

# City of Miami



## **Request for Proposals**

For the acquisition of a City-owned  
property located at

**1371 NW 61st Street**

**(Orchard Villa)**

**Date of Issuance: Monday, March 10, 2008**

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Ladies and Gentlemen:

Thank you for your interest in this Request for Proposals (RFP), for the acquisition of the City of Miami (City) owned property (property) located at 1371 NW 61 Street and legally described in Exhibit A. The City, through this RFP, is seeking to transfer the property to the most qualified entity who will utilize the property for supportive housing for young adults aging out of the foster care system.

Enclosed is the City's RFP which contains detailed site information as follows: use guidelines; RFP submission requirements; and the selection procedures pertinent to the proposal.

Please carefully review all of the enclosed documents. Proposals must comply with all the submission requirements detailed in the RFP to be eligible for consideration. Proposals must present a clear and definitive development program, completion schedule, a financial plan, and a management plan that responds to all the RFP requirements.

Proposals are due no later than **3:00 p.m. on Monday, March 24, 2008**, and must be delivered to the City of Miami Clerk's Office, 3500 Pan American Drive, Miami, Florida, 33133. A list of respondents will be made public the next business day.

The City welcomes responsive proposals and looks forward to working with the successful proposer to realize this supportive housing project.

Sincerely,

Hector Mirabile, Interim Director  
Department of Community Development

## Executive Summary

Opportunity	Acquisition of property on the site shown in Exhibit D.
Location	Refer to Exhibit D
Required use	Provision of supportive housing to youth aging out of the foster care system consistent with the zoning of the site.
Density	Consistent with zoning of the site.
Proposer selection process	Open, competitive, sealed bid process. The City reserves the right to reject any and/or all proposals.
How to obtain RFP	The Orchard Villa RFP will be available at 444 SW 2 <sup>nd</sup> Ave, 2 <sup>nd</sup> Floor, Miami FL 33130. The RFP can also be downloaded from the City's website at <a href="http://www.miamigov.com/communitydevelopment">www.miamigov.com/communitydevelopment</a> . (Proposers downloading the RFP are strongly urged to register with Mr. Edward Barberio, Project Manager at <a href="mailto:ebarberio@miamigov.com">ebarberio@miamigov.com</a> in order to be notified of changes to the RFP.)
Initial deposit required	An earnest money deposit of One Thousand Dollars (\$1,000) will be required from for-profit entities only, in the form of a cashier's check or official bank check, upon submission of each proposal and is fully refundable to respondents not selected. Should an entity be selected and an agreement executed by the required parties, the deposit will be applied towards any closing cost and the balance, if any, refunded to the proposer. <b><u>No deposit</u></b> will be required from non-profit entities.
Due date	<b>March 24th, 2008, before 3:00 PM (EST)</b> <b>Miami City Hall, City Clerk's Office</b> <b>First Floor Counter</b> <b>3500 Pan American Drive</b> <b>Miami, FL 33133</b>

## **I. THE OPPORTUNITY**

This RFP is an invitation from the City to qualified non-profit entities (proposers) to acquire the City-owned multifamily rental property shown in Exhibit D.

The property being offered by the City for acquisition is in the Liberty City Community Revitalization area. The site contains a two (2) story building, comprised of six (6) one bedroom, one bath living units. The successful proposer will acquire the property and provide supportive housing to youth aging out of the foster care system.

## **II. THE SITES**

The site is attached as Exhibit D.

### **Existing conditions**

The site and its improvements are offered “as-is” by the City.

### **Environmental conditions**

The City is offering the building in an “as-is” condition without making any representation to its environmental condition.

### **Zoning**

There is an existing building on the site. Any alterations to the building must conform to all applicable zoning laws.

## **III. REQUIREMENTS**

### **General requirements**

1. Property Standards: The building must be maintained, at a minimum to housing quality standards, and provide amenities as required to successfully operate a supportive housing system for youth aging out of the foster care system.
2. Security: Adequate security measures must be in place to ensure the safety of program participants.
3. Property must be maintained for the use outlined in this RFP in perpetuity. The City will place a reverter clause within the property transfer documents; any change in use may cause the City to exercise its right to recapture the property.
4. Public Entity Crimes: A person or affiliate who has been placed on the convicted Bidders list following a conviction for a public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity, may not submit a response on a contract with a public entity for the construction or repair of a public building or public work’s project, may not submit a response on a lease of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 of Florida Statutes for Category Two for a period of 36 months from the date of being placed on the convicted Bidder / Proposer list.

### **Affordable housing and local requirements**

- Code compliance: Any rehabilitation must meet the City of Miami Building Code, and the Model Energy Building Code or U.S. Housing and Urban Development (HUD) accepted equivalent.
- Insurance requirements: At the time of award, the applicant will be required to provide the City with insurance certificates at limits satisfactory to the City's Risk Management Division. For properties in flood zones, federal flood insurance is required.

### **Resident Requirements**

All residents of the property must conform to generally accepted guidelines established for supportive housing for youth transitioning out of foster care systems.

### **Conflict of interest**

If any individual member of a proposing team, or an employee of a proposing team/firm, or an immediate family member of the same is also a member of any board, commission, or agency of the City, that individual is subject to the conflict of interest provisions of the City code, Section 2-611. The code states that no City officer, official, employee or board, commission or agency member, or a spouse, son, daughter, parent, brother or sister of such person, shall enter into any contract, transact any business with the City, or appear in representation of a third party before the City Commission. This prohibition may be waived in certain instances by the affirmative vote of 4/5 of the City Commission, after a public hearing, but is otherwise strictly enforced and remains effective for two years subsequent to a person's departure from City employment or board, commission or agency membership.

This prohibition does not preclude any person to whom it applies from submitting a proposal. However, there is no guarantee or assurance that such person will be able to obtain the necessary waiver from the City, even if such person were the successful proposer.

A letter indicating a conflict of interest for each individual to whom it applies shall accompany the submission package. The letter must contain: the name of the individual who has the conflict; the relative(s), office, type of employment or other situation which may create the conflict; the board on which the individual is or has served; and the dates of service.

## **IV. TERMS AND CONDITIONS OF SALE AND DEVELOPMENT AGREEMENT**

### **City's commitment of funds & services**

The successful proposer shall be required to provide all financing for any improvements as well as incur costs for operating expenses. Notwithstanding the aforementioned, the City may assist the successful proposer in pursuing grant funding, low interest rate loans, or other additional funds and/or services that may be available for this project.

### **City's commitment of property**

The site and its improvements are offered "as-is" by the City. No representations or warranties are made as to its condition, state or characteristics. Expressed warranties and implied warranties of fitness for a particular purpose or use and habitability are hereby disclaimed. New appraisals,

testing, inspections, and/or other non-invasive due diligence shall be at the sole cost and expense of the prospective proposer.

### **Purchase and sale agreement**

Upon the City Manager approving the Review Committee's (Committee) recommendation to select the top ranked proposer, the City shall negotiate a purchase and sale agreement (Agreement) with the designated respondent for the transfer of the site in accordance with the parameters of their proposal and this RFP. The City Attorney's Office will provide assistance to the City Manager or his designee during the negotiations of the Agreement and must approve the Agreement as to legal form and correctness prior to the City Commissions' authorization for execution of the Agreement. The Agreement shall comply with all applicable laws, City Charter, and City code provisions. The actual terms shall be negotiated with City staff and are subject to final approval by the City Commission. The successful proposer shall have no vested rights, nor title or interest in the property or in the development proposed thereon until such time as the Agreement is approved by the City Commission and is fully executed, and then only in the manner stipulated within the Agreement.

