

RESOLUTION NO. 171204-1

WHEREAS, the Utilities Board of the City of Foley (the Board), a public corporation doing business as Riviera Utilities, owns a 0.28± acre parcel of real property identified as Lots 5 and 6, Block 57, Park City Subdivision, Tax PPIN 69295 (the Parcel), and

WHEREAS, Nichols Properties, Inc. has expressed an interest in purchasing the Parcel by the submission of an Offer to Purchase received by the Board on November 29, 2017, attached hereto and made a part thereof this Resolution, and

WHEREAS, the Board has determined that the Parcel is no longer needed for any business purposes, and

WHEREAS, the Board has determined the Offer to Purchase submitted by Nichols Properties, Inc. is acceptable,

NOW, THEREFORE BE IT RESOLVED by The Utilities Board of the City of Foley that the Offer to Purchase Lots 5 and 6, Block 57, Park City Subdivision, Parcel PPIN 69295 submitted by Nichols Properties, Inc. is hereby accepted, and the sale of the Parcel is approved.

BE IT FURTHER RESOLVED that the Board authorizes the General Manager and CEO to sign the Offer to Purchase and take such other actions as necessary or appropriate to close the sale.

BE IT FURTHER RESOLVED that the Board further authorizes the General Manager and CEO to take such other actions as necessary or appropriate to close the sale of Parcel PPIN 69295 on the condition that the City Council of Foley, AL first approves the transfer.

APPROVED AND ADOPTED this the 4th day of December, 2017.

Attest:


Chairman of the Board of Directors


Secretary



PRESS FIRMLY you are writing through 4 copies.

PURCHASE AGREEMENT
UNIMPROVED LAND/LOT



EFFECTIVE DATE: DATE: 12/4/2017 INITIALS: TD
(To be completed by the last party to sign acceptance of the final offer.)

PLEASE READ CAREFULLY - Alabama is a Caveat Emptor State. If you have any questions, please seek advice of legal counsel. This is a legally binding preprinted Purchase Agreement and prior to its signing by all parties is subject to negotiation between the parties to the Agreement. You may retain legal counsel to review and/or prepare this Purchase Agreement for you. Wherever Buyer or Seller is mentioned below, if there is more than one Buyer or more than one Seller party to this Agreement, it is understood that the words Buyer or Seller shall represent all Buyers or all Sellers. Any items left unmarked do not apply and are not material to this transaction.

REAL ESTATE CONSUMER'S AGENCY DISCLOSURE (RECAD):

The Listing Company is: Coastal R.E. + Development
(Two blocks may be checked) ATTN: Skip DAVIS

- ☐ An agent of the Seller
☐ An agent of the Buyer
☐ An agent of both the Seller and Buyer, and is acting as a limited consensual dual agent
☐ Assisting the TD Buyer TD Seller as a Transaction Broker
Seller(s) Initials

The Selling Company is: BHHS Nichols R.E.
(Two blocks may be checked)

- ☐ An agent of the Seller
☒ An agent of the Buyer
☐ An agent of both the Seller and Buyer, and is acting as a limited consensual dual agent
☐ Assisting the TD Buyer TD Seller as a Transaction Broker
Buyer(s) Initials

WHEREFORE, Subject to the terms, conditions, addendums, and disclosures contained or referenced herein, the undersigned execute this Purchase Agreement ("Agreement") as follows:

1. **PROPERTY AND PURCHASE PRICE:** Buyer hereby offers to buy and Seller hereby agrees to sell the Property located in or near DAPHNE Alabama, whose commonly known address is 40X150 PARK CITY SUB. and which is legally described as BLK 57 Lot 5+6 - PPIN # 069295 ("Property") together with all improvements, shrubbery, plantings, fixtures, appurtenances, and subject to any existing building and use restrictions, recorded covenants, deed restrictions, previous mineral exclusions, zoning ordinances, zoning restrictions, the current flood plain and zoning designation, governmental or subdivision regulations and easements, if any, of record, for the sum of One hundred thousand dollars (\$ 100,000).

