

ORDINANCE NO. 530

**AN ORDINANCE OF THE TOWN OF BELLEAIR, FLORIDA
AUTHORIZING THE SALE AND CONVEYANCE IN FEE OF
CERTAIN TOWN OWNED REAL PROPERTY
LOCATED WITHIN THE TOWN OF BELLEAIR,
PINELLAS COUNTY, FLORIDA AT 0 MANATEE ROAD;
PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the vacant land located at 0 Manatee Road and as further described in Exhibit A hereto (the “Property”) was donated to the Town by Robert Ahlf, subject to his continuing life estate interest in the property.

WHEREAS, Robert Ahlf died in 2019 making the Town the sole owner of the property.

WHEREAS, at the time of the original donation and following the donor’s death, the Town Commission determined that the Town has no foreseen current or future use for that property and that it should be sold to the highest bidder following the donor’s death.

WHEREAS, pursuant to Section 2.07(g) of the Town Charter, the Town has obtained an independent appraisal of the value of the Property.

WHEREAS, the Town, through its real estate agent marketed the property for sale and invited bids for its purchase.

WHEREAS, the highest bidder for the Property is the buyer set forth in the Purchase and Sale Agreement attached hereto as Exhibit A (the “Purchase Agreement”) and the offered purchase price is not less than the appraised value of the Property.

WHEREAS, all conditions to the sale and purchase of the Property under the Purchase Agreement have been satisfied and the Town and Buyer are prepared to close such sale and purchase; and

WHEREAS, in addition to such requirements set forth in the Purchase Agreement, Section 2.11(a)(2) of the Town Charter requires a conveyance in fee of any real property of the Town be done by ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF BELLEAIR, FLORIDA;

SECTION 1. The above premises are found to be true and correct.

SECTION 2. Subject to satisfaction of all requirements for closing under the Purchase Agreement, the Town of Belleair hereby conveys, in fee simple, its title to the Property as fully described in Exhibit A hereto and all improvements located thereon to John F. Gerlach (“Buyer”) for a purchase price of One Hundred Seventy Five Thousand Dollars (\$175,000.00). Either the Mayor or the Town Manager are hereby authorized to execute and deliver to Buyer all required deeds and other instruments as required to fully convey all right, title and interest of the Town in the Property.

SECTION 3. This ordinance may be recorded in the Public Records of Pinellas County and shall be in full force and effect immediately upon its passage, and approval upon second and final reading.

PASSED ON FIRST READING: May 5, 2020

PASSED AND ADOPTED ON SECOND AND FINAL READING: May 19, 2020

Mayor

ATTEST:

Town Clerk

EXHIBIT "A"

Purchase Agreement and Legal Description of the Property

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is entered into as of the Effective Date (as defined below) between TOWN OF BELLEAIR, a Florida municipal corporation ("Seller"), whose address is 901 Ponce de Leon Boulevard, Belleair, Florida 33756 ("Seller"), and JOHN F. GERLACH, whose address is 109 Manatee Road, Belleair, Florida 33756 ("Buyer").

RECITALS

WHEREAS, Seller is the fee simple owner of that certain parcel of real property located at in Belleair, Pinellas County, Florida, described by the Pinellas County Property Appraiser as Bay Brook Replat Lot 12 less the W 52 ft and less the E 50 ft and less the W 100 ft of E 150 ft of N 60.01 ft and less the N 5 ft of W 98 ft of E 248 ft and the W 120.95 ft of Lot 10, having an address of 0 Manatee Road, Belleair, Florida, and being more particularly identified as Parcel ID No. 29-29-15-03384-000-0120 (the "Property"); and

WHEREAS, Buyer wishes to purchase and Seller desires to sell the Property pursuant to the terms and conditions as set forth herein.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer agree as follows:

TERMS

1. **Purchase Price; Deposit.** The Purchase Price for the Property is \$175,000.00, to be paid as follows: (a) within three (3) business days following the Effective Date, Buyer shall deposit a \$21,000.00 earnest money deposit (the "Deposit") with Phillips, Hayden & Labbee, LLP, 1314 S. Fort Harrison Avenue, Suite A, Clearwater, FL 33756; Attn: David R. Phillips, Esq. (Tel.: 727-300-1399; david@phlfirm.com) ("Escrow Agent"); (b) at Closing, the Deposit shall be disbursed to Seller and applied against the Purchase Price; and (c) at Closing, the balance of the Purchase Price will be paid to Seller by immediately available wired funds.

