

Prepared by:
Catherine D. Reischmann, Esquire
Garganese, Weiss, D'Agresta & Salzman, P.A.
Post Office Box 2873
Orlando, Florida 32802-2873

Return to:
Coast Title Insurance Agency, Inc.
15 Cypress Branch Way, Suite 203
Palm Coast, FL 32164

Parcel ID: 28-10-30-4290-00000-00B0
28-10-30-4290-00000-00C0
33-10-30-0000-01030-00B2

RIGHT OF FIRST REFUSAL AGREEMENT

THIS AGREEMENT is made this 7th day of May, 2021, by and between the **CITY OF PALM COAST, FLORIDA**, a municipal corporation, with its principal office at 160 Lake Avenue, Palm Coast, FL 32164 ("City") and **BYRND OG PCP, LLC**, a Florida limited liability company, with its principal office at 180 Brookhaven Court S, Palm Coast, FL 32164 ("Grantee").

WHEREAS, City, for and in consideration of the sum of Ten Dollars and 00/100, and other good and valuable consideration, grants unto BYRND OG PCP, LLC, a Florida limited liability company, its successors and assigns ("Grantee"), a Right of First Refusal, the terms of which are more particularly set out below, to a tract of land situate, lying and being, in Flagler County, Florida, more particularly described in Exhibit "A" attached ("Subject Property"), and made a part hereof.

1. Right of First Refusal. If at any time the City shall receive a bona fide offer at our above appraised value (based on appraisal prepared for the City) from any person, persons, organization, or organizations to purchase, in whole or in material part, the Subject Property, the City shall send Grantee a copy of the Contract, signed by the Purchaser, and notify Grantee of its intention to accept the same. The Grantee shall have the right within 10 days to accept the terms of said Contract in writing for the gross purchase price and on the terms specified in said Contract. If the Grantee shall not so elect to exercise its right in writing within the said period of 10 days, the City may then sell the above-described property to said offeror provided the said sale is on the said terms and conditions and for the price set forth in the Contract sent to Grantee.

2. Default. Should the City herein enter into an assignment, sale, transfer, or conveyance in conflict with this Right of First Refusal, the Grantee may, at its option, in legal proceedings, seek to have a court of competent jurisdiction declare this Agreement breached and order that said assignment, sale transfer, or conveyance, is null, void, and of no effect. Nothing contained herein shall be construed to prevent specific performance of this Right of First Refusal or any term herein by either party.

Notwithstanding anything to the contrary contained herein, this Right of First Refusal shall in no way restrict City's right, power, or authority to grant easements, or grant a lease or leases,

without option to purchase and for a term (including both primary and option periods) not in excess of 99 years. Nor shall this Right of First Refusal in any way restrict or prohibit transfers by operation of law, transfers between City and Grantee herein, or any donation to a not for profit entity.

3. Termination. This Right of First Refusal shall extinguish, terminate, and be null and void, as this Agreement applies to the Property or portion thereof upon the consummation of assignment, sale, transfer, or conveyance in fee simple to a third party of the above-described premises after full compliance with the terms of this Right of First Refusal, provided the sale is on the said terms and conditions and for the price set forth in the contract sent to Grantee; however, if such sale is not consummated, this Right of First Refusal shall remain in effect, provided, however, that in any event, all rights hereunder shall terminate not later than 25 years from the Effective Date.

Subsequent to termination as above provided, Grantee shall upon City's request execute and acknowledge a document stating such facts as are pertinent and fully relinquishing, waiving, and releasing all rights and obligations hereunder.

4. Correspondence. Any and all writings required hereunder shall be sent by certified mail, postage prepaid, to the parties hereto at the following addresses:

To Grantee: Byrmdog PCP, LLC
Attn: Jeffrey R. Douglas, President
180 Brookhaven Court S
Palm Coast, FL 32164

To City: City of Palm Coast
Attention: City Manager
160 Lake Avenue
Palm Coast, FL 32164

Either party may change the above name or address by sending a certified letter to such effect addressed as above.

5. Entire Agreement. This Right of First Refusal constitutes the entire Agreement between the parties and can be modified only by a written instrument signed by the parties hereto.

6. Binding Effect. It is intended that all the provisions of this Right of First Refusal shall run with the land and that all the provisions hereto shall inure to the benefit of and shall be binding on the parties hereto, their heirs, legal representatives, successors, and assigns.

IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year indicated above.