2. **THE TERMS OF THE PURCHASE SHALL BE AS MARKED BELOW:**

- A. See below CASH. The full Purchase Price upon execution and delivery of Warranty Deed or Warranty Bill of Sale with required Lease.
B. See below ☒ NEW MORTGAGE. The full Purchase Price upon execution and delivery of Warranty Deed/Warranty Bill of Sale, Contingent upon Buyer's ability to obtain a See below year See below (type) mortgage in the approximate amount of \$ See below, or in an amount equal to or greater than See below % of the Purchase Price, at an INTEREST RATE NOT TO EXCEED See below %, which Buyer agrees to apply for immediately, use best efforts to obtain, and accept promptly if tendered. All lenders required, or related fees and credit report fee shall be paid by the Buyer, unless otherwise agreed to in writing by the parties. Buyer shall pay all loans closing costs unless otherwise noted, including prepaid items and recording fees. Written notification from the lender that Buyer's ability to obtain financing under the terms of this Agreement is within the lender's guidelines is to be provided within See below business days of the Effective Date of this Agreement.
C. See below SELLER FINANCING OPTION: SEE ATTACHED ADDENDUM
D. See below FHA/VA MORTGAGE: SEE ATTACHED ADDENDUM
E. See below OTHER MORTGAGE PROVISIONS: our plans are to obtain a 375,000 loan on 3 bldgs. This 100,000 added to 275,000 totals 475,000. This financing refinance could take longer than normal. We are asking for a 90 day period to close/financing. 90 days begins upon acceptance of contract

This Purchase Agreement is for the exclusive use of members of the Baldwin County Association of REALTORS®. The Baldwin County Association of REALTORS®, Inc., and its members, are not engaged in rendering legal, accounting or other professional service by approving this form. This form is published as a service to member real estate professionals and an explanation of its various provisions should be obtained from the appropriate professional. Because of varying state and local laws, competent legal or other advice should be secured before using any form. If a user of this form makes any substantive changes to any portions above, the form will no longer be an approved form. Buyer and Seller are encouraged to seek advice from legal and tax advisors prior to the purchase or sale of any property.

Initials indicate receipt of Page 1 of 6 pages of this Agreement.

Seller's initials: TD
Buyer's initials: TD

10/2009

PROPERTY ADDRESS Park City Sub., BLK 57, Lot 5+6 - Daphne, AL pp in # 069295

3. **PERSONAL PROPERTY:** No items of personal property shall be transferred to Buyer unless specifically itemized herein:

All items of personal property listed herein or otherwise attached hereto shall be conveyed at no value for appraisal purposes. Fixtures and improvements located on Fairhope Single Tax Corporation property shall be part of the Property and not considered personal.

4. **APPRAISAL:** This offer is is not subject to Property appraising for at least the Purchase Price. If the offer is subject to said appraisal and the Property does not appraise for at least the Purchase Price, Seller is to be notified in writing within business days following the Effective Date of this Agreement or this contingency shall be deemed removed. The Buyer shall, however, have the privilege and option to waive this contingency and proceed with the consummation of this Agreement without regard to the amount of the appraised valuation. (If Fairhope Single Tax Corporation Property, an appraisal is required at the expense of Buyer Seller).

5. **INSPECTIONS:** This offer is is not contingent on inspection(s) satisfactory to Buyer. Any inspection and report, if ordered by Buyer, shall be at Buyer's expense. If any such inspection is not satisfactory, Seller shall be notified in writing within business days following the Effective Date of this Agreement or this contingency shall be deemed removed. Seller is not obligated to pay for any improvements recommended by such inspection other than those that may be required by other provisions of this Agreement. If requested, Buyer shall furnish Seller, at no cost, a copy of all inspection reports. Any connection fees required for said inspections shall be paid by Buyer Seller.

6. **MINERAL RIGHTS:** Subject to the above provisions, Seller owned mineral rights do do not convey. Timber and growing crops are included in the Purchase Price unless otherwise noted in this Agreement. if any.