### **Conditions precedent to closing**

Conditions that must be met prior to closing on the property with the successful proposer include, but are not limited to, review by proposer of City's title to the property, receipt and approval by the City Manager of financing commitment(s) for any construction or improvements, receipt by the City of an environmental condition acceptance notice, and approval by the City Manager of the development plans for the project.

### **Property**

The property list is attached as Exhibit D.

### **Proposed uses**

All proposed uses shall be consistent with and responsive to this RFP.

### **Taxes and impositions**

The City shall have no taxes, impositions, or outstanding encumbrances or unpaid bills on this property; regardless, the City will be liable for taxes and expenses incurred at the property prior to closing. The successful proposer shall be required to pay all governmental assessments, including assessments imposed by the City, franchise fees, excises, license and permit fees, levies, charges and taxes, including ad valorem real estate taxes on the property under the completed project and the improvements, general and special, ordinary and extraordinary properly levied against the property and the improvements which constitute a lien on the property or the improvements. The successful proposer shall also be required to pay other applicable sales taxes. In compliance with the City Charter, should a tax exemption be obtained for either the property and/or improvements, the successful proposer shall be responsible to pay an amount equal to what the City's portion of the ad valorem real property taxes would be if the property and/or the improvements did not obtain an exemption. The City's portion of real property taxes or other governmental assessments shall be due notwithstanding any incentives received from the City, County, State, or Federal Government.

### **Security deposit**

All proposals from for-profit entities must be accompanied by an earnest money deposit (Deposit), as a guarantee in the form of a certified check, cashier's check, official bank check or money order made payable to the City of Miami (NO CASH), in the amount of One Thousand Dollars (\$1,000). The Deposit will be fully refundable to proposers not selected. Should a proposer be selected and a purchase and sale agreement be executed by both parties, the Deposit will be applied towards any unanticipated cost at closing and the balance, if any, will be refunded to the proposer. No Deposit will be required from non-profit 501(c)3 organizations. Proof of non-profit status will be required.

### **Environmental**

During the due diligence period, the successful proposer(s) shall have site access to conduct environmental site assessments, including sampling and testing of the soils, sediments and possibly the groundwater, or for the presence of asbestos-containing materials (ACMs). If any hazardous material is discovered, the successful proposer shall be responsible for the removal or remediation of the hazardous materials as required by law. Satisfactory completion on environmental review and receipt by the City of a release of funds by HUD will be required prior to the commencement of work.

### **Assignment**

The City, in its sole discretion, shall have the right to approve any assignment or transfer of interest in the proposed purchase and sale agreement prior to and during the development phase, if modifications are made to the property.

### **Non-exclusive uses**

All uses provided shall be non-exclusive uses. Development of the property into a mixed-use commercial venture shall not preclude the development of similar or the same uses by the City on any of its other properties.

### **Rejection of proposal**

The City of Miami reserves the right to waive any informalities or minor irregularities; reject any and all Proposals which are incomplete, conditional, obscure, or which contain additions not allowed for; accept or reject any proposal in whole or in part with or without cause; and accept the proposal(s) which best serves the City.

### **Closing costs**

Pursuant to City code Section 18-176 through 18-182, all costs incurred by the City in the transfer of the property, including the City's cost of conducting this competition, shall be paid by the successful proposer (Purchaser) by cashier's check or certified check at closing, which amount shall not exceed Five Thousand Dollars (\$5,000). The Purchaser shall not be responsible for the cost of recording any corrective instrument, which may be required to convey clear title, or for the cost of any certified, confirmed, and ratified special assessment liens as of the date of the purchase and sale agreement.

## **V. REGULATORY PROCESS**

The specific plans for the site(s) will require various permits and approvals. The City has no structural or floor plans available of any structure(s) on the site(s). Each respondent to the RFP is

responsible for determining which permits and approvals will be required for modifications to the property, if any, and operations of the site(s). The successful proposer, at its sole cost and expense, shall be responsible for acquiring all required permits, licenses, and approvals from all agencies with jurisdiction, including, but not limited to: the City; Miami-Dade County; the State of Florida; federal agencies; and all public utilities. Additionally, all improvements must comply with all applicable building, fire, zoning, health and other code requirements.

## **VI. REVIEW AND SELECTION PROCESS**

### **Administrative review**

City staff shall initially review proposals submitted for completeness and compliance with all formatting and content requirements as set forth in the RFP. During this initial review, and prior to the start of deliberations by the Committee, respondents may be contacted to cure proposals that contain non-material, non-substantive defects as determined solely by City staff. If notified of such a deficiency, the proposer shall correct such deficiency within five (5) working days of receipt of such notification. Those submissions that comply with the requirements will be deemed responsive.

### **Threshold requirements and standards**

Each proposer must to meet the following two (2) minimum requirements to receive consideration of their proposals. Proposers are encouraged to form appropriate development teams in order to assemble the requisite expertise, experience, financial and management capability to meet these threshold requirements. As such, where applicable, these standards will be applied to the development team as a whole, in a manner that is commensurate with the allocation of responsibility within the team. Each team must demonstrate:

1. A minimum of three (3) years experience in the provision of supportive housing for youth transitioning out of foster care systems. Proposers with defaulted or unsuccessful projects (as deemed by City administration) in the City will not be eligible to apply. In addition, proposers owing the City or in default on any city loans will not be eligible to apply.
2. Successful demonstration of the financial capacity to operate a supportive housing system on the site without additional support from the City of Miami.

Proposals should not contain contingencies, including the obtaining of financing.

### **Review committee**

The City Manager will appoint a Review Committee (Committee) to evaluate each responsive proposal. The Committee shall consist of an appropriate number of City officials or employees and a member appointed by the Liberty City Community Revitalization Trust Board. In this process, the Committee shall rely primarily on the documentation submitted in the proposal, but may also obtain critical information through a presentation by the proposing team.

The Committee shall use the specific evaluation criteria and their respective assigned weights for purposes of rating and ranking the proposals, as defined below. Each Committee member shall review each proposal specifically noting the level of detail given to criteria of critical importance to the City and assign a numerical score accordingly. Each Committee member shall determine a rank

order based upon the numeric score achieved. The Committee shall arrive at a rank order of proposals based on the individual member's vote of its rank order. The Committee shall render a written report to the City Manager of its evaluation of all responsive proposals. The Committee has the authority to recommend one or more, or none, of the proposals as it deems to be in the best interest of the City.

## **Evaluation criteria**

### **A. Property Improvement plan (if applicable)**

- Fulfillment of the City's proposal requirements.
- Unit amenities.
- Extent of green building techniques.
- Feasibility and completeness of development schedule.

### **B. Management and operations of the proposed development**

- Viability, practicality and comprehensiveness of proposed plan, including such elements as adequacy of financial commitments, operating parameters and budget, revenue projections, cash flow analysis, personnel organization and staffing plan.
- Proposing entities experience and capability to fulfill the commitments stated in proposal.

### **C. Return to the City**

- Financial benefit to the City from the proposed development. This may include but is not limited to the total ad valorem taxes generated by the development.
- Other non-financial benefits to the City such as job creation and satisfaction of community needs.

### **D. Extent of minority participation**

- Minority/women participation within the proposing entity.
- Minority/women participation as part of a consulting team to the proposing entity.
- Subcontracting and hiring practices during construction.
- Opportunities for minorities/women, hiring outreach and training opportunities in relation to leasing, management, operation and maintenance of facilities.
- Affirmative action plans of development entity members.