2. **Title.** Within ten (10) days following the Effective Date, Buyer shall obtain, at Buyer's expense, a title insurance commitment with respect to the Property (the "Title Commitment") issued by Escrow Agent, which will provide for a title insurance policy to be issued at Closing in the amount of the Purchase Price (the "Title Policy"). Buyer shall be entitled to make objections to title if the Title Commitment reveals any exceptions to title (other than the lien of taxes not yet due and payable) that are not acceptable to Buyer in his sole discretion. Buyer shall notify Seller of any title objections within five (5) days of receipt of the Title Commitment and Seller shall have five (5) days after receipt of Buyer's objections within which to resolve Buyer's title objections. In the event Seller is unable or unwilling to satisfy Buyer's objections within said time period and so notifies Buyer in writing, (i) Buyer may elect to cancel this Agreement within five (5) days following receipt of Buyer's notice, in which event Escrow Agent shall immediately return the Deposit to Buyer, or (ii) Buyer may waive in writing his title objections and accept the condition of title. Title exceptions (exclusive of any liens, all of which Seller hereby agrees to satisfy at or before Closing) approved or accepted in writing by Buyer shall hereinafter be referred to as the "Permitted Exceptions".

3. **Survey.** Prior to Closing, Buyer shall, at Buyer's expense, cause an accurate survey (the "Survey") of the Property to be made by a reputable and competent registered land surveyor and such

Survey shall be delivered to Buyer with a copy to Seller. Upon review and approval by Buyer, the legal description of the Property contained in the Survey shall be used in the Deed (as defined herein) and in the Title Commitment and Title Policy. The same examination, objection and cure periods and termination rights as are provided in Section 4 hereinabove for title matters shall apply to the Survey.

4. **Closing.** The closing of the transaction contemplated by this Agreement (the "**Closing**") shall occur on the thirtieth (30th) day following the Effective Date. At Closing, Seller and Buyer shall each execute such documents as may be reasonably requested by the other and/or by Escrow Agent. At Closing, Seller shall deliver to Buyer: (a) fee simple title to the Property by special warranty deed, free and clear of any matters other than the Permitted Exceptions (the "**Deed**"), (b) Seller's interest in all permits, approvals, rights, interests and privileges relating to the Property, and (c) exclusive possession of the Property, unencumbered by any leasehold and/or possessory interest of any kind by any third party.

5. **Closing Costs.** Buyer shall pay and be responsible for all closing costs. Seller shall pay and be responsible for any brokerage fees due as a result of this transaction. Each party shall be responsible for its own attorney's fees and costs, except as provided otherwise by this Agreement. Each party represents to the other that no broker has been involved in this transaction, except CBRE – Tom Karpenske and Keller Williams – Rock Scaglione.

6. **Adjustments and Prorations.** The following are to be prorated and apportioned as of the date of Closing and shall be adjusted against the Purchase Price:

A. Real estate taxes for the year of Closing shall be prorated through the date of Closing. If the taxes for the current year cannot be ascertained, those of the previous year shall be used, giving due allowance for the maximum discount allowable by law. If taxes are prorated using the prior year's tax, Buyer and Seller agree that there will be no re-proration of taxes after Closing.

B. All liens or assessments, special or otherwise, against the Property, as of the date of Closing, shall be paid in full by Seller.

C. Any water, electricity or other utility charges for services furnished to the Property through the date of Closing shall be paid by Seller. All utility services at the Property shall be terminated by Seller prior to the Closing.

D. Real estate taxes for tax years preceding the date of the Closing shall be paid by Seller.

7. **Default.** In the event of a default by Buyer, the Deposit shall be paid to Seller as liquidated damages in full settlement of all claims. In the event of a default by Seller, Buyer shall be entitled to a return of the Deposit as liquidated damages in full settlement of all claims, or Buyer may seek specific performance of this Agreement.

8. **Representations of Seller and Buyer.** Seller represents and warrants to Buyer as follows: (a) Seller is the owner in fee simple of the Property and Seller has the full power and authority to enter into and perform this Agreement without the joinder of any other person or entity; (b) the person signing this Agreement on Seller's behalf is duly authorized to execute this Agreement on Seller's behalf; (c) to the best of Seller's knowledge, the Property does not contain hazardous materials and is not contaminated; and (d) the Property is not subject to and during the term of this Agreement Seller will not enter into any lease of the Property, or a portion thereof, which would extend beyond the Closing. Buyer represents and warrants to Seller as follows: (i) Buyer has the full authority to enter into and perform this Agreement without the joinder of any other person or entity and (ii) the person signing this Agreement on Buyer's behalf is duly

authorized to execute this Agreement on Buyer's behalf. Seller and Seller's representatives have not made any representations or warranties to Buyer with respect to the Property, and except as otherwise specifically set forth herein, Buyer shall not rely on any representations or warranties of Seller or Seller's representatives with respect to the Property. Buyer acknowledges that the Property shall be delivered by Seller to Buyer at Closing "AS IS," "WHERE IS" and "WITH ALL FAULTS."