7. **CONDITION OF PROPERTY:** Except to the extent expressly set forth herein (1) Neither Seller nor Broker nor any REALTOR® makes any representations or warranties regarding condition of the Property; (2) Buyer has the obligation to determine any and all conditions of the Property material to Buyer's decision to buy the Property, including but not limited to, the size and area of the Property; the proper construction of the site by the builder or the developer, site conditions; utility and sewer or septic system availability, condition and location; subsurface and subsoil conditions, sinkholes and mining or other soil conditions including radon or other potentially hazardous gases or toxic materials; presence of, or damage from, wood destroying insects and/or fungus; Property access, easements, covenants, restrictions, developments, structures and any matters affecting the character of the Property; and (3) **IT IS THE BUYER'S DUTY TO THOROUGHLY INSPECT THE PROPERTY PRIOR TO CLOSING. THIS TRANSACTION IS CONSIDERED AN "AS-IS, WHERE-IS" SALE EXCEPT AS OTHERWISE PROVIDED HEREIN.**

8. **TITLE INSURANCE/CONVEYANCES:** An Owner's policy of title insurance in the amount of the Purchase Price shall be provided at Closing. Closing shall be at a location of Seller's election unless otherwise noted here:
Title is to be taken in the names(s) of We would like to close at Baldwin Land Title - Thomas
Parker but ok any place. with without right of survivorship, in a form satisfactory to Buyer. If Fairhope Single Tax Corporation Property is being conveyed it will be subject to a 99-year Lease as referenced above. Probably placed in Nichols Properties or possibly in another legal entity.

9. **PROPERTY TAXES AND LEASE PAYMENTS:** All Property taxes and lease payments being collected from existing leases are to be prorated at time of Closing. All security deposits and lease agreements or rental management agreements to be transferred to Buyer at Closing, subject to current lease agreements and management agreements. NOTE: Taxes are prorated based upon current information furnished by the Revenue Commissioner's Office. REALTORS® cannot and do not assume any responsibility for any change, modification or adjustment to the current tax assessment by the Revenue Commissioner's Office. If Property is assessed under CURRENT USE CLASSIFICATION, any roll back or other additional assessment levied against Property as a result of this sale shall be paid by Buyer Seller. Any additional information regarding tax prorations should be obtained directly from the title company referenced above. * See # 21 of this contract.

10. **UNPAID ASSESSMENTS:** Any Property assessments which become a lien attached to the Property prior to the Closing Date shall be paid by the Seller, without proration. Any public improvements, now installed but not yet filed as a lien, shall be paid by Buyer Seller. Any Owners Association assessments that are due and payable prior to the execution of this Agreement shall be paid by Buyer Seller. Any Owners Association assessments known to the parties at the time of the execution of this Agreement that become due prior to Closing but after the date of execution of this Agreement shall be paid by Buyer Seller. Any Owners Association assessments that are approved by the Association prior to the Closing Date but do not become due and payable until after the Closing date shall be paid by Buyer Seller.

This Purchase Agreement is for the exclusive use of members of the Baldwin County Association of REALTORS®.

The Baldwin County Association of REALTORS®, Inc., and its members, are not engaged in rendering legal, accounting or other professional service by approving this form. This form is published as a service to member real estate professionals and an explanation of its various provisions should be obtained from the appropriate professional. Because of varying state and local laws, competent legal or other advice should be secured before using any form. If a user of this form makes any substantive changes to any portions above, the form will no longer be an approved form. Buyer and seller are encouraged to seek advice from legal and tax advisors prior to the purchase or sale of any property.

Initials indicate receipt of Page 2 of 6 pages of this Agreement.