**Scoring Values**

Criteria	Maximum Weighted Value (points)
Overall property improvement plan	10
Management & operations of the proposed development	20
Demonstration of financial capability for the proposed project	20
Return to the City (financial and non financial)	20
Proposing entity demonstrating at least three (3) years experience in providing supportive housing to youth aging out of the foster care system.	20
Proposers based in Liberty City or having a partnering agreement, memorandum of understanding, or letter of support from Liberty City area non profit or CHDO.	10
Extent of minority/women owned business participation	10
<b>Total</b>	<b>110</b>

**City Manager**

The City Manager shall take into consideration the findings of the Committee, and shall then recommend one or more, or none, of the proposals to the City administration for subsequent negotiations. The City Manager’s recommendation shall be in writing.

**City Commission**

Upon conclusion of negotiations, the City Manager will present to the City Commission the negotiated Purchase and Sale Agreement deemed to be in the City’s best interest. The City Commission will approve/disapprove the Agreement.

**Anticipated selection schedule**

The anticipated schedule for this RFP and subsequent contract is as follows. *All dates are tentative and subject to change.*

➤ RFP available for distribution	03/10/2008
➤ Site inspection date	Any Time
➤ Due date for questions	3/14/2008
➤ <b>Proposal due date</b>	<b>03/24/2008</b>
➤ Proposal evaluation by Review Committee	03/26/2008
➤ Review Committee recommendation to City Manager	03/28/2008
➤ City Commission approval of contract	05/8/2008
➤ Execute purchase and sale agreement	05/10/2008

**VII. SUBMITTAL REQUIREMENTS**

**Required proposal format**

Proposers shall submit **one (1) original, three (3) bound copies** with tab dividers separating each section, with sub-tabs as needed, and **one (1) unbound copy** without tabs for duplicating needs, all in 8-1/2” x 11” letter size paper. Original board-mounted illustrative drawing(s) that do not exceed 24” x 36” with **five (5)** copies of the drawing reduced to 11” x 17” ledger size paper. All required drawings shall be submitted in 1”:100’ scale. Models and photographs of models will not be accepted.

A minimum font size of 12 point, Arial or Times New Roman, with 1 inch margins, and single spacing shall be utilized on all text documents submitted.

The cover page should include: the proposer's name; contact person for the RFP; primary office location; local business address, if applicable; business telephone and fax numbers, e-mail addresses (if applicable); title of RFP; and federal employer identification number or social security number.

## **Required proposal content**

### **Table of contents**

The table of contents should outline, in sequential order, the major sections of the proposal as listed below, including all other relevant documents requested for submission. All pages of the proposal, including enclosures such as charts, graphs and illustrations should be clearly and consecutively numbered and correspond to the table of contents.

- I. Overall property improvement plan of the building**
  - a. Rehabilitation plan**
  - b. Development schedule**
- II. Management and operations of proposed development**
  - a. Operating plan**
  - b. Financial plan**
  - c. Development entity**
  - d. Financial capacity**
- III. Return to the City**
  - a. Financial return**
  - b. Non-financial return**
- IV. Minority/Women business participation**
  - v. Required City forms**
- VI. Attachments**

### **I. Overall plan & design of the proposed project**

Respondent must summarize the proposal providing an overview of the proposal document.

#### **a. Property improvement plan**

The property improvement plan shall take into account the existing unit mix and current building code. The plan shall include:

1. Narrative description
2. Unit mix: property improvement plan should indicate whether the project will maintain current unit mix or change the unit mix
3. Landscaping detail
4. Amenity details of the unit interior as well as common areas

#### **b. Development schedule**

Respondent must provide a narrative accompanied by a graphic time line or schedule detailing all phases of the development including proposer due diligence, planning and

design, permitting, construction, and operations. The schedule must include an explanation of how the phasing of the project was determined and a projection of the project completion time required following the proposing entity receiving control of the site.

## **II. Management and operations of the proposed project**

### **a. Operating plan**

The proposal must include a narrative describing the management and operation of the proposed development including the number of jobs to be created. Respondents are reminded that the City's intention is that the property be maintained and operated in a manner consistent with the highest industry standards for facilities of this type. Proposals must include a development and operating pro forma analysis of projected revenues and operating expenses for the commercial and residential component covering, at a minimum, the first five (5) years. The analysis shall specify the basis for these estimates.

### **b. Financial plan**

Proposal shall include operating assumptions statement listing the projected revenue sources. Proposals shall also include a description of the financing plan for the project, including a description and estimation of all sources of construction and permanent debt and equity funds to be used in the project and development cost estimates, with hard and soft costs (including development fees) and financing costs. Prior to closing, the City shall require written evidence that the successful proposer has received a firm and irrevocable commitment of all funds necessary to develop the site. The City reserves the right to further evaluate and/or reject financing commitments when the term, the identity of the financing source or other aspect of such financing is deemed not in the best interest of the City or the project.

### **c. Development entity**

Respondents must have formed a development entity that assembles the requisite expertise, experience, financial, and management capability to manage the proposed project project. . For the purpose of this RFP development entities are defined as the legal entity submitting the proposal and with whom the City would enter into the Agreement for the site, if awarded. The City reserves the right to conduct a complete background investigation of the proposing entity and all involved principals, consultants, and sub-consultants prior to the final selection or execution of the Agreement. Proposing entities that contain a member who has previously defaulted on a City contract or are in litigation with the City, within the last five (5) years, are not eligible to participate in this RFP process.

#### **1. Table of organization for development entity**

The organizational structure must be presented in graphic form depicting the proposing entity and its professional consultants, including the names, affiliation and addresses of all principals. This includes any and all general partners, stockholders owning 5% or more of the corporate stock, corporate officers, and executives of the development entity. A certificate of good standing from the State of Florida shall also be required as part of the submission.

**2. Resumes**

Resumes shall be included for key individuals to be involved in the proposed development. Resumes shall specify the role of the individual in the relevant project.

**3. References for all development team members**

Respondents shall provide no less than two (2) current references for each principal of the development team member who can attest to the members' relevant capability and experience. Please note these references will be contacted by the City.

**4. Other documentation as to experience and capability**

Proposals shall include a narrative or outline that provides sufficient detail to describe the proposing team's and consultants' considerable past experience in the development and management of projects of similar scope and complexity within the same or clearly similar sphere of endeavor. Respondent's shall provide a detailed list of completed projects, indicating the time required for completion, the completion date, the amount invested and financed for the project, a description of the project's elements and the role(s) played by each development team member that was involved.

**d. Financial capacity**

Proposer shall provide proof of their financial capacity so that a determination can be made that the development entity is capable of undertaking the project. Loan commitments must be from a Federal Deposit Insurance Corporation (FDIC) insured lending institution. All other lenders must show proof of their ability to provide the funds committed. Additionally, they shall provide documentation as to what resources will be utilized to provide equity for the project. A minimum of three (3) financial references that have provided the development entity or members thereof with development financing shall be provided, including a loan officer's name or other specific contact information. The respondent shall address whether it or any participating team members have been involved in any litigation or other legal dispute regarding a real estate venture during the past five (5) years. In the explanation, include information regarding the outcome of any material litigation or dispute. Also, indicate if the respondent or any participating team members have ever filed for bankruptcy, or have owned or controlled projects that have been foreclosed, or have had fines levied by governmental agencies. Include the date of occurrence, contact person, telephone number and address.

**III. Return to the City**

**a. Financial return**

Proposals shall detail financial benefits to the City, including but not limited to estimated property taxes. The detail will include the total ad valorem taxes generated by the development.

**b. Non-financial return**

Proposals shall detail non-financial benefits such as affordable housing.

