying for the evidence of title and
86 **Seller** has an owner's policy, **Seller** will deliver a copy to **Buyer** within 15 days after Effective Date. (ii.) an
87 abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an existing firm.
88 However, if such an abstract is not available to **Seller**, then a prior owner's title policy acceptable to the proposed
89 insurer as a base for reissuance of coverage may be used. The prior policy will include copies of all policy
90 exceptions and an update in a format acceptable to **Buyer** from the policy effective date and certified to **Buyer** or

Buyer  () and Seller  () acknowledge receipt of a copy of this page, which is Page 2 of 8 Pages.

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 (i.) above will be the evidence of title.

(b) Title Examination: **Buyer** will, within 15 days from receipt of the evidence of title deliver written notice to **Seller** of title defects. Title will be deemed acceptable to **Buyer** if (1) **Buyer** fails to deliver proper notice of defects or (2) **Buyer** delivers proper written notice and **Seller** cures the defects within 30 days from receipt of the notice ("Curative Period"). **Seller** shall use good faith efforts to cure the defects. If the defects are cured within the Curative Period, closing will occur on the latter of 10 days after receipt by **Buyer** of notice of such curing or the scheduled Closing Date. **Seller** may elect not to cure defects if **Seller** reasonably believes any defect cannot be cured within the Curative Period. If the defects are not cured within the Curative Period, **Buyer** will have 10 days from 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: (check applicable provisions below)

(i.) **Seller** will, within 7 days from Effective Date, deliver to **Buyer** copies of prior surveys, plans, specifications, and engineering documents, if any, and the following documents relevant to this transaction:

_____ prepared for **Seller** or in **Seller's** possession, which show all currently existing structures. In the event this transaction does not close, all documents provided by **Seller** will be returned to **Seller** within 10 days from the date this Contract is terminated.





Buyer will, at **Seller's** **Buyer's** expense and within the time period allowed to deliver and examine title evidence, obtain a current certified survey of the Property from a registered surveyor. If the survey reveals encroachments on the Property or that the improvements encroach on the lands of another, **Buyer** will accept the Property with existing encroachments such encroachments will constitute a title defect to be cured within the Curative Period.

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

7. PROPERTY CONDITION: **Seller** will deliver the Property to **Buyer** at the time agreed in its present "as is" condition, ordinary wear and tear excepted, and will maintain the landscaping and grounds in a comparable condition. **Seller** makes no warranties other than marketability of title. In the event that the condition of the Property has materially changed since the expiration of the Due Diligence Period, **Buyer** may elect to terminate the Contract and receive a refund of any and all deposits paid, plus interest, if applicable, or require **Seller** to return the Property to the required condition existing as of the end of Due Diligence period, the cost of which is not to exceed \$ _____ (1.5% of the purchase price, if left blank). By accepting the Property "as is", **Buyer** waives all claims against **Seller** for any defects in the Property. (Check **(a)** or **(b)**)

(a) As Is: **Buyer** has inspected the Property or waives any right to inspect and accepts the Property in its "as is" condition.

(b) Due Diligence Period: **Buyer** will, at **Buyer's** expense and within 30 days from Effective Date ("Due Diligence Period"), determine whether the Property is suitable, in **Buyer's** sole and absolute discretion. During the term of this Contract, **Buyer** may conduct any tests, analyses, surveys and investigations ("Inspections") which **Buyer** deems necessary to determine to **Buyer's** satisfaction the Property's engineering, architectural, environmental properties; zoning and zoning restrictions; flood zone designation and restrictions; subdivision regulations; soil and grade; availability of access to public roads, water, and other utilities; consistency with local, state and regional growth management and comprehensive land use plans; availability of permits, government approvals and licenses; compliance with American with Disabilities Act; absence of asbestos, soil and ground water contamination; and other inspections that **Buyer** deems appropriate. **Buyer** will deliver written notice to **Seller** prior to the expiration of the Due Diligence Period 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 in its present "as is" condition. **Seller** grants to **Buyer**, its agents, contractors and assigns, the right to enter the Property at any time during the term of this Contract for the purpose of conducting Inspections, upon reasonable notice, at a mutually agreed upon time; 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 at all levels, 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 mechanic's lien being filed against the Property without **Seller's** prior written consent. In the event this transaction does not close, (1) **Buyer** will repair all damages to the

Buyer   and Seller   acknowledge receipt of a copy of this page, which is Page 3 of 8 Pages.

