

-PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (the "Agreement") is made by and among the VILLAGE OF WELLINGTON, a government municipality located within Palm Beach County, Florida ("Purchaser"), and **The Amended and Restated Rogelio M. Moncada Trust dated March 10, 1994** ("Seller").

In consideration of the mutual covenants and provisions herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller, Purchaser, and Escrow Agent agree as follows:

ARTICLE 1

DESCRIPTION OF PROPERTY; OFFER AND ACCEPTANCE

1.1 Purchase and Sale of Property.

a. Seller hereby agrees to sell, assign and convey to Purchaser, and Purchaser agrees to purchase from Seller, in accordance with the terms contained herein, that certain 44 +/- acre parcel of real property located at 3501 Flying Cow Road, Wellington, Florida adjacent to the Wellington Environmental Preserve at the Marjory Stoneman Douglas Environmental Habitat, Parcel ID No. 73-40-44-24-00-000-1070, which is legally described on Exhibit "A" attached hereto and incorporated herein by this reference ("the Property"). Purchaser further agrees to purchase this property solely for purposes of expanding the Wellington Environmental Preserve at Marjory Stoneman Douglas Environmental Habitat, including construction of educational and support facilities related to the Habitat, and to enhance the Purchaser's existing conservation areas in perpetuity.

Offer and Acceptance. Upon Purchaser's execution of this Agreement, it shall constitute an offer to purchase the Property upon the terms and conditions contained herein and shall remain open for acceptance by Seller through 5:00 P.M. Eastern time on November 12, 2021, and may not be withdrawn by Purchaser before such time and date. After said time and date, this offer shall automatically be withdrawn and deemed terminated. For the purpose of calculating time periods set forth in this Agreement, the "Effective Date" of this Agreement shall be the date upon which the last of Seller, and Purchaser executes it. The photographic image of signatures of Seller and Purchaser shall be valid as originals for all purposes; provided, however, that Seller and Purchaser each agree to deliver an ink-signed original counterpart of this Agreement upon the request of the other party.

ARTICLE 2

PURCHASE PRICE

2.1 Purchase Price. The total purchase price for the Property that Purchaser agrees to pay to Seller shall be FOUR MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$4,500,000.00) (the "Purchase Price").

2.2 Payment of Purchase Price. Purchaser shall pay the Purchase Price to Seller as

follows:

- (a) The Initial Deposit to be held by Escrow Agent in an interest bearing trust account due within two business days of the Effective Date. \$450,000.00
- (b) An Additional Deposit to be held by Escrow Agent in an interest bearing trust account due within two business days of the last day of the inspection period. \$225,000.00
- (c) Cash at Closing (subject to adjustments and pro rations as provided herein, including but not limited to those set forth in Article 7). \$3,825,000.00

2.3 Deposits. The Initial Deposit and Additional Deposit (collectively referred to herein as the "Deposits") shall be placed in an interest bearing trust account provided by Escrow Agent and shall be applied to the Purchase Price at Closing. The disposition of the Deposits shall be in accordance with this Agreement. Any interest earned on the Deposits shall be paid to the Purchaser.

2.4. Escrow Agent. Caldwell Pacetti Edwards Shoech & Viator, LLP, or a 1031 special escrow agent of Seller's choosing, shall act as Escrow Agent. Escrow Agent shall hold, keep and deliver the Deposits and all other sums that may be delivered to Escrow Agent as provided herein, in accordance with the terms and provisions of this Agreement and any separate escrow agreement executed by the parties hereto and the Escrow Agent.