**IV. Minority/Women participation**

Proposals shall indicate the minority/women participation in the proposed project. A minority business enterprise is defined as a business firm "...in which at least 51 percent of said

enterprise is owned by Blacks, Hispanics, or Women and whose management and daily business operations are controlled by one or more Blacks, Hispanics or Women.”

## V. Required City forms

1. Bid and acknowledgement
2. Declaration
3. Certificate of authority (corporation, partnership...whichever applies)
4. Minority/Women business affairs registration affidavit

## VI. Attachments

Respondents may attach additional information as required. Tabs should be utilized as needed.

### **Proposal submission requirements**

Proposals shall meet all the requirements specified within the RFP. Proposals deficient in providing the required information and not previously submitted for administrative review shall be determined non-responsive by the City and shall be ineligible for further consideration.

Complete proposal packages must be delivered to:

City of Miami  
**Office of the City Clerk**  
First Floor Counter  
3500 Pan American Drive  
Miami, Florida 33133

**All proposals must be received by March 24, 2008 before 3:00 PM, at the City Clerk’s Office.** Proposals submitted via facsimile will not be accepted. Responses received after the deadline date and time will not be accepted and shall be returned unopened to Proposer. Responses must be clearly marked on the outside of the package referencing:

**PROPOSAL: 1371 NW 61st Street  
(Orchard Villa)  
Supportive Housing**

Proposals received at any other location than the aforementioned or after the proposal submission date and time shall be deemed non-responsive.

**Proposals submitted by for-profit organizations must be accompanied by a refundable deposit in the form of a cashier's check or official bank check in the amount of One Thousand Dollars (\$1,000.00) made payable to the City of Miami.**

## **CONTACT INFORMATION**

### **Official list of potential respondents**

Anyone bidding must appear on our official list of those who received a copy of the RFP. This will ensure that all potential respondents are advised of any changes made, and receive all notices and/or addendums regarding the RFP.

### **City Manager's designee for written communications**

Edward Barberio, Contracts Manager  
City of Miami  
Department of Community Development  
444 SW 2nd Avenue, 2<sup>nd</sup> Floor  
Miami, FL 33130  
Email: ebarberio@miamigov.com  
Telephone: (305) 416-2097  
Fax: (305) 416-2090

# EXHIBIT A

## Legal Description

## **EXHIBIT A**

### **Site**

Property Folio No. 01-3114-043-0240

Property Address: 1371 NW 61 Street

Legal Description: Orchard Villa Ext PB 17-55 Lot 37 Blk 1 Lot size

50.000 x 106 OR 22681-0615 0904 3

EXHIBIT B

SAMPLE PURCHASE AND SALE AGREEMENT  
(MAY BE AMENDED AT THE CITY'S DISCRETION)

THIS PURCHASE AND SALE AGREEMENT, (the "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the **City of Miami, a municipal corporation of the State of Florida**, with offices at 444 SW 2 Avenue, Miami, Florida 33130 (the "Seller"), and \_\_\_\_\_, (the "Purchaser"). The Parties hereby agree that Seller shall sell and Purchaser shall buy the following property upon the following terms and conditions:

1. **DESCRIPTION OF PROPERTY**

1. *Legal Description*

Parcel I

Property Folio No. \_\_\_\_\_

Legal Description: Lots \_\_\_\_\_ of \_\_\_\_\_, according to the Plat thereof, as recorded in Plat Book \_\_, at Page \_\_, of the Public Records of Miami-Dade County, Florida.

Parcel II

Property Folio No. \_\_\_\_\_

Legal Description: Lots \_\_\_\_\_ of \_\_\_\_\_, according to the Plat thereof, as recorded in Plat Book \_\_, at Page \_\_, of the Public Records of Miami-Dade County, Florida

2. *Street Address*

\_\_\_\_\_

Miami, Florida

3. *Improvements*

\_\_\_\_\_

- d) The City of Miami Commission (the "Commission") on \_\_\_\_\_, pursuant to Resolution No. 08-\_\_\_\_, has authorized the sale of the Property to the Purchaser (i) in accordance with Section 29B of the City of Miami Charter, for the purpose of constructing \_\_\_\_\_. Accordingly, Seller agrees to sell the Property to Purchaser in reliance on Purchaser's covenant that it will, within \_\_\_\_\_ months following the Closing (as defined in Section \_\_\_\_ hereof),

commence the construction of the Improvements as evidenced by issuance of a building permit, shall construct the improvements in substantial compliance with the Authorized Proposal, and shall continue diligently with the construction of the Improvements to completion by no later than \_\_\_\_\_ months from the date of issuance of a building permit.

## 2. **PURCHASE PRICE AND PAYMENT**

The Purchaser agrees to pay and the Seller agrees to accept for the Property the sum of \$\_\_\_\_\_ (the "Purchase Price"). The Purchase Price shall be payable as follows:

### **A. Deposit.**

(1) Within five (5) days of the Effective Date as defined herein, the Purchaser shall pay to \_\_\_\_\_ (the "Escrow Agent") \_\_\_\_\_ dollars (the Proposal Deposit and this additional sum will represent 10% of the Purchase Price and is hereinafter collectively referred to as the "Deposit").

(2) Within ten (10) days of the Effective Date as defined herein, the Seller shall deliver to the Escrow Agent \_\_\_\_\_ dollars, which the Seller has received from the Purchaser as a "Proposal Deposit".

(3) The Deposit received hereunder by the Escrow Agent shall be placed in an interest bearing account. In case of default the Seller shall retain the Deposit and all interest earned thereon.

(4) At Closing (as hereinafter defined) the Deposit, and all interest earned on the Deposit shall be delivered by the Escrow Agent to the Seller and credited against the Purchase Price. The Deposit is non-refundable except in the event Purchaser terminates this Agreement as provided in paragraphs 4E or 5 herein.

### **B. Closing Payment.**

At Closing, the Deposit plus the balance of the Purchase Price, \_\_\_\_\_ dollars (increased or decreased by adjustments, credits, prorations, and expenses as set forth in Section 12 or any other provision of this Agreement) shall be paid by the Purchaser to the Seller in the form of cashier's check, certified check, official bank check or wire transfer.

## 3. **ENVIRONMENTAL MATTERS**

### **A. Definitions.**

For purposes of this Agreement: The term "Hazardous Materials" shall mean and include without limitation, any substance, which is or contains (A) any "hazardous substance" as

now or hereafter defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C., Section 9601 et seq.) (“CERCLA”) or any regulations promulgated under or pursuant to CERCLA; (B) any “hazardous waste” as now or hereafter defined in the Resource Conservation and Recovery Act (42 U.S.C., Section 6901 et seq.); (C) any substance regulated by the Toxic Substances Control Act (15 U.S.C., Section 2601 et. Seq.); (D) gasoline, diesel fuel, or other petroleum hydrocarbons; (E) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (F) polychlorinated biphenyls; and (G) any additional substances or material which: (i) is now or hereafter classified or considered to be hazardous or toxic under Environmental Requirements as hereinafter defined; (ii) causes or threatens to cause a nuisance on the Property or adjacent property or poses or threatens to pose a hazard to the health or safety of persons on the Property or adjacent property; or (iii) would constitute a trespass if it emanated or migrated from the Property.

The term "Environmental Requirements" shall mean all laws, ordinances, statutes, codes, rules, regulations, agreements, judgments, orders and decrees, now or hereafter enacted, promulgated, or amended of the United States, the states, the counties, the cities, or any other political subdivision, agency or instrumentality exercising jurisdiction over the Seller or the Purchaser, the Property, or the use of the Property, relating pollution, the protection or regulation of human health, natural resources, or the environment, or the emission, discharge, release or threatened release of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or waste or Hazardous Materials into the environment (including, without limitation, ambient air, surface water, groundwater, land or soil).