145 Property resulting from the Inspections and return the Property to the condition it was in prior to conduct of the
146 Inspections, and (2) **Buyer** will, at **Buyer's** expense release to **Seller** all reports and other work generated as a
147 result of the Inspections. Should **Buyer** deliver timely notice that the Property is not acceptable, **Seller** agrees that
148 **Buyer's** deposit will be immediately returned to **Buyer** and the Contract terminated.

149 **(c) Walk-through Inspection:** **Buyer** may, on the day prior to closing or any other time mutually agreeable to the
150 parties, conduct a final "walk-through" inspection of the Property to determine compliance with this paragraph and
151 to ensure that all Property is on the premises.

152 **8. OPERATION OF PROPERTY DURING CONTRACT PERIOD:** **Seller** will continue to operate the Property and any
153 business conducted on the Property in the manner operated prior to Contract and will take no action that would
154 adversely impact the Property after closing, as to tenants, lenders or business, if any. Any changes, such as renting
155 vacant space, that materially affect the Property or **Buyer's** intended use of the Property will be permitted only with
156 **Buyer's** consent without **Buyer's** consent.

157 **9. CLOSING PROCEDURE:** Unless otherwise agreed or stated herein, closing procedure shall be in accordance with
158 the norms where the Property is located.

159 **(a) Possession and Occupancy:** **Seller** will deliver possession and occupancy of the Property to **Buyer** at
160 closing. **Seller** will provide keys, remote controls, and any security/access codes necessary to operate all locks,
161 mailboxes, and security systems.





162 **(b) Costs:** **Buyer** will pay **Buyer's** attorneys' fees, taxes and recording fees on notes, mortgages and financing
163 statements and recording fees for the deed. **Seller** will pay **Seller's** attorneys' fees, taxes on the deed and
164 recording fees for documents needed to cure title defects. If **Seller** is obligated to discharge any encumbrance at or
165 prior to closing and fails to do so, **Buyer** may use purchase proceeds to satisfy the encumbrances.

166 **(c) Documents:** **Seller** will provide the deed; bill of sale; mechanic's lien affidavit; originals of those assignable
167 service and maintenance contracts that will be assumed by **Buyer** after the Closing Date and letters to each
168 service contractor from **Seller** advising each of them of the sale of the Property and, if applicable, the transfer of its
169 contract, and any assignable warranties or guarantees received or held by **Seller** from any manufacturer,
170 contractor, subcontractor, or material supplier in connection with the Property; current copies of the condominium
171 documents, if applicable; assignments of leases, updated rent roll; tenant and lender estoppels letters (if
172 applicable); tenant subordination, non-disturbance and attornment agreements (SNDAs) required by the **Buyer** or
173 **Buyer's** lender; assignments of permits and licenses; corrective instruments; and letters notifying tenants of the
174 change in ownership/rental agent. If any tenant refuses to execute an estoppels letter, **Seller**, if requested by the
175 **Buyer** in writing, will certify that information regarding the tenant's lease is correct. If **Seller** is an entity, **Seller** will
176 deliver a resolution of its governing authority authorizing the sale and delivery of the deed and certification by the
177 appropriate party certifying the resolution and setting forth facts showing the conveyance conforms to the
178 requirements of local law. **Seller** will transfer security deposits to **Buyer**. **Buyer** will provide the closing statement,
179 mortgages and notes, security agreements, and financing statements.

180 **(d) Taxes and Prorations:** Real estate taxes, personal property taxes on any tangible personal property, bond
181 payments assumed by **Buyer**, interest, rents (based on actual collected rents), association dues, insurance
182 premiums acceptable to **Buyer**, and operating expenses will be prorated through the day before closing. If the
183 amount of taxes for the current year cannot be ascertained, rates for the previous year will be used with due
184 allowance being made for improvements and exemptions. Any tax proration based on an estimate will, at request
185 of either party, be readjusted upon receipt of current year's tax bill; this provision will survive closing.

186 **(e) Special Assessment Liens:** Certified, confirmed, and ratified special assessment liens as of the Closing Date
187 will be paid by **Seller**. If a certified, confirmed, and ratified special assessment is payable in installments, **Seller** will
188 pay all installments due and payable on or before the Closing Date, with any installment for any period extending
189 beyond the Closing Date prorated, and **Buyer** will assume all installments that become due and payable after the
190 Closing Date. **Buyer** will be responsible for all assessments of any kind which become due and owing after Closing
191 Date, unless an improvement is substantially completed as of Closing Date. If an improvement is substantially
192 completed as of the Closing Date but has not resulted in a lien before closing, **Seller** will pay the amount of the last
193 estimate of the assessment. This subsection applies to special assessment liens imposed by a public body and
194 does not apply to condominium association special assessments.