Seller's initials: TD

Buyer's initials: AN

10/2009

PROPERTY ADDRESS BLK 57, Lot 546 - pp. in # 069295, Park City, Daphne, AL

17. **OTHER OFFERS WHILE BUYER'S OFFER IS PENDING:** Buyer hereby acknowledges that offers other than Buyer's offer may have been made or may be made before Seller acts on or while Seller is considering Buyer's offer or counteroffer. While the Buyer's offer or counteroffer is pending, and before this Agreement becomes Effective, Seller hereby expressly reserves the right to reject Buyer's offer or counteroffer or to withdraw any offer previously made by Seller to Buyer relating to the Property, and to accept any other offer or counteroffer. THIS OFFER AND ANY COUNTEROFFER MAY BE WITHDRAWN AT ANY TIME PRIOR TO ACCEPTANCE BY BOTH BUYER AND SELLER.
18. **DEFAULT/LEGAL REMEDIES:**
- A. Default by BUYER: In the event that Buyer fails to consummate this Agreement, Seller shall have the right to pursue any remedy available at law or in equity as a result of such breach, including specifically, without limitation, the right (a) to retain the Earnest Money, (b) the right to enforce specific performance of this Agreement, and (c) the right to terminate this Agreement, and thereafter recover damages against Buyer for breach by Buyer thereof.
 - B. Default by SELLER: In the event that Seller fails to consummate this Agreement, Buyer shall have the right to pursue any remedy available at law or in equity as a result of such breach, including specifically, without limitation, the right (a) to receive the return of the Earnest Money, (b) the right to enforce specific performance of the obligation of this Agreement and thereafter recover damages against Seller for breach by Seller thereof.
 - C. Arbitration: If an Arbitration clause is attached to this Agreement as an addendum and is signed by all Buyers and Sellers to this Agreement, the same shall supersede the remedies provided for elsewhere.
19. **ELECTRONIC SIGNATURES:** Electronic signatures or facsimiles of a signed copy, or of any offer or counteroffer to the other party or his/her REALTOR® shall constitute delivery of said signed document unless otherwise noted herein: _____
20. **OTHER AGREEMENTS/DISCLAIMER:** It is agreed by the parties that the Buyer in making this offer and in entering into this Agreement has not relied upon any statement, representation, promise, understanding or agreement whatsoever, whether expressed or implied, by the Seller, or any REALTOR® outside the written parameters of this Agreement. No modification of this Agreement shall be binding unless attached hereto and signed by both Buyer and Seller. All parties to this Agreement understand and acknowledge that REALTORS® are not parties to this Agreement, and as such, do not assume any liability for performance or nonperformance of any parties to this Agreement. Further, Seller and Buyer agree to discharge and release the brokers and sales associates from any claims, demands, damages, actions, causes of actions or suits at law arising in any way from this Agreement related to the Property, and shall include but not be limited to the size and area of the Property; the condition, availability or location of utilities, sewer or septic system; the investment or resale value of the Property; subsurface or subsoil conditions such as sinkholes, mining or other soil conditions, including radon or other potentially hazardous gases or toxic materials; the existence of, or damage from, wood destroying insects and/or fungus, or vermin/pest infestation; Property access, easements, covenants, restrictions, development structure, and appurtenances thereto, and any matters affecting the character of the neighborhood, the past, present or future financial stability of the builder or developer. Seller and Buyer acknowledge and agree that if such matters are of concern to them in the decision to sell or purchase the Property, they have sought and obtained independent advice relative thereto.
- _____
Buyer's Initials
- _____
Seller's Initials
21. **ADDITIONAL PROVISIONS:** Additional provisions to this Agreement are set forth herein or on the attached Addendum(s) which shall be signed by all parties and shall be part of this Agreement.
- (#9) - Para. 9 is to be amended:
Please Agreement now active. If contract is closed by July 1, 2018 current
agreed lease pmts. will not be owed. Centennial Bank has paid 32524
buyer has pd. 3250 annually. Bank will no longer lease bldg. after Dec. 31, 2017.
we are seeking new tenants.
22. **OBLIGATION FOR FEES AND EXPENSES/OBLIGATION TO PROCEED:** Buyer and Seller acknowledge that in the event this Agreement is cancelled or said transaction does not close for any reason, fees or costs paid in advance may be non-refundable. REALTORS® are not to be held liable for any conditions or non-performance of this Agreement and have not given any professional, legal or tax advice.

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Initials indicate receipt of Page 4 of 6 pages of this Agreement.