#### **B. Disclaimer As To Environmental Matters.**

Purchaser acknowledges and agrees that Seller has not made, does not make and specifically negates and disclaims any representations, warranties (other than the limited warranty of title as set out in the special warranty deed), promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, (past, present, or future) of, as to, concerning or with respect to environmental matters with reference to the Property, including, but not limited to: (a) the value, nature, quality or condition of the Property, including, without limitation, the water, soil and geology, (b) the compliance of or by the Property, or its operation with any Environmental Requirements, (c) any representations regarding compliance with any environmental protection, pollution or land use, zoning or development of regional impact laws, rules, regulations, orders or requirements, including the existence in or on the Property of Hazardous Materials.

Purchaser further acknowledges and agrees that it is being given the opportunity to inspect the Property, and all relevant documents and records of the Seller as they relate to the Property, and other documents that may exist in the public records of the state, county and/or city relating to the environmental condition of the Property as part of this Agreement and that Purchaser is not relying solely upon any documents or representations made by or on behalf of Seller, but that Purchaser is responsible to conduct its own investigation of the Property.

Purchaser further acknowledges and agrees that any information provided or to be provided with respect to the Property was obtained from a variety of sources and that Seller has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information. Seller is not liable or bound in any matter by any verbal or written statements, representations or information pertaining to the Property, or the operation thereof, furnished by any agent, employee, servant or other person.

**C. Inspection Period.**

Purchaser, its employees, agents, consultants and contractors shall have a period of twenty-five (25) days from the Effective Date (the "Investigation Period") in which to undertake at Purchaser's expense, such physical inspections and other investigations of and concerning the Property including surveys, soil borings, percolation, engineering studies, environmental tests and studies and other tests as Purchaser considers necessary for Purchaser and his consultants to review and evaluate the physical characteristics of the Property and to perform certain work or inspections in connection with such evaluation (the "Environmental Inspection") after giving the Seller reasonable notice of twenty-four (24) hours prior to each test performed. The City, at its sole option, may extend the Investigation Period for an additional twenty-five (25) days if based upon the results of the testing, additional testing is warranted. For the purpose of conducting the Environmental Inspection, Seller hereby grants to Purchaser and its consultants and agents or assigns, full right of entry upon the Property during the Inspection Period through the closing date. The right of access herein granted shall be exercised and used by Purchaser, its employees, agents, representatives and contractors in such a manner as not to cause any material damage or destruction of any nature whatsoever to, or interruption of the use of the Property by the Seller, its employees, officers, agents and tenants.

**D. Inspection Indemnity, Insurance and Releases.**

Notwithstanding anything contained in this Agreement to the contrary, as consideration for the Seller granting a continuing right of entry, the Purchaser hereby specifically agrees to: (i) immediately pay or cause to be removed any liens filed against the Property as a result of any actions taken by or on behalf of Purchaser in connection with the inspection of the Property; (ii) immediately repair and restore the Property to its condition existing immediately prior to the Inspection Period; and (iii) indemnify, defend and hold harmless Seller, its employees, officers and agents, from and against all claims, damages or losses incurred to the Property, or anyone on the Property as a result of the actions taken by the Purchaser, any of its employees, agents, representatives or contractors, or anyone directly or indirectly employed by any of them or anyone for whose acts they may be liable, with respect to the inspection of the Property, regardless of whether or not such claim, demand, cause of action, damage, liability, loss or expense is caused in part by Seller, its employees, officers and agents, provided, however, Purchaser shall not be liable for the gross negligence or intentional misconduct of Seller, its employees, officers and agents. Nothing herein shall be deemed to abridge the rights, if any, of the Seller to seek contribution where appropriate.

The provisions of this indemnity shall survive the Closing or the termination of this Agreement.

Prior to Purchaser entering upon the Property for purposes of commencement of the Environmental Inspection, Purchaser shall furnish to Seller the policy or policies of insurance or certificates of insurance in form and such reasonable amounts approved by the City of Miami's Risk Manager protecting the City, during the course of such testing, against all claims for personal injury and property damage arising out of or related to the activities undertaken by the Purchaser, its agents, employees, consultants and contractors, or anyone directly or indirectly employed by any of them or anyone for whose acts they may be liable, upon the Property or in connection with the Environmental Inspection.

Purchaser hereby waives any and all claims against the Seller for personal injury or property damage sustained by the Purchaser, its employees, agents, contractors, or consultants arising out of or related to the activities undertaken by the Purchaser, its agents, employees, consultants and contractors upon the Property or in connection with the Environmental Inspection and releases the Seller from any claims in connection therewith.

**E. Remedies/Right of Termination.**

If Purchaser discovers, during the Investigation Period, the presence of Hazardous Materials on the Property in levels or concentrations which exceed the standards set forth by DERM, the State or the Federal Government, prior to the end of the Inspection Period, Purchaser shall notify Seller in writing and deliver to Seller copies of all written reports concerning such Hazardous Materials (the "Environmental Notice"). The Purchaser and Seller shall have seven (7) business days from the date the Seller receives the Environmental Notice to negotiate a mutually agreeable remediation protocol. In the event the Purchaser and Seller are unable to reach agreement with respect thereto within the seven (7) business day period provided herein, the parties shall have the option within two (2) calendar days of the expiration of the seven (7) business day period to cancel this Agreement by written notice to the other party whereupon (i) all property data and all studies, analysis, reports and plans respecting the Property delivered by Seller to Purchaser or prepared by or on behalf of the Purchaser shall be delivered by Purchaser to the Seller; and then (ii) except as otherwise hereafter provided in this Section, the parties shall thereupon be relieved of any and all further responsibility hereunder and neither party shall have any further obligation on behalf of the other; and (iii) Purchaser shall be refunded the Deposit and all interest earned.

**F. Waiver and Release.**

In the event that Purchaser does not elect to cancel this Agreement, Purchaser acknowledges and agrees that to the maximum extent permitted by law, the sale of the Property as provided for herein is made on an "AS IS" condition and basis with all faults. Purchaser on behalf of itself and its successors and assigns thereafter waives, releases, acquits, and forever discharges Seller, its heirs, and the successors and assigns of any of the preceding, of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Purchaser or any of its successors or assigns now has or which may arise

in the future on account or in any way related to or in connection with any past, present, or future physical characteristic or condition of the Property including, without limitation, any Hazardous Materials in, at, on, under or related to the Property, or any violation or potential violation or any Environmental Requirement applicable thereto. In addition, Purchaser thereafter specifically waives all current and future claims and causes of action against Seller arising under CERCLA, RCRA, Chapters 376 and 402, Florida Statutes, and any other federal or state law or county regulation relating to Hazardous Materials in, on, or under the Property. Notwithstanding anything to the contrary set forth herein, this release shall survive the Closing or termination of this Agreement.

#### **4. TITLE EVIDENCE**

Purchaser, at its sole cost and expense, shall be responsible for obtaining all title documents, which Purchaser requires in order to ascertain the status of title. Purchaser agrees to forward a copy of the aforementioned title documents to Seller immediately upon Purchaser's receipt thereof.

Seller has no obligation to, but to the extent Seller has evidence of title, including abstracts, prior title policies and title reports, Seller shall provide copies of same to Purchaser, within five (5) calendar days of the Effective Date, to assist in Purchaser's title examination and obtaining title insurance.