9. **Risk of Loss.** Seller shall maintain the Property between the Effective Date of this Agreement and the date of Closing in the same condition in which it existed as of the Effective Date of this Agreement, ordinary wear and tear excepted. All risk of loss or damage to the Property by fire, windstorm, casualty or other cause is assumed by Seller until Closing. Notwithstanding the foregoing, in the event of any damage or other casualty to the Property prior to Closing, Seller shall immediately give notice of the same to Buyer, and Buyer shall be entitled to cancel this Agreement or close hereunder without any reduction in the Purchase Price except that Seller shall assign without recourse or warranty to Buyer any insurance proceeds payable to Seller with respect to such damage or casualty. In the event Buyer cancels this Agreement due to such damage or casualty, the Deposit together with any interest earned thereon shall be returned to Buyer.

10. **Condemnation.** If any authority having the right of eminent domain shall commence negotiations with Seller or shall commence legal action against Seller for the damaging, taking or acquiring of all or any part of the Property either temporarily or permanently, by condemnation or by exercise of the right of eminent domain, Seller shall immediately give notice of the same to Buyer. Upon the occurrence of any of the foregoing events, Buyer shall have the right, at his option, to terminate this Agreement by giving notice thereof to Seller on or before the date of Closing, in which event Buyer shall be released of all further obligations hereunder and the Deposit shall be returned to Buyer. If Buyer does not so terminate this Agreement, the Purchase Price for the Property shall be reduced by the total of any awards, settlement proceeds, or other proceeds received by the Seller prior to date of Closing with respect to any damaging, taking or acquiring. At the Closing, Seller shall assign to Buyer all rights of Seller in and to any such awards, settlement proceeds or other proceeds which are payable at or after the date of Closing. The risk of condemnation or eminent domain shall be borne by the Seller until the date of Closing. In the event of any negotiations with any authority regarding the payment of any awards or other sums or regarding any settlement on account of any damaging, taking or acquiring through condemnation or eminent domain, Seller will inform Buyer of all such negotiations of which Seller has notice and will permit Buyer to take part therein.

11. **Notice.** All notices given pursuant to this Agreement will be delivered to the addresses set forth above. Notice will be deemed to have been given upon delivery to a recognized courier, delivery service such as Federal Express, or postmark by the U.S. Postal Service. Copies of all notices to be sent to Buyer shall be simultaneously delivered to Escrow Agent.

12. **Miscellaneous.** The "**Effective Date**" of this Agreement shall be the last date on which this Agreement is executed and delivered by Seller and Buyer. This Agreement may not be amended or modified, except in writing duly executed by the parties hereto. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns. The day from which any time period contemplated by this Agreement will run is not to be included, and any period ending on a weekend or legal holiday will be extended to the next business day. In any litigation which arises between the parties related to this Agreement, the prevailing party will be entitled to recover its attorneys' fees incurred in such litigation from the other party. Each party hereby agrees to take such actions and to execute such instruments as may be expedient to accomplish the purposes of this Agreement, notwithstanding that such actions or instruments may not be explicitly required by this Agreement. This Agreement may be executed by the parties in separate counterparts. Facsimile or other electronically-generated copies of this Agreement or the separately executed counterparts hereof will be deemed to be

originals for all purposes. This Agreement constitutes the entire agreement of the parties with respect to the Property described herein. This Agreement will not be recorded in the public records.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates specified below.

SELLER:

TOWN OF BELLEAIR,
a Florida municipal corporation

By: *JP Murphy*
Print Name: JP Murphy
Print Title: Town Manager

Date: 04/28/2020

BUYER:

John F. Gerlach
JOHN F. GERLACH
Date: March 31, 2020

JOINDER BY ESCROW AGENT

Escrow Agent hereby agrees to act as escrow agent in accordance with the terms and conditions of the foregoing Agreement.

PHILLIPS, HAYDEN & LABBEE, LLP

By: 
David R. Phillips, Esq., its Managing Partner

Date: 4/29/2020