ARTICLE 3

TITLE COMMITMENT AND POLICY; SURVEY; INSPECTIONS; APPROVALS

3.1 Title.

a. Seller, through Saul Ewing Arnstein & Lehr ("Title Agent") shall provide (i) a preliminary commitment for title insurance (the "Title Commitment") issued by the Title Company together with copies of all documents referenced as exceptions therein within ten (10) business days after the execution of this Purchase and Sale Agreement and (ii) at Closing, an Owner's Policy of Title Insurance in the amount of the Purchase Price shall be issued by the Title Company to Purchaser insuring good and indefeasible title to the Property without liens, claims, encumbrances, or liabilities, except for the Permitted Exceptions and such policy shall be paid for by Purchaser. Seller shall also promptly provide any existing surveys of the Property in Seller's [possession, if any, to Purchaser. It is Purchaser's option to order and pay for an updated survey. Permitted Exceptions shall be defined as those exceptions listed in the title commitment accepted by Purchaser and agreed to by Seller.

b. Purchaser will notify Seller in writing of any defects or objections to title to the Property (a) appearing in the Commitment within ten (10) days of receipt of the Title Commitment from the Title Agent that could reasonably affect Seller's ability to convey marketable title to the Property. Seller shall have twenty (20) days from the date of Purchaser's written notice to use its best efforts to cure any title defects or objections specified therein (the "Cure Period"). If Seller fails to remedy any title objection or defect within the Cure Period or refuses to cure a title objection or defect within the Cure Period, then Purchaser may in its sole discretion either (a) terminate this Agreement; or (b) waive the uncured title objection or defect and consummate the Closing, notwithstanding the Buyer's objection(s) to the title Commitment..

3.2 Permitted Exceptions. The Property is being sold by Seller to Purchaser free and clear of all liens, claims and encumbrances except for the following matters (the "Permitted Exceptions"):

(a) Laws, ordinances and governmental regulations currently affecting the Real Property;

(b) The lien for real estate taxes and assessments against the Property for the year of Closing and subsequent years;

(c) Those matters shown on the Survey (as that term is defined herein) that are approved by Purchaser and those exceptions shown on the Commitment and any update that are approved by Purchaser; and

(d) Any other matters on the Title Commitment and not objected to by Purchaser as provided herein.

3.4 Inspection Period. Purchaser shall have thirty (30) days from the Effective Date of the Purchase Agreement in which to complete its due diligence and investigations of the Property, which shall include but not be limited to, appraisals, survey, and environmental inspections. The parties agree to extend the Inspection Period in the event a Phase II Environmental Inspection is required, provided that the final Closing Date is no later than December 23, 2021. During the Inspection Period, the Purchaser, at its own cost and expense, may cause one or more studies, tests, analyses or other investigations of the land and improvements (collectively, "Purchaser's Investigations") to determine whether, in its sole discretion, the Property is suitable for its needs. Seller shall make best efforts to provide copies of (or make available electronically to Purchaser) all available documents including prior surveys, and title insurance policies (collectively the "Due Diligence Materials"). Purchaser agrees to hold the Due Diligence Materials in confidence and only expose the Due Diligence Materials to Purchaser's employees, attorneys and advisors on a need to know basis, unless otherwise required by law, including section 119.071, *Florida Statutes*. Purchaser agrees that prior to its agents and contractors accessing the Property, it will require them to add Seller as an additional insured to their insurance policies and will require the following minimum coverages:

B. Minimum Insurance Requirements for Contracts

	Minor Contract <180 days < \$50,000.00	Standard Contract >180 & <360 Days > \$300,000.00 < \$500,000.00	Major Contract > 360 Days >\$500,000.00	Other
Worker Comp				
<i>Each Accident</i>	\$100,000.00	\$500,000.00	\$1,000,000.00	
<i>Each Disease</i>	\$100,000.00	\$500,000.00	\$1,000,000.00	
<i>Aggregate by Disease</i>	\$500,000.00	\$500,000.00	\$1,000,000.00	
General Liability				
<i>Each Occurrence</i>	\$300,000.00	\$500,000.00	\$1,000,000.00	
<i>Personal Injury & Advertising</i>	\$300,000.00	\$500,000.00	\$1,000,000.00	
<i>Products-completed operation aggregate</i>	\$300,000.00	\$500,000.00	\$1,000,000.00	
<i>General Aggregate</i>	\$300,000.00	\$500,000.00	\$1,000,000.00	
<i>(X, C, U) Hazards</i>	Required	Required	Required	
Business Auto Liability				
<i>Owned Vehicles and non owned and hired vehicles</i>	\$300,000.00	\$500,000.00	\$1,000,000.00	
Professional Liability	\$300,000.00	\$750,000.00	\$1,000,000.00	\$1,000,000.00
Builders "ALL RISK"	100% of completed cost	100% of completed cost	100% of completed cost	100% of completed cost