In the event the Purchaser's examination of title, which examination shall be completed within twenty-one (21) days of the Effective Date, reflects any condition which renders the title unmarketable in accordance with the standards of the Florida Bar (the "Title Defect"), the Purchaser shall allow the Seller sixty (60) calendar days within which to use reasonable diligence to cure the Title Defect. Seller shall use good faith efforts to cure any Title Defect, provided however, Seller shall not be required to bring any action or to incur any expense to cure any title defect or objection.

If Seller shall be unable to convey title to the Property according to provisions of this Agreement, Purchaser may: (i) elect to accept such title that Seller may be able to convey, with no reduction in Purchase Price; or (ii) terminate this Agreement, in which case the Deposit and all interest earned thereon shall be returned by Escrow Agent to Purchaser. Upon such refund, this Agreement shall be null and void and the parties hereto shall be relieved of all further obligation and liability, and neither party shall have any further claims against the other, except as to Purchaser's liability, if any, arising out the Inspection Indemnity pursuant to Section 4(D) hereof. In addition to the documents set forth in Section 4(E), in the event of cancellation, copies of all abstracts of title respecting the Property delivered by Seller to Purchaser or prepared by or on behalf of Purchaser shall be delivered by Purchaser to Seller.

#### **5. DISCLAIMER OF WARRANTIES AS TO PROPERTY; "AS IS" CONVEYANCE.**

A. Except as otherwise previously provided in Sections 4 and 5 of this Agreement, Purchaser is purchasing the Property in an "AS IS" condition and specifically

and expressly without any warranties, representations or guaranties, either express or implied, of any kind, nature or type whatsoever from or on behalf of Seller. Without in any way limiting the generality of the immediately preceding, and in addition to the specific disclaimers set forth in Section 4 of this Agreement with respect to Environmental Matters, Purchaser and Seller further acknowledge and agree that in entering into this Agreement and purchasing the Property:

(1) Purchaser hereby acknowledges that Seller has not made, will not and does not make any warranties or representations, whether express or implied, with respect to the Property, its condition, the value, profitability, or marketability thereof;

(2) Purchaser acknowledges that with respect to the Property, Seller has not and will not make any warranties, whether express or implied, of merchantability, habitability or fitness for a particular use or suitability of the Property for any and all activities and uses which Purchaser may conduct thereon;

(3) Purchaser acknowledges that Seller has not made, will not and does not make any representations, whether express or implied, with respect to compliance with any land use, zoning or development of regional impact laws, rules, regulations, orders or requirements.

(4) Purchaser acknowledges that Purchaser has made and/or shall be given an adequate opportunity to make such legal, factual and other inquiries and investigations as Purchaser deems necessary, desirable or appropriate with respect to the Property, the value or marketability thereof and of the appurtenances thereto. Such inquiries and investigations of Purchaser shall be deemed to include, but shall not be limited to, the condition of all portions of the Property and such state of facts as an accurate abstract of title would show;

(5) Purchaser acknowledges that Purchaser has not relied, and is not relying, upon any information, document, projection, proforma, statement, representation, guaranty or warranty (whether express or implied, or oral or written or material or immaterial) that may have been given by or made by or on behalf of Seller.

B. The provisions of this Section shall survive the closing.

## **6. RESTRICTIONS, EASEMENTS AND LIMITATIONS**

The Purchaser further agrees it shall take title subject to: zoning, restrictions, prohibitions, and other requirements imposed by governmental authority; restrictions and matters appearing on the public records and public utility easements of record.

## **7. CONDITIONS PRECEDENT**

Seller's obligation to sell shall be subject to the satisfaction of the following conditions on or before thirty (30) days from the Effective Date:

- a. The Purchaser shall submit to the Seller evidence that it has the funds necessary to construct the Improvements.
- b. The Purchaser shall submit to the Seller a copy of the construction contract for the construction of the Improvements.
- c. The Purchaser shall submit to the Seller evidence that it is ready to commence and complete construction of the Improvements within the times set forth in Paragraph 1.c. hereof.

**8. DEED RESTRICTIONS**

The Seller shall convey title to the Property by City Deed, subject to certain deed restrictions.

**9. CLOSING DATE**

Closing shall take place within forty-five (45) days after the Effective Date or within a reasonable time thereafter, at a mutually agreeable time (the "Closing") at the City of Miami, Department of \_\_\_\_\_ at 444 SW 2 Avenue, Suite \_\_\_\_\_, Miami, Florida. The parties may, subject to mutual agreement, establish an earlier date for Closing. Notwithstanding the foregoing, in the event the Seller elects to satisfy any title objections pursuant to the terms of Section 5 hereof, then Seller shall have the right to extend the Closing date set forth herein.

**10. COVENANT TO PAY FOR MUNICIPAL SERVICES**

The Purchaser agrees that concurrently with the conveyance of the Property, at Closing, the Purchaser shall furnish a covenant which will run with the land and shall be binding on the Purchaser, its successors, heirs and assignees, in favor of the Seller and enforceable by Seller, to be recorded in the public records of Miami-Dade County. This covenant shall provide that if the Property, or any portion thereof, is purchased by an "exempt entity" or is utilized for exempt purposes, as such term is defined under Chapter 196 Florida Statutes, that so long as the City of Miami provides municipal services to the Property that the owner shall pay to the City of Miami an annual payment, which shall never be less than, the amount of taxes that the City of Miami would be entitled to receive from the Property based on the fair market value of the Property.

**11. AFFORDABLE HOUSING COVENANT**

\_\_\_\_\_.

**12. CLOSING DOCUMENTS**

A) At Closing, Seller shall execute and/or deliver to Purchaser the following:

- (1) City Deed subject to conditions, restrictions, easements and limitations of record;
  - (2) A Closing Statement;
  - (3) A Seller's Affidavit and a Non-Foreign Affidavit;
  - (4) Such documents as are necessary to fully authorize the sale of the Property by Seller and the execution of all closing documents; and
  - (5) Any other documents reasonably necessary or advisable to consummate the transaction contemplated hereby.
- B) Purchaser's Closing Documents: At Closing, Purchaser shall execute and/or deliver to Seller the following:
- (1) Closing Statement;
  - (2) Such documents as are necessary to fully authorize the purchase of the Property by Purchaser and the execution of all closing documents;
  - (3) Any other documents reasonably necessary or advisable to consummate the transaction contemplated hereby; and
  - (4) Purchaser shall pay to Seller the balance of the Purchase Price as provided for in Section 2 hereof.

### **13. CLOSING COSTS AND ADJUSTMENTS**

At Closing, the following items shall be borne, adjusted, prorated or assumed by or between Seller and Purchaser as follows:

#### **A. Adjustments and Prorations**

- 1) Real Estate Taxes: The Seller warrants that the Property is exempt from taxes at the time of sale, and accordingly there should be no taxes due at Closing.
- 2) Certified/Pending Liens: Certified, confirmed and ratified governmental liens as of the Closing Date shall be paid by Seller. Pending liens as of the Closing Date shall be assumed by Purchaser.
- 3) Other Taxes, Expenses, Interest, Etc: Taxes (other than real property taxes), assessments, water and sewer charges, waste fee and fire protection charges, if applicable, shall be prorated as of the Closing Date.

- 4) Usual and Customary: Such other items that are usually and customarily pro-rated between purchasers and sellers of properties in the area where the Property is located. All pro-rations shall utilize the 365-day method.