[signature pages to follow]

WITNESSES:

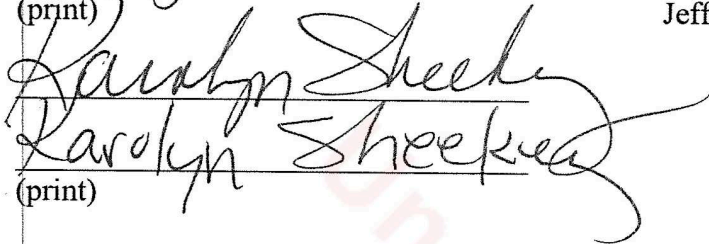
BYRND OG PCP, LLC, a Florida limited liability company

By: DOUGLAS PROPERTY & DEVELOPMENT, INC., a Florida corporation, Its Manager



Kelly Devore

(print)



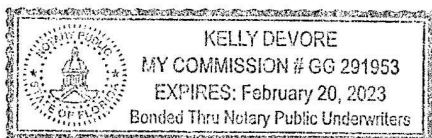
(print)

By:

Jeffrey R. Douglas, President

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this 3rd day of May, 2021, by Jeffrey R. Douglas, President of Douglas Property & Development, Inc., a Florida corporation, as Manager of Byrndog PCP, LLC, a Florida limited liability company (check one) ☒ who is personally known to me or ☐ who has produced _____ as identification.



Notary Public

Print Name: _____

My Commission expires: _____

WITNESSES:

Geneva Fuller

Geneva Fuller
(print)

Lisa Abell

LISA ABELL
(print)

CITY OF PALM COAST, FLORIDA

By: [Signature]
Matthew Morton, City Manager

ATTEST:

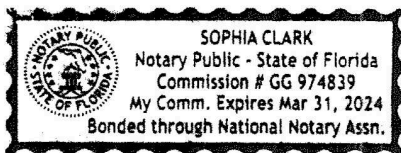
By: Virginia A. Smith
Virginia A. Smith, City Clerk

Date: 5/7/2021

[CITY SEAL]

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 7 day of May, 2021, by Matthew Morton, City Manager of the City of Palm Coast, Florida (check one) ☒ who is personally known to me or ☐ who has produced _____ as identification.



[Signature]
Notary Public
Print Name: Sophia Clark
My Commission expires:

EXHIBIT "A"

Parcel 1:

Tract B, Palm Coast Park, Tracts 18 and 20, according to the map or plat thereof as recorded in Plat Book 37, Page 32, Public Record of Flagler County, Florida.

Parcel 2:

Tract C, Palm Coast Park, Tracts 18 and 20, according to the map or plat thereof as recorded in Plat Book 37, Page 32, Public Record of Flagler County, Florida.

Parcel 3: See Exhibit "A-2" attached hereto.

Parcel 4: See Exhibit "A-3" attached hereto.

Unofficial Copy

EXHIBIT "A-2"**PARCEL 3****LEGAL DESCRIPTION – TRACT 17 NORTH OF AND INCLUDING PEAVY GRADE**

A PARCEL OF LAND LOCATED WEST OF U.S. HIGHWAY NO. 1 IN GOVERNMENT SECTION 33, TOWNSHIP 10 SOUTH, RANGE 30 EAST, BEING A PORTION OF TRACT 17, PER OFFICIAL RECORDS BOOK 2408, PAGES 777-783 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A POINT OF REFERENCE BEING THE SOUTHWEST CORNER OF GOVERNMENT SECTION 33, TOWNSHIP 10 SOUTH, RANGE 30 EAST; THENCE N89°02'28"E ALONG THE SOUTH LINE OF SECTION 33 FOR A DISTANCE OF 1564.05 FEET TO THE SOUTHEASTERLY EXTENSION OF THE WESTERLY LINE OF SAID TRACT 17; THENCE DEPARTING SAID SECTION LINE, N09°09'56"W ALONG SAID EXTENSION AND SAID WESTERLY LINE FOR A DISTANCE OF 3632.89 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUE N09°09'56"W ALONG SAID WESTERLY LINE FOR A DISTANCE OF 41.02 FEET; THENCE FOLLOWING ALONG THE BOUNDARY LINES OF SAID TRACT 17 THE FOLLOWING 10 COURSES; 1) THENCE N86°20'16"W FOR A DISTANCE OF 884.48 FEET TO THE EASTERLY LINE OF THE FLORIDA EAST COAST RAILWAY COMPANY'S RIGHT-OF-WAY; 2) THENCE N09°09'56"W ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 51.28 FEET; 3) THENCE DEPARTING SAID RAILROAD RIGHT-OF-WAY S86°20'16"E ALONG THE SOUTHERLY LINE OF LANDS PER OFFICIAL RECORDS BOOK 1311, PAGE 256 AND CITY OF PALM COAST LANDS PER OFFICIAL RECORDS BOOK 1211, PAGE 307 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, FOR A DISTANCE OF 1327.13 FEET; 4) THENCE N03°39'44"E ALONG THE EASTERLY LINE OF SAID CITY LANDS FOR A DISTANCE OF 748.33 FEET; 5) THENCE DEPARTING SAID EASTERLY LINE S86°20'16"E FOR A DISTANCE OF 322.65 FEET; 6) THENCE N02°40'13"W FOR A DISTANCE OF 141.34 FEET; 7) THENCE N89°08'52"E FOR A DISTANCE OF 631.84 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY NO. 1; 8) THENCE ALONG SAID WESTERLY RIGHT-OF-WAY S14°05'29"E FOR A DISTANCE OF 9.84 FEET; 9) THENCE N89°01'24"E FOR A DISTANCE OF 51.34 FEET; 10) THENCE S14°05'29"E FOR A DISTANCE OF 613.10 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE AND SAID TRACT 17 BOUNDARY S78°54'02"W FOR A DISTANCE OF 446.14 FEET; THENCE S06°55'26"E FOR A DISTANCE OF 250.00 FEET TO THE NORTHERLY LINE OF PEAVY GRADE (AN 80-FOOT WIDE ACCESS EASEMENT PER OFFICIAL RECORDS BOOK 792, PAGE 1932 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA); THENCE ALONG THE NORTHERLY LINE(S) OF SAID EASEMENT THE FOLLOWING TWO (2) COURSES; 1) THENCE S86°20'16"E FOR A DISTANCE OF 382.50 FEET; 2) THENCE N75°54'30"E FOR A DISTANCE OF 112.44 FEET TO THE SAID WESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1; THENCE DEPARTING THE NORTHERLY PEAVY GRADE LINE, S14°05'29"E ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 120.00 FEET TO THE SOUTHERLY LINE OF SAID PEAVY GRADE; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE N86°20'16"W ALONG THE SOUTHERLY LINE OF SAID PEAVY GRADE FOR A DISTANCE OF 1740.92 FEET TO THE AFOREMENTIONED POINT OF BEGINNING OF THIS DESCRIPTION.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 24.13 ACRES, MORE OR LESS.