ARTICLE 4

REPRESENTATIONS, WARRANTIES AND COVENANTS BY SELLER

4.1 Seller hereby represents and warrants to Purchaser the following, which representations and warranties shall be true and shall be deemed to be restated at the Closing:

(a) Seller's Existence. Seller is a Trust, validly existing and in good standing under the laws of the State of Illinois, and Seller has full power and authority to own and sell The Property and to comply with the terms of this Agreement.

(b) No Default. Seller is not in default under any easement, restriction, covenant, lease or other agreement to which Seller is a party and which affects all or any portion of the Property.

(c) Title. Seller is the owner of fee simple title to The Property free and clear of all liens, encumbrances and restrictions of any kind, except the Permitted Exceptions.

(d) Litigation. There are no actions, suits, proceedings or investigations pending or, to the knowledge of Seller, threatened against Seller or the Property which could or may affect any portion of the Property or Seller's performance of its obligations under this Agreement.

(e) No Condemnation Pending or Threatened. There is no pending condemnation or similar proceeding affecting the Property or any portion thereof, and Seller has not received written notice that any such action is presently contemplated.

(f) Parties in Possession. There are no parties other than Seller in possession of any portion of the Property.

(g) No Right to Acquire. No other person or entity has the right to acquire all or any portion of the Property and no person or entity has any right to acquire any interest in all or a portion of the Property.

(h) Notices of Violation. Seller has not received any written notices from any federal, state, county or municipal agency or authority claiming a material violation or breach of any laws, ordinances, orders, regulations or guidelines affecting the Property, which breach or violation has not been cured by Seller, and any such notices hereafter issued prior to Closing will be satisfied prior to Closing by Seller at Seller's cost and expense, unless caused or attributed to Purchaser, its agents, employees, contractors, representatives, successors or assigns.

4.2 Seller's Covenants Pending Closing. As of the Effective Date and at all times prior to the Closing Seller represents and warrants to Purchaser that:

(a) With the exception of those matters described in Schedule B-II of the Commitment, Seller has not entered into, and will not prior to Closing enter into or cause to be imposed upon the Property, any contracts, leases, transactions, easements, restrictions, mortgages, encumbrances, liens or agreements that would affect the Property or title thereto or that would bind Seller, Purchaser or the Property in any way; provided however, that Seller may do so upon written approval by Purchaser, which approval may be granted or denied in Purchaser's sole discretion.

(b) Seller has good title to the Property and is authorized to convey title to Purchaser.

(c) Seller shall convey to Purchaser at Closing marketable title to the Property, free and clear of all liens, encumbrances and restrictions that are not included in the Permitted Exceptions.

(d) Seller shall convey title and deliver possession of the Property.

(e) Seller shall maintain the Property in the condition it is in on the Effective Date.

ARTICLE 5

REPRESENTATIONS, WARRANTIES AND COVENANTS BY PURCHASER

5.1 Purchaser's Existence. Purchaser is a government municipality located within Palm Beach County, and Purchaser has full power and authority to purchase the Property and to comply with the terms of this Agreement.

5.2 Compliance with Laws. Purchaser's closing of the transaction contemplated by this Agreement is subject to the approval of this Agreement by the Wellington Council, and any contingencies stated herein, but is not otherwise subject to any third party agreements to which the Purchaser may be a party.

5.3 Insolvency. There has not been filed by or against Purchaser a petition in bankruptcy or any other insolvency proceeding, or for the reorganization or appointment of a receiver or trustee, nor has Purchaser made an assignment for the benefit of creditors, nor filed a petition for arrangement, nor entered into an arrangement with creditors, nor admitted in writing its inability to pay debts as they become due.

5.4 Purchaser's Covenants Pending Closing. Following the execution of this Agreement and at all times prior to Closing, Purchaser shall not take any action that would cause any of the representations and warranties contained herein to be inaccurate or untrue in any respect, and Purchaser agrees to keep Seller informed of the occurrence of any event that comes to its attention which may cause such representations and warranties to be materially inaccurate or untrue.