**B. Closing Costs**

- (1) Each party shall be responsible for its own attorney's fees incurred in connection with the Closing.
  - (2) Purchaser shall pay all other closing and recording costs incurred in connection with the sale and purchase of the Property described in this Agreement, including, but not limited to:
    - (i) all inspection and environmental testing costs;
    - (ii) documentary stamps and surtax on the deed.
    - (iii) all recording charges, filing fees payable in connection with the transfer of the Property hereunder;
- the Seller's costs incurred in connection with the public solicitation process related to the sale of the Property, which costs shall not exceed five thousand dollars (\$5,000);

**14. DEFAULT**

- A) If this transaction does not close as a result of default by Seller, Purchaser as and for its sole and exclusive remedies shall be entitled to: (i) elect to terminate this Agreement and receive the return of the Deposit and all interest thereon; or (ii) elect to waive any such conditions or defaults and to consummate the transactions contemplated by this Agreement in the same manner as if there had been no conditions or defaults and without any reduction in the Purchase Price and without any further claim against Seller.

However, notwithstanding anything contained herein to the contrary, in no event shall Seller be liable to Purchaser for any actual, punitive, incidental, speculative or consequential damages, costs or fees of any nature whatsoever. The limitation on Seller's liability set forth herein shall survive Closing.

- B) If this transaction does not close as a result of default by Purchaser, Seller, as and for its sole and exclusive remedy, shall retain the Deposit and all interest earned thereon, as liquidated damages and not as a penalty for forfeiture, actual damages being difficult or impossible to measure.
- C) Neither party shall be entitled to exercise any remedy for a default by the other party, except failure to timely close, until (i) such party has delivered to the other notice of the default and (ii) a period of ten calendar (10) days from and after delivery of such

notice has expired with the other party having failed to cure the default or diligently pursued remedy of the default.

**15. RISK OF LOSS**

The Purchaser assumes all risk of loss or damage to the Property by fire or other casualty, or acts of God, as of the Effective Date.

**16. RELEASE AND INDEMNIFICATION**

Purchaser and anyone claiming by, through or under Purchaser hereby fully and irrevocably release Seller, its employees, officers, directors, representatives, agents, successors and assigns (collectively the Seller) from any and all claims that it may now have or hereafter acquire against the Seller for any cost, loss, liability, damage, expense, demand, action or cause of action arising from or related to any defects, errors, omissions or other conditions, including, but not limited to, environmental matters, affecting the Property, or any portion thereof. The foregoing, however, is not intended to release Seller from its obligations under this Agreement.

**17. DESIGNATION OF REPRESENTATIVES**

Purchaser and Seller acknowledge that proper communication between Purchaser and Seller, and between Purchaser and any governmental authorities having jurisdiction over environmental matters, is to be an important component of the Purchaser's Environmental Inspection period and title examination. Accordingly, to facilitate such communication, the Purchaser and Seller have appointed the following persons on their respective behalves to be their environmental and title representatives, to wit:

*On behalf of Seller:*

*On behalf of Purchaser:*

City of Miami  
Department of \_\_\_\_\_  
\_\_\_\_\_ Director  
444 SW 2 Avenue, \_\_\_\_\_ Floor  
Miami, FL 33130  
Telephone No.: (305) 416-\_\_\_\_\_  
Fax (305) 416-\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**18. NOTICES**

All notices or other communications, which may be given pursuant to this Agreement shall be in writing and shall be deemed properly served if delivered by personal service or by certified mail addressed to Seller and Purchaser at the address indicated herein. Such notice shall be deemed given on the day on which personally served; or if by certified mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier:

*Seller:*

*Purchaser*

\_\_\_\_\_, City Manager  
City of Miami  
444 SW 2 Avenue, 10th Floor  
Miami, FL 33130

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Copies To:*

\_\_\_\_\_ Director  
City of Miami  
Department of \_\_\_\_\_  
444 SW 2 Avenue, \_\_\_\_\_ Floor  
Miami, FL 33130

Jorge L. Fernandez  
City Attorney  
444 SW 2 Avenue, Suite 945  
Miami, FL 33130

**19. CAPTIONS AND HEADINGS**

The Section headings or captions appearing in this Agreement are for convenience only, are not part of this Agreement, and are not to be considered in interpreting this Agreement.

**20. BINDING EFFECT**

This Agreement shall bind and inure to the benefit of the parties hereto and their successors in interest. Purchaser may assign or pledge this Agreement only with the prior written consent of the City Manager which consent may be withheld for any or no reason whatsoever.

**21. GOVERNING LAW**

This Agreement shall be governed according to the laws of the State of Florida and venue shall be in Miami-Dade County, Florida.

**22. COUNTERPARTS**

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same Agreement.

**23. ATTORNEY'S COSTS**

If it shall be necessary for either party to this Agreement to bring suit to enforce any provisions hereof or for damages on account of any breach of this Agreement, the prevailing party on any issue in any such litigation and any appeals therefrom shall be entitled to

recover from the other party, in addition to any damages or other relief granted as a result of such litigation, all costs and expenses of such litigation and a reasonable attorneys' fee as fixed by the court.

**24. WAIVERS**

No waiver by either party of any failure or refusal to comply with its obligations shall be deemed a waiver of any other or subsequent failure or refusal to comply. All remedies, rights, undertaking, obligations and agreement contained herein shall be cumulative and not mutually exclusive.

**25. SURVIVAL OF REPRESENTATIONS/WARRANTIES**

All relevant terms of this Agreement, where appropriate, shall survive the Closing and be enforceable by the respective parties until such time as extinguished by law.

**26. PARTIAL INVALIDITY**

In the event that any provision of this Agreement shall be unenforceable in whole or in part, such provision shall be limited to the extent necessary to render same valid, or shall be excised from this Agreement, as circumstances require, and this Agreement shall be construed as if said provision had been incorporated herein as so limited, or as if said provision had not been included herein, as the case may be.

**27. WAIVER OF TRIAL BY JURY**

The parties hereby knowingly, voluntarily and intentionally waive any right they may have to a trial by jury in respect to any litigation arising out of, under or in connection with this Agreement, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party hereto. This provision is a material inducement for Purchaser and Seller entering into this Agreement.

**28. TIME OF ESSENCE**

Time is of the essence of this Agreement and in the performance of all conditions and covenants to be performed or satisfied by either party hereto. Whenever a date specified herein shall fall on a Saturday, Sunday or legal holiday, the date shall be extended to the next succeeding business day.

**29. EFFECTIVE DATE/TIME OF ACCEPTANCE**

The Effective Date of this Agreement shall be the date on which the last party to this Agreement officially executes said Agreement, and Purchaser has been notified in writing of the approval.

**30. AUTHORITY OF CITY MANAGER**

The Resolution of the City Commission of the Seller shall, in addition to approving the purchase contemplated under this Agreement, empower the City Manager of the Seller to modify this Agreement in the event a modification to this Agreement becomes necessary or desirable.

**31. AWARD OF THE AGREEMENT**

Seller represents and warrants that it has not employed or retained any person employed by the Purchaser to solicit or secure this Agreement and that it has not offered to pay, paid, or agreed to pay any person employed by the Purchaser any fee, commission percentage, brokerage fee, or gift for the award of this Agreement.

**32. CONFLICT OF INTEREST**

The Seller covenants that no person under its employ who presently exercises any functions or responsibilities in connection with purchase and sale of the Property has any personal financial interest, direct or indirect, in this Agreement, except for the interest of the Seller in the sale of the Property. The Seller is aware of the conflict of interest laws of the City of Miami (City of Miami Code Chapter 2, Article V), Dade County, Florida (Dade County Code Section 2-11-1), the State of Florida (Chapter 112, Florida Statutes) and HUD and agrees that it shall comply in all respects with the terms of said laws and any future amendments, as well as all other federal or state laws or regulations applicable to the transaction that is the subject matter of this Agreement.