195 **(f) Foreign Investment in Real Property Tax Act (FIRPTA):** If **Seller** is a "foreign person" as defined by FIRPTA,
196 **Seller** and **Buyer** agree to comply with Section 1445 of the Internal Revenue Code. **Seller** and **Buyer** will
197 complete, execute, and deliver as directed any instrument, affidavit, or statement reasonably necessary to comply

Buyer   and **Seller**   acknowledge receipt of a copy of this page, which is Page 4 of 8 Pages.

with the FIRPTA requirements, including delivery of their respective federal taxpayer identification numbers or Social Security Numbers to the closing agent. If **Buyer** does not pay sufficient cash at closing to meet the withholding requirement, **Seller** will deliver to **Buyer** at closing the additional cash necessary to satisfy the requirement.

10. ESCROW AGENT: **Seller** and **Buyer** authorize Escrow Agent or Closing Agent (collectively "Agent") to receive, deposit, and hold funds and other property in escrow and, subject to collection, disburse them in accordance with the terms of this Contract. The parties agree that Agent will not be liable to any person for misdelivery of escrowed items to **Seller** or **Buyer**, unless the misdelivery is due to Agent's willful breach of this Contract or gross negligence. If Agent has doubt as to Agent's duties or obligations under this Contract, Agent may, at Agent's option, (a) hold the escrowed items until the parties mutually agree to its disbursement or until a court of competent jurisdiction or arbitrator determines the rights of the parties or (b) deposit the escrowed items with the clerk of the court having jurisdiction over the matter and file an action in interpleader. Upon notifying the parties of such action, Agent will be released from all liability except for the duty to account for items previously delivered out of escrow. If Agent is a licensed real estate broker, Agent will comply with Chapter 475, Florida Statutes. In any suit in which Agent interpleads the escrowed items or is made a party because of acting as Agent hereunder, Agent will recover reasonable attorney's fees and costs incurred, with these amounts to be paid from and out of the escrowed items and charged and awarded as court costs in favor of the prevailing party.

11. CURE PERIOD: Prior to any claim for default being made, a party will have an opportunity to cure any alleged default. If a party fails to comply with any provision of this Contract, the other party will deliver written notice to the non-complying party specifying the non-compliance. The non-complying party will have _____ days (5 days if left blank) after delivery of such notice to cure the non-compliance. Notice and cure shall not apply to failure to close.

12. FORCE MAJEURE: **Buyer** or **Seller** shall not be required to perform any obligation under this Contract or be liable to each other for damages so long as performance or non-performance of the obligation, or the availability of services, insurance, or required approvals essential to Closing, is disrupted, delayed, caused or prevented by Force Majeure. "Force Majeure" means: hurricanes, floods, extreme weather, earthquakes, fire, or other acts of God, unusual transportation delays, or wars, insurrections, or acts of terrorism, which, by exercise of reasonable diligent effort, the non-performing party is unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended a reasonable time up to 7 days after the Force Majeure no longer prevents performance under this Contract, provided, however, if such Force Majeure continues to prevent performance under this Contract more than 30 days beyond Closing Date, then either party may terminate this Contract by delivering written notice to the other and the Deposit shall be refunded to **Buyer**, thereby releasing **Buyer** and **Seller** from all further obligations under this Contract.

13. RETURN OF DEPOSIT: Unless otherwise specified in the Contract, in the event any condition of this Contract is not met and **Buyer** has timely given any required notice regarding the condition having not been met, **Buyer's** deposit will be returned in accordance with applicable Florida Laws and regulations.

14. DEFAULT:

(a) In the event the sale is not closed due to any default or failure on the part of **Seller** other than failure to make the title marketable after diligent effort, **Buyer** may elect to receive return of Buyer's deposit without thereby waiving any action for damages resulting from Seller's breach and may seek to recover such damages or seek specific performance. If Buyer elects a deposit refund, Seller may be liable to Broker for the full amount of the brokerage fee.