5.5 Conservation. Purchaser represents that it is purchasing this property for an expansion of the Wellington Environmental Preserve at Marjory Stoneman Douglas Environmental Habitat, including construction of educational and support facilities related to the Habitat and the Property will be used to enhance the Purchaser's existing conservation area.

5.6 Condemnation. Purchaser will not institute any action for condemnation or eminent domain as to the Property, prior to Closing.

ARTICLE 6 **CLOSING**

6.1 Closing. Pursuant to Florida Statute § 119.0711, the closing of this transaction shall occur no earlier than thirty (30) days nor later than forty five (45) days after expiration of the Inspection Period. Notwithstanding the foregoing, closing shall occur no later than December 23, 2021.

6.2 Seller's Obligations at Closing. At Closing, Seller shall deliver or cause to be delivered to Purchaser the following documents in form and substance acceptable to Purchaser:

(a) Special Warranty Deed executed by Seller conveying title to The Property to Purchaser clear of all encumbrances other than the Permitted Exceptions. The deed shall contain a reverter clause that complies with the requirements of section 380.510, Florida Statutes.

(b) Affidavit executed by Seller stating that Seller has made no improvements to The Property during the ninety (90) days immediately preceding the Closing or, if there have been any such improvements, that all lienors in connection with such improvements have been paid in full.

(c) FIRPTA Non-Foreign Certification executed by Seller.

(d) All documents deemed necessary to close this transaction as the underwriter may reasonably require to transfer and insure the title to the Property.

(e) Closing Statement prepared by Seller's attorney and executed by Seller.

(i) Any documents required to cure any title or survey defects that have been approved by Purchaser and/or the underwriter but have not yet been recorded.

(j) Any assignment of condemnation awards as provided in Article 8 herein.

(k) The parties acknowledge that the Purchase Agreement must be reviewed and approved by the Florida Communities Trust and agree to cooperate with one another should an extension be required.

(l) Purchaser acknowledges that it is the intention of the Seller to complete a tax-deferred exchange under section 1031 of the Internal Revenue Code. Purchaser agrees to cooperate with Seller and to execute all necessary and reasonable documentation to effectuate same, so long as it does not delay the closing or cause additional expense to the Purchaser. Purchaser agrees that Seller will assign the rights but not the obligations of this agreement to a 1031 qualified intermediary.

6.3 Purchaser's Obligations at Closing. At Closing, Purchaser shall deliver to Seller the following:

(a) The Purchase Price in accordance with the provisions of this Agreement, which shall be delivered via wire transfer to Escrow Agent one day prior to Closing.

(b) Closing Statement executed by Purchaser.

(c) Documents reasonably requested by the Title Agent in order to issue a final title policy.

6.4 Credit of Deposits. Escrow Agent shall, at the request of the Purchaser, forward all escrowed funds and interest thereon to the Closing Agent as a credit to Purchaser's cash to close.

ARTICLE 7

CLOSING COSTS, PRORATIONS, TAXES AND MISCELLANEOUS EXPENSES

7.1 Closing Costs. Seller and Purchaser shall each pay their own attorneys' fees incurred in connection with the transaction contemplated by this Agreement, including but not limited to the negotiation and preparation of this Agreement, the Closing and post-Closing matters. Seller shall pay the cost up to a maximum of \$5,000 for recording any curative title and/or survey documents, and in addition will pay the cost of the documentary stamp taxes due on the Special Warranty Deed. Purchaser shall pay the cost of the survey, premium for the owner's policy of title insurance, and recordation of the Special Warranty Deed.

7.2 Real Estate Taxes, Assessments, Liens and Other Expenses. Real estate taxes for the year of Closing, if any, and all current assessments or other expenses that relate to or are associated with the Property shall be prorated as such assessments or other expenses are customarily prorated in similar transactions in Palm Beach County, Florida.