Seller's initials: TJ
Buyer's initials: [Signature]

10/2009

PROPERTY ADDRESS BLK 57, Lots 5+6 - pp in # 069295, Park City, Daphne, AL

11. **DISCLOSURE:** The Purchase Price and the terms of this sale may be disclosed, after Closing, by the real estate companies for use in the ordinary conduct of their business. REALTORS® may benefit financially as a result of recommending real estate-related services to clients and customers. All parties to this Agreement are advised to also seek other services or compare cost of services in these related fields and do business with whomever or wherever is most desirable to them.
12. **SURVEY:** Select one of the following:
A. NA A survey showing all improvements shall be provided to Buyer at NA Buyer's NA Seller's expense and ordered by the NA Listing Company NA Selling Company.
B. NA Seller will provide and Buyer will accept an existing survey or plat.
C. NA Buyer has been given the opportunity to request a new survey or to accept an existing survey or plat and has declined.
D. NA Other survey requirements NA
E. NA
13. **CLOSING AND POSSESSION DATES:** The sale shall be Closed and the Warranty Deed or Warranty Bill of Sale with required Lease delivered on 90 days + 10 days or sooner, if mutually agreed upon in writing by Buyer and Seller. Time is of the essence with respect to all terms, conditions, obligations and particulars of this Agreement. Possession is to be given the Buyer at Closing or within 90 days days after Closing, without fail. In the event Seller retains possession of the Property beyond the Closing Date, Seller does hereby warrant that at the date of surrender of the Property by Seller, the Property shall be in the same condition as of the Closing Date.
14. **CLOSING COSTS:** BUYER to pay Closing agent settlement fee, recording fee and mortgagee title insurance policy required by Lender and all fees required for the transfer pursuant to Fairhope Single Tax Corporation requirements. SELLER to pay for preparation of Warranty Deed or Warranty Bill of Sale with required Lease and Owner's Title Insurance Policy in the amount of the Purchase Price. All other costs shall be borne as otherwise indicated herein, or as specifically agreed to in writing.
15. **EXTENTION OF CLOSING DATE:** A period of TEN (10) days from the Closing Date in Paragraph 13 herein shall be allowed if the Closing is delayed by reason of title defects that can be readily corrected. A period of FIVE (5) days from Closing Date contained in Paragraph 13 herein shall be allowed for Closing if the terms of purchase require a new mortgage and the lender has issued a written unconditional commitment letter no later than the Closing Date named above, but is otherwise reasonably delayed in consummating the mortgage, as set forth herein.
16. **FOR VALUABLE CONSIDERATION CLAUSE:** Buyer gives the Listing Broker above named until Dec 4, 2017 at 5:00 a.m. (p.m.), to obtain the written acceptance of this offer and agrees that this offer, when signed, will constitute a binding Agreement between the Buyer and Seller. Buyer herewith deposits \$ 1,000 as Earnest Money in the form of cash check evidencing Buyer's good faith, to be deposited in escrow by Selling Broker (herein referred to as Holder), unless otherwise noted herein below, upon acceptance of offer and to be applied to the Purchase Price at time of Closing. If this offer is not accepted, the earnest money deposit is to be returned to the Buyer. If this offer is accepted and the title is not marketable, or if the terms of purchase are contingent upon ability to obtain a new mortgage or Seller Financing or other contingencies as specified which cannot be met, and which are not otherwise satisfied or removed, this deposit to be refunded upon written instructions signed by Buyer and Seller. The parties to this Agreement understand and acknowledge that disbursement of earnest monies held by Holder/Escrow Agent can occur only as follows: (A) at Closing; (B) upon written agreement signed by Buyer and Seller; or (C) upon court order. In the event a dispute arises between Buyer and Seller as to the final disposition of the earnest money, Holder shall be authorized to Interplead the earnest money into a Court of competent jurisdiction pending a decision by said court. Holder shall be entitled to be compensated by the party who does not prevail, or otherwise out of said interplead funds, in the Interpleader action for its costs and expenses, including reasonable attorney's fees incurred in filing said Interpleader. All parties to this Agreement agree that Holder may deposit the earnest money in an interest-bearing escrow/trust account and that Holder will retain the interest earned on said deposit. In the event Earnest Money check is returned for insufficient funds or otherwise not honored by the bank drawn upon, the Buyer shall be required to deliver good funds to Holder within three (3) days of bank's notice to Holder. If Buyer does not deliver said good funds, then and in that event, the Seller, at his sole discretion, shall have the right to terminate this Agreement by giving written notice to the Buyer.
Earnest money to be held by BHAS Nichols R.E.
As per Skip Davis, Commission to be 10% split 50/50 by
both R.E. Companies.