(b) In the event the sale is not closed due to any default or failure on the part of **Buyer**, **Seller** may either (1) retain all deposit(s) paid or agreed to be paid by **Buyer** as agreed upon liquidated damages, consideration for the execution of this Contract, and in full settlement of any claims, upon which this Contract will terminate or (2) seek specific performance. If **Buyer** fails to timely place a deposit as required by this Contract, **Seller** may either (1) terminate the Contract and seek the remedy outlined in this subparagraph or (2) proceed with the Contract without waiving any remedy for **Buyer's** default.

15. ATTORNEY'S FEES AND COSTS: In any claim or controversy arising out of or relating to this Contract, the prevailing party, which for purposes of this provision will include **Buyer**, **Seller** and Broker, will be awarded reasonable attorneys' fees, costs, and expenses.

16. NOTICES: All notices will be in writing and may be delivered by mail, overnight courier, personal delivery, or electronic means. Parties agree to send all notices to addresses specified on the signature page(s). Any notice, document, or item given by or delivered to an attorney or real estate licensee (including a transaction broker) representing a party will be as effective as if given by or delivered to that party.

Buyer  and **Seller**  acknowledge receipt of a copy of this page, which is Page 5 of 8 Pages.

251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301

17. DISCLOSURES:

(a) Commercial Real Estate Sales Commission Lien Act: The Florida Commercial Real Estate Sales Commission Lien Act provides that a broker has a lien upon the owner's net proceeds from the sale of commercial real estate for any commission earned by the broker under a brokerage agreement. The lien upon the owner's net proceeds is a lien upon personal property which attaches to the owner's net proceeds and does not attach to any interest in real property. This lien right cannot be waived before the commission is earned.

(b) Special Assessment Liens Imposed by Public Body: The Property may be subject to unpaid special assessment lien(s) imposed by a public body. (A public body includes a Community Development District.) Such liens, if any, shall be paid as set forth in Paragraph 9(e).

(c) Radon Gas: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

(d) Energy-Efficiency Rating Information: Buyer acknowledges receipt of the information brochure required by Section 553.996, Florida Statutes.

18. RISK OF LOSS:

(a) If, after the Effective Date and before closing, the Property is damaged by fire or other casualty, Seller will bear the risk of loss and Buyer may cancel this Contract without liability and the deposit(s) will be returned to Buyer. Alternatively, Buyer will have the option of purchasing the Property at the agreed upon purchase price and Seller will credit the deductible, if any and transfer to Buyer at closing any insurance proceeds, or Seller's claim to any insurance proceeds payable for the damage. Seller will cooperate with and assist Buyer in collecting any such proceeds. Seller shall not settle any insurance claim for damage caused by casualty without the consent of the Buyer.

(b) If, after the Effective Date and before closing, any part of the Property is taken in condemnation or under the right of eminent domain, or proceedings for such taking will be pending or threatened, Buyer may cancel this Contract without liability and the deposit(s) will be returned to Buyer. Alternatively, Buyer will have the option of purchasing what is left of the Property at the agreed upon purchase price and Seller will transfer to the Buyer at closing the proceeds of any award, or Seller's claim to any award payable for the taking. Seller will cooperate with and assist Buyer in collecting any such award.

19. ASSIGNABILITY; PERSONS BOUND: This Contract may be assigned to a related entity, and otherwise is not assignable is assignable. If this Contract may be assigned, Buyer shall deliver a copy of the assignment agreement to the Seller at least 5 days prior to Closing. The terms "Buyer," "Seller" and "Broker" may be singular or plural. This Contract is binding upon Buyer, Seller and their heirs, personal representatives, successors and assigns (if assignment is permitted).


20. MISCELLANEOUS: The terms of this Contract constitute the entire agreement between Buyer and Seller. Modifications of this Contract will not be binding unless in writing, signed and delivered by the party to be bound. Signatures, initials, documents referenced in this Contract, counterparts and written modifications communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be binding. Handwritten or typewritten terms inserted in or attached to this Contract prevail over preprinted terms. If any provision of this Contract is or becomes invalid or unenforceable, all remaining provisions will continue to be fully effective. This Contract will be construed under Florida law and will not be recorded in any public records.

21. BROKERS: Neither Seller nor Buyer has used the services of, or for any other reason owes compensation to, a licensed real estate Broker other than:

(a) Seller's Broker: No Broker
(Company Name) (Licensee)
(Address, Telephone, Fax, E-mail)

who is a single agent is a transaction broker has no brokerage relationship and who will be compensated_ by Seller Buyer both parties pursuant to a listing agreement other (specify) _____

(b) Buyer's Broker: No Broker
(Company Name) (Licensee)
(Address, Telephone, Fax, E-mail)

Buyer  and Seller  acknowledge receipt of a copy of this page, which is Page 6 of 8 Pages.