7.3 Survival. This Article 7 shall survive the Closing.

ARTICLE 8

RISK OF LOSS

8.1 Condemnation. If, prior to Closing, action is initiated or threatened to take all or any portion of the Property by eminent domain proceedings or by deed in lieu under threat thereof, Purchaser may either (a) terminate this Agreement and receive the return of the Deposits made pursuant to the Letter of Intent dated October 12, 2021, in which event Seller and Purchaser shall have no further rights or obligations hereunder except those matters specifically surviving termination or Closing; or (b) proceed with the Closing in which case any award received or to be received by Seller and/or Seller from the condemning authority shall be either credited to or assigned to Purchaser at the Closing.

ARTICLE 9

DEFAULT

9.1 Default by Seller. If Seller breaches this Agreement, and fails to cure such default after notice thereof as provided in this Agreement, Purchaser may terminate this Agreement and any Deposits placed under this Agreement shall be delivered by the Escrow Agent to the Purchaser, together with all interest earned thereon.

9.2 Breach by Purchaser. If Purchaser breaches this Agreement, and fails to cure such default after notice thereof as provided in this Agreement, then, as Seller's sole remedy, any Deposits placed under this Agreement shall be delivered by the Escrow Agent to the Seller as liquidated and agreed upon damages.

9.3 Notice of Default; Right to Cure Default. Each party shall have ten (10) business days after receipt of written notice of default by the non-defaulting party within which to cure the default specified in the notice; provided, however, there shall be no right to cure with respect to the obligation to pay any sum due to close this transaction on the Closing Date.

ARTICLE 10

MISCELLANEOUS

10.1 Notices. All notices, demands and requests which may be given or which are required to be given by any party to another party, and any exercise of any right of termination provided by this Agreement, shall be in writing and sent via personal delivery, overnight commercial courier, or facsimile, and shall be deemed received (a) when personally delivered to the party to receive such notice, or (b) on the date an overnight commercial courier documents its delivery to the party to receive notice with signature required at the address indicated for that party herein, or (c) when provided by facsimile at the numbers set forth below provided the facsimile machine sending the notice shows an acknowledgment that the fax was received by recipient, as follows:

As to Purchaser:

Village of Wellington
12300 Forest Hill Boulevard
Wellington, FL 33414
Telephone: (561) 791-4000

With a copy to:

Laurie Cohen, Esquire
Village Attorney
Village of Wellington
12300 Forest Hill Boulevard
Wellington, FL 33414
Telephone: (561) 791-4124
lcohen@wellingtonfl.gov

As to Seller:

Rogelio M. Moncada Trust
25707 Ave Latour
Oak Brook, IL 60523-1085
Attn: Dolores Moncada, Trustee
Patricia Moncada
2 Fifth Avenue
San Francisco, CA 94118
eclpm@yahoo.com

With a copy to:

Steven L. Daniels, Esquire
Saul Ewing Arnstein & Lehr
515 N. Flagler Drive, Suite 1400
West Palm Beach, FL 33401
Steven.daniels@saul.com

10.2 Brokers. Seller and Purchaser represent to each other that neither they nor any of their representatives, agents or affiliates have dealt with any person or entity that might have a claim for sales or brokerage commission or finder's fee payable with respect to the transaction contemplated by this Agreement. The parties hereto agree that each party will indemnify, hold harmless and defend the others from and against any claim for any such commission or fee by any broker or similar person or entity claiming to have acted through the other party or parties or their representatives, agents or affiliates. The provisions of this section 10.2 shall survive the Closing.

10.3 Entire Agreement. This Agreement and the Exhibits hereto embody the entire agreement between Seller and Purchaser relative to the Property and the transaction contemplated hereby, and there are no oral or written agreements between Seller and Purchaser, or any representations made by either them or their agents, representatives, employees or legal counsel relative to the Property and the transaction contemplated hereby, which are not expressly set forth herein.

10.4 Amendment. This Agreement may be amended only by a written instrument executed by the party or parties to be bound thereby pursuant to the requisite approving Wellington Council Resolution.

10.5 Headings. The captions and headings used in this Agreement are for convenience only and do not in any way limit, or otherwise modify the provisions of this Agreement.