EXHIBIT "A-3"**PARCEL 4****LEGAL DESCRIPTION – TRACT 17 SOUTH OF PEAVY GRADE**

A PARCEL OF LAND LOCATED WEST OF U.S. HIGHWAY NO. 1 IN GOVERNMENT SECTION 33, TOWNSHIP 10 SOUTH, RANGE 30 EAST, BEING A PORTION OF TRACT 17, PER OFFICIAL RECORDS BOOK 2408, PAGES 777-783 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A POINT OF REFERENCE BEING THE SOUTHWEST CORNER OF GOVERNMENT SECTION 33, TOWNSHIP 10 SOUTH, RANGE 30 EAST; THENCE N89°02'28"E ALONG THE SOUTH LINE OF SECTION 33 FOR A DISTANCE OF 1564.05 FEET TO THE SOUTHEASTERLY EXTENSION OF THE WESTERLY LINE OF SAID TRACT 17; THENCE DEPARTING SAID SECTION LINE, N09°09'56"W ALONG SAID EXTENSION FOR A DISTANCE OF 170.12 FEET; THENCE CONTINUE N09°09'56"W FOR A DISTANCE OF 304.83 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUE N09°09'56"W ALONG SAID WESTERLY LINE FOR A DISTANCE OF 3157.94 FEET TO THE SOUTHERLY LINE OF PEAVY GRADE (AN 80-FOOT WIDE ACCESS EASEMENT PER OFFICIAL RECORDS BOOK 792, PAGE 1932 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA); THENCE DEPARTING SAID WESTERLY LINE S86°20'16"E ALONG SAID SOUTHERLY LINE FOR A DISTANCE OF 1363.58 FEET; THENCE DEPARTING SAID SOUTHERLY LINE S14°05'29"E FOR A DISTANCE OF 415.06 FEET; THENCE N75°54'31"E FOR A DISTANCE OF 359.37 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1; THENCE ALONG SAID RIGHT-OF-WAY LINE S14°05'29"E FOR A DISTANCE OF 1737.15 FEET TO THE SOUTHERLY LINE OF SAID TRACT 17; THENCE DEPARTING SAID RIGHT-OF-WAY LINE ALONG THE SOUTHERLY BOUNDARY LINES OF SAID TRACT 17 THE FOLLOWING COURSES; THENCE N62°31'54"W FOR A DISTANCE OF 299.79 FEET; THENCE N11°33'36"W FOR A DISTANCE OF 235.55 FEET; THENCE S85°14'11"W FOR A DISTANCE OF 421.04 FEET; THENCE S08°21'44"E FOR A DISTANCE OF 1205.13 FEET; THENCE DEPARTING SAID SOUTHERLY LINES S81°38'25"W FOR A DISTANCE OF 1185.40 FEET TO THE AFOREMENTIONED POINT OF BEGINNING OF THIS DESCRIPTION.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 103.51 ACRES, MORE OR LESS.