**33. ENTIRE AGREEMENT**

This Agreement contains the entire agreement between the parties. There are no promises, agreements, undertakings, warranties or representations, oral or written, express or implied, between the parties other than as herein set forth. No amendment or modification of this Agreement shall be valid unless the same is in writing and signed by the City Manager on behalf of the Seller and the Purchaser.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement, as of the day and year first above written.

Signed, sealed and delivered in the presence of:

**"SELLER"**  
**Executed by CITY OF MIAMI, a municipal**  
**corporation of the State of Florida**  
**on: \_\_\_\_\_**



# EXHIBIT C

## INCOME LIMITS

2008 Income Limits

	1	2	3	4	5	6	7	8
80% of Median	\$33,800	\$38,600	\$43,450	\$48,250	\$52,100	\$ 55,950	\$ 59,850	\$ 63,700

**EXHIBIT D:**  
**LIST OF AVAILABLE**  
**PROPERTIES**

PROPERTY ADDRESS	FOLIO	AREA (SQ. FT)
<b>SITE 1</b>		
1371 NW 61 Street	01-3114-043-0240	50.00 x 106.00

**PROPERTY**

**SURVEY**

**(If Available)**

**Check with Liberty City Community Revitalization Trust at  
305-635-2301**

# **REQUIRED CITY FORMS**

#1

**BID AND ACKNOWLEDGMENT FORM**

TO: Office of the City Clerk  
City of Miami, Florida

Attention: Department of Community Development

1. The undersigned hereby makes a Proposal for the redevelopment of the City of Miami properties on \_\_\_\_\_ . (Provide site number from Exhibit D)

2. The undersigned understands that the City reserves the right to reject any and all Proposals at any time, for any reason, prior to the execution of a Purchase and Sale Agreement.

\_\_\_\_\_ Proposer's Initials.

3. The undersigned understands that this Proposal is a firm offer and that upon notice from the City Manager that he will recommend the Proposal to the City Commission, which notice shall be mailed to the undersigned at the address stated below, the undersigned will, within fifteen (15) days after receipt of such notice or such reasonable time thereafter as determined in the City Manager's sole discretion, execute a Purchase and Sale Agreement (in substantially the form attached as Exhibit "B"). The undersigned further acknowledges that in the event the undersigned withdraws his/her Proposal after the Proposal due date \_\_\_\_\_, or if the Proposal fails to execute a Purchase and Sale Agreement within the time frame set forth above, the Proposal Deposit shall be kept by the City as liquidated damages and not as a penalty.

\_\_\_\_\_ Proposer's Initials.

4. The undersigned understands that all Proposal Deposits, except those of the responsible and responsive Proposers recommended to the Review Committee, will be returned within approximately ten (10) business days after the opening of the Proposals, and that the Proposal Deposits of the three (3) highest responsible and responsive Proposers, except that of the Proposer whose Proposal is accepted by the City Manager, will be returned within approximately ten (10) business days from that date of execution of the Purchase and Sale Agreement or transfer of title by the Proposer (Purchaser) and the City. The undersigned further understands that if he/she is the successful Proposer, the Proposal Deposit will be retained by the City and credited towards the purchase price, or any unanticipated cost at closing, and the balance refunded to the Proposer.

\_\_\_\_\_ Proposer's Initials.

5. The undersigned understands that if this Proposal is accepted, and the City and the Proposer enter into a Purchase and Sale Agreement, the Proposer (Purchaser) must within five (5) days of the date the parties execute the Agreement, deposit with the Escrow Agent a sum which when added to the Proposal Deposit will represent 10% of the Purchase Price which sum will be retained in escrow and will be part of the Purchase Price.

\_\_\_\_\_ Proposer's Initials.

6. The undersigned understands that if this Proposal is accepted, the undersigned will pay the costs incurred by the City in the sale or transfer of the Property, inclusive of City's cost of conducting this competition which amount shall not exceed five thousand dollars (\$5,000).

\_\_\_\_\_ Proposer's Initials.

7. The undersigned represents that this Proposal is made in good faith without fraud or collusion, and that the undersigned has not entered into any agreement with any other Proposer or prospective Proposer or with any other person, firm or corporation relating to the purchase price stated in this Proposal or in any other Proposal, nor any agreement or arrangement under which any person, firm or corporation is to refrain from Proposing, nor any agreement or arrangement for any act or omission in restraint of free competition among Proposers. The undersigned agrees to hold harmless, defend and indemnify the City for any noncompliance by the undersigned with the aforementioned representations or with the antitrust laws of the United States and of the State of Florida.

\_\_\_\_\_ Proposer's Initials.

8. The undersigned understands that the City Commission must approve the Purchase and Sale or Transfer Agreement for purposes of consummating the transaction. No Proposal shall be deemed binding until the Purchase and Sale or Transfer Agreement is fully executed by the parties.

\_\_\_\_\_ Proposer's Initials.

9. The undersigned understands that at closing, the Purchaser shall be required to execute a covenant which shall run with the land. The covenant of a Municipal Service Fee shall provide that if the Property, or any portion thereof, is purchased by an "exempt entity" under Chapter 196 Florida Statutes, or is utilized for an exempt purpose, that the owner of the Property shall pay to the City a payment in lieu of taxes (PILOT) to fund the cost of providing municipal services to the Property. The PILOT shall be equal to the amount of taxes the City would have received had the property not been exempt from taxation.

\_\_\_\_\_ Proposer's Initials.

10. The undersigned understands that it must be financially solvent, and have sufficient funds to develop the property. That Proposer has no record of pending lawsuits or criminal activities involving moral turpitude and does not have any conflict of interest with the City. That neither Proposer nor any member, officer, or stockholder of Proposer(s) is or has been in arrears or in default of any debt or contract involving the City, (as a party to a contract, or otherwise); nor has failed to perform faithfully on any previous contract with the City or any of its agencies.

\_\_\_\_\_ Proposer's Initials.

PROPOSAL SUBMITTED BY

\_\_\_\_\_  
Signature of Proposer

\_\_\_\_\_  
Address

\_\_\_\_\_  
Print Name of Proposer

STATE OF FLORIDA )

) SS

COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ by \_\_\_\_\_ (name of person acknowledging) who is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification and who did (did not) take an oath.

Signature of Notary Public

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Commission No.

## #2

### DECLARATION

TO: Pedro G. Hernandez, City Manager  
City of Miami

Submitted on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The undersigned, as Respondent (herein used in the masculine, singular, irrespective of actual gender and number) declares that the persons interested in this Proposal are named herein, that no other person has any interest in this Proposal. That this Proposal is made without connection or arrangement with any other person and that this Proposal is in every respect fair, in good faith, without collusion or fraud.

The undersigned further declares that he has complied in every respect with the Request for Proposals requirements and instructions, that he has read all addenda, if any, and that he has satisfied himself fully with regard to all matters and conditions with respect to the Agreement to which the Proposal pertains.

The undersigned herein acknowledges that this Proposal constitutes a firm offer and he will negotiate in good faith with the City in the event that the undersigned is the selected Respondent. The undersigned further acknowledges that if its Proposal is selected and the undersigned fails to execute the Agreement, the Initial Deposit shall be kept by the City as liquidated damages and not as a penalty.

The undersigned understands that the Initial Deposit shall be kept by the City until a determination is made as to whether this Proposal is non-responsive or until an award is made by the City Commission to someone other than the undersigned. In the event the undersigned is selected by the City Commission, the Initial Deposit shall be kept by the City.

The undersigned acknowledges that all costs related to the preparation and submission of the Proposal are the sole cost of Respondent and the undersigned understands and acknowledges that he will not be entitled to a refund or reimbursement of any costs incurred.

The undersigned acknowledges that he is not in arrears or in default upon any debt or contract involving the City, a