302 who is a single agent is a transaction broker has no brokerage relationship and who will be compensated by
303 Seller's Broker Seller Buyer both parties pursuant to an MLS offer of compensation other (specify)

304
305 (collectively referred to as "Broker") in connection with any act relating to the Property, including but not limited to
306 inquiries, introductions, consultations, and negotiations resulting in this transaction. **Seller and Buyer** agree to
307 indemnify and hold Broker harmless from and against losses, damages, costs and expenses of any kind, including
308 reasonable attorneys' fees at all levels, and from liability to any person, arising from (1) compensation claimed which is
309 inconsistent with the representation in this Paragraph, (2) enforcement action to collect a brokerage fee pursuant to
310 Paragraph 10, (3) any duty accepted by Broker at the request of **Seller** or **Buyer**, which is beyond the scope of
311 services regulated by Chapter 475, Florida Statutes, as amended, or (4) recommendations of or services provided and
312 expenses incurred by any third party whom Broker refers, recommends, or retains for or on behalf of **Seller** or **Buyer**.

313 **22. OPTIONAL CLAUSES:** (Check if any of the following clauses are applicable and are attached as an addendum to
314 this Contract):

- | | | |
|---|--|---|
| 315 <input type="checkbox"/> Arbitration | <input type="checkbox"/> Seller Warranty | <input type="checkbox"/> Existing Mortgage |
| 316 <input type="checkbox"/> Section 1031 Exchange | <input type="checkbox"/> Coastal Construction Control Line | <input type="checkbox"/> Buyer's Attorney Approval |
| 317 <input type="checkbox"/> Property Inspection and Repair | <input type="checkbox"/> Flood Area Hazard Zone | <input type="checkbox"/> Seller's Attorney Approval |
| 318 <input type="checkbox"/> Seller Representations | <input type="checkbox"/> Seller Financing | <input type="checkbox"/> Other _____ |

319 **23. ADDITIONAL TERMS:**

320 1: This contract is contingent upon the Buyer obtaining written approval from the City Of Marathon for transfer to Buyer
321 and modification of, existing Conditional Use and Development Agreement known as City of Marathon Resolution 2018-47
322 as well approval of transfer of City of Marathon Resolution 2018-84 awarding eleven (11) affordable building allocations
323 (building rights) to the subject property.

324 2: This contract is contingent upon the approval of the purchase of the property by the Monroe County Comprehensive
325 Land Authority on behalf of the Buyer.

326 3: It is expressly agreed that, notwithstanding any other provisions of this contract, the Buyer shall not incur any penalty
327 by forfeiture of earnest money or otherwise be obligated to complete the purchase of the property described herein, if the
328 contract purchase price or the reasonable value of the property established by the Monroe County Comprehensive Land
329 Authority exceeds the contract price. The Buyer shall, however, have the privilege and option of proceeding with the
330 consummation of this contract without regard to the amount of the reasonable value established by the Monroe County
331 Comprehensive Land Authority. Furthermore, the Seller shall have the option to cancel the contract if the value established
332 by the Monroe County Comprehensive Land Authority is less than the purchase price of this contract.

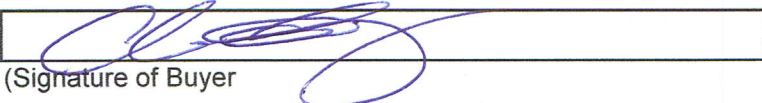
333 _____
334 _____
335 _____
336 _____
337 _____
338 _____
339 _____
340 _____
341 _____

342 **THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE**
343 **ADVICE OF AN ATTORNEY PRIOR TO SIGNING. BROKER ADVISES BUYER AND SELLER TO VERIFY ALL**
344 **FACTS AND REPRESENTATIONS THAT ARE IMPORTANT TO THEM AND TO CONSULT AN APPROPRIATE**
345 **PROFESSIONAL FOR LEGAL ADVICE (FOR EXAMPLE, INTERPRETING CONTRACTS, DETERMINING THE**
346 **EFFECT OF LAWS ON THE PROPERTY AND TRANSACTION, STATUS OF TITLE, FOREIGN INVESTOR**
347 **REPORTING REQUIREMENTS, ETC.) AND FOR TAX, PROPERTY CONDITION, ENVIRONMENTAL AND OTHER**

Buyer and Seller acknowledge receipt of a copy of this page, which is Page 7 of 8 Pages.