10.6 Time of the Essence. Time is of the essence of this agreement; provided, however, that if the final date of any period which is set out in any provision of this Agreement falls on a Saturday, Sunday or legal holiday under the law of the United States or the State of Florida, in such event, the time of such period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. Unless otherwise specified herein, reference to days in this Agreement shall mean calendar days.

10.7 Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida and the laws of the United States pertaining to transactions in Florida.

10.8 Successors and Assigns. This Agreement shall bind and inure to the benefit of Seller, Purchaser, and their respective heirs, executors, administrators, personal legal representatives, successors and assigns. This Agreement may not be assigned by Seller or Purchaser.

10.9 Invalid Provision. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; and, the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provision or by its severance from this Agreement.

10.10 Attorneys' Fees. Notwithstanding anything to the contrary in this Agreement, in the event that any litigation arises out of, under or in connection with this Agreement or any other agreement contemplated and executed in connection with the transaction contemplated hereby, the prevailing party will be entitled to an award of the prevailing party's attorneys' fees, costs and expenses incurred in connection with such litigation at all trial and appellate court levels of proceeding.

10.11 Multiple Counterparts. This Agreement may be executed in a number of identical counterparts, each of which for all purposes is deemed an original, and all of which constitute collectively one (1) agreement, but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

10.12 Facsimiles. A facsimile copy of this instrument and any signatures hereon shall be considered as originals for all purposes.

10.13 Survival. In addition to the specific language of non-merger found in certain sections of this Agreement, any provision hereof which by its terms would be performed after Closing shall survive the Closing and shall not merge with the Closing, except as specifically provided to the contrary herein.

10.14 Waiver of Jury Trial. Seller and Purchaser hereby knowingly, voluntarily and intentionally waive any right they may have to a trial by jury in respect of any litigation based upon this Agreement or arising out of, under or in connection with this Agreement or any other agreement contemplated and executed in connection herewith, or any course of dealing, course of conduct, statements (whether verbal or written) or actions of any party hereto.

10.15 Judicial Interpretation. Should any of the provisions of this Agreement or any document required or contemplated by the terms hereof require judicial interpretation, the court interpreting or construing the same shall not apply the presumption that the terms thereof shall be more strictly construed against one party or the other by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agents prepared the same, it being agreed that agents and representatives of Seller and Purchaser have participated in the preparation of this Agreement and the documents required or contemplated by the terms hereof.

10.16 Venue. All claims, counterclaims, disputes and other matters in question between Seller and Purchaser arising out of, relating to, or pertaining to this Agreement, or the breach thereof, or the standard of performance therein required, shall be determined by litigation in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, or the Federal District Court of the Southern District of Florida and appropriate appellate courts for such venue and jurisdiction.

10.17 PALM BEACH COUNTY INSPECTOR GENERAL. In accordance with Palm Beach County ordinance number 2011-009, this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General.

10.18 No Third Party Beneficiaries. This Agreement is an agreement between Seller and Buyer only and no third parties shall be entitled to assert any rights as third party beneficiaries hereunder.

END OF TEXT. SIGNATURES APPEAR ON NEXT PAGE.

Signed, sealed and delivered
in the presence of

Print Name: _____

Print Name: _____

Attest: _____
Chevelle Addie, Village Clerk

Witness

Typed Name of Witness

Witness

Typed Name of Witness

SELLER:

**Dolores Moncada, Trustee of the
Amended and Restated Rogelio M.
Moncada Trust dated March 10, 1994**

By: _____
Dolores Moncada, Trustee

Date: _____

PURCHASER:

VILLAGE OF WELLINGTON

By: _____
Anne Gerwig, Mayor
12300 West Forest Hill Boulevard
Wellington, Florida 33414

Approved as to Form and Legal Sufficiency:

By: _____
Laurie Cohen, Esquire

EXHIBIT "A"

Legal Description of Property Owned by Seller

The Property:

The South 1400/00 feet of the North 2391.00 feet of the East 1400.00 feet of Section 24, Township 44 South, Range 40 East of Palm Beach County, Florida.

Consisting of 44 +/- acres of property.

EXHIBIT “B”

Title Commitment for the Property

TO BE PROVIDED