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Initials indicate receipt of Page 3 of 6 pages of this Agreement.

Seller's initials: MD

Buyer's initials: AK

10/2009

PROPERTY ADDRESS BLK 57, Lot 5+6 # 069295, Park C'ty, Daphne, AL

23. BUYER AND SELLER ACKNOWLEDGE that they have read this entire agreement including all addendums as noted and accept the same as noted:

☐ Seller's Disclosure ☐ Buyer's Disclosure ☐ Restrictive Covenants
☐ Other Addendum (s) to this Agreement and made a part hereof: _____

BUYER IS LICENSED REALTOR IN THE STATE OF ALABAMA.

x BUYER Michael Proffitt (PRINT) DATE: _____, 20__

BUYER By: A. A. Nichols (PRINT) DATE: _____, 20__

Buyer's Mailing Address _____

Home Phone 251-454-8340 Cell or Work 251-454-8340 E-mail SONNY@bansnichols.com
Zip Code _____

Selling Agent Rex A. Nichols Cell or Work SAHME E-mail _____

SELLER'S ACCEPTANCE OFFER /COUNTER OFFER: ☒ ACCEPTED ☐ COUNTERED AS FOLLOWS:

In the event a counter offer is made, it shall expire on _____, 20__ am _____ pm

SELLER THOMAS L DEBELL (PRINT) THOMAS L DEBELL DATE: 12/4, 2017

SELLER _____ (PRINT) DATE: _____, 20__

Seller's Mailing Address _____
Zip Code _____ Home Phone _____ Cell or Work _____ E-mail _____

Listing Agent _____ Cell or Work _____ Home _____ E-mail _____

BUYER'S ACCEPTANCE OF COUNTER OFFER: ☐ ACCEPTED ☐ COUNTERED, AS PER ATTACHED ADDENDUM.
Provisions of the original offer not changed by the counteroffer remain in effect.

BUYER: _____ (PRINT) DATE: _____, 20__

BUYER: _____ (PRINT) DATE: _____, 20__

Selling Agent _____ Cell or Work _____ Home _____ E-mail _____

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Initials indicate receipt of Page 5 of 6 pages of this Agreement.

Seller's initials: TD
Buyer's initials: AK

10/2009

PROPERTY ADDRESS BUS 57, Lot 546 - pp 11 # 069295, Daphne, AL

SELLER'S ACCEPTANCE OF COUNTER OFFER: _____ ACCEPTED _____ COUNTERED, AS PER ATTACHED ADDENDUM.
Provisions of the original offer not changed by the counter offer remain in effect.

SELLER: _____ (PRINT) _____ DATE: _____, 20____

SELLER: _____ (PRINT) _____ DATE: _____, 20____

Listing Agent _____ Cell or Work _____ Home _____ E-mail _____

PLEASE NOTE: INITIALS AND EFFECTIVE DATE TO BE COMPLETED ON PAGE 1 OF THIS AGREEMENT BY THE LAST PARTY TO SIGN ACCEPTANCE OF THE FINAL OFFER OR COUNTER OFFER.

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Initials indicate receipt of Page 6 of 6 pages of this Agreement.

Seller's initials: DB
Buyer's initials: AK

10/2009

Nichols Properties, Inc.

6351 Monroe St.
Daphne, AL 36526
251-621-1000

Centennial Bank
Daphne, AL

81 27/6/829

11/27/2017

2153

PAY TO THE ORDER OF **BHHS Nichols Real Estate**

One Thousand and 00/100*****

\$ **1,000.00

BHHS Nichols Real Estate

DOLLARS

MEMO

Earnest deposit - Lot behind Centennial Bank

⑈002153⑈ ⑈082902757⑈ 001005897⑈

Caroline B. Michael
AUTHORIZED SIGNATURE

BRP

Nichols Properties, Inc.

BHHS Nichols Real Estate

200 - Fixed Assets

Earnest deposit - Lot behind Centennial Bank

11/27/2017

2153

1,000.00

Security features included. Details on back.