348 **ADVICE. BUYER ACKNOWLEDGES THAT BROKER DOES NOT OCCUPY THE PROPERTY AND THAT ALL**
349 **REPRESENTATIONS (ORAL, WRITTEN OR OTHERWISE) BY BROKER ARE BASED ON SELLER**
350 **REPRESENTATIONS OR PUBLIC RECORDS UNLESS BROKER INDICATES PERSONAL VERIFICATION OF**
351 **THE REPRESENTATION. BUYER AGREES TO RELY SOLELY ON SELLER, PROFESSIONAL INSPECTORS AND**
352 **GOVERNMENTAL AGENCIES FOR VERIFICATION OF THE PROPERTY CONDITION, SQUARE FOOTAGE AND**
353 **FACTS THAT MATERIALLY AFFECT PROPERTY VALUE.**

354 Each person signing this Contract on behalf of a party that is a business entity represents and warrants to the other
355 party that such signatory has full power and authority to enter into and perform this Contract in accordance with its
356 terms and each person executing this Contract and other documents on behalf of such party has been duly authorized
357 to do so.

358  Date: 7/18/19
(Signature of Buyer)

359 Habitat for Humanity of the Middle Keys, Inc. Tax ID No.: _____
(Typed or Printed Name of Buyer)

360 Title: _____ Telephone: _____


361  Date: _____
(Signature of Buyer)

362 _____ Tax ID No.: _____
(Typed or Printed Name of Buyer)

363 Title: _____ Telephone: _____


364 Buyer's Address for purpose of notice _____

365 Facsimile: _____ Email: info@habitatmiddlekeys.org

366  Date: _____
(Signature of Seller)

367 IMBY, Inc. By Joshua Mortgage Pres. Tax ID No.: _____
(Typed or Printed Name of Seller)

368 Title: _____ Telephone: _____

369  Date: _____
(Signature of Seller)

370 _____ Tax ID No.: _____
(Typed or Printed Name of Seller)

371 Title: _____ Telephone: _____

372 Seller's Address for purpose of notice: _____

373 Facsimile: _____ Email: josh@fundinthesun.com

The Florida Association of REALTORS® makes no representation as to the legal validity or adequacy of any provision of this form in any specific transaction. This standardized form should not be used in complex transactions or with extensive riders or additions. This form is available for use by the entire real estate industry and is not intended to identify the user as a REALTOR®. REALTOR® is a registered collective membership mark which may be used only by real estate licensees who are members of the NATIONAL ASSOCIATION OF REALTORS® and who subscribe to its Code of Ethics. The copyright laws of the United States (17 U.S. Code) forbid the unauthorized reproduction of this form by any means including facsimile or

Buyer  and Seller  acknowledge receipt of a copy of this page, which is Page 8 of 8 Pages.

Comprehensive Rider to the Residential Contract For Sale And Purchase

THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR



If initialed by all parties, the clauses below will be incorporated into the Florida Realtors®/Florida Bar Residential Contract For Sale And Purchase between IMBY, Inc. (SELLER) and Habitat for Humanity of the Middle Keys, Inc. (BUYER) concerning the Property described as 7931 Overseas Highway, Marathon, FL 33050
LTS 29-30 ATLANTIC SHORES PB3-5 KEY VACA

Buyer's Initials

[Handwritten initials]

Seller's Initials

[Handwritten initials]

AA. LICENSEE DISCLOSURE OF PERSONAL INTEREST IN PROPERTY

Joshua MOTHNER has an active or inactive real estate license and has a personal interest in the Property (specify if licensee is related to a party, or is acting as Buyer or Seller, etc.) Licensee is President of the Corporation selling the property







Addendum to Contract for Residential Sale and Purchase

1 If initialed by all parties, the terms below will be incorporated into the Contract for Residential Sale and Purchase
2* between IMBY, Inc. ("Seller")

3* and Habitat for Humanity of the Middle Keys, Inc. ("Buyer")

4* concerning the Property described as 7931 Overseas Highway, Marathon, FL 33050

5* _____

6*   -   **D. Assignment: Seller** agrees that **Buyer** may assign this Contract to The City of
7* Marathon

8* **Buyer** will deliver a copy of the assignment to **Seller** and will will not be released from the duty to perform this
9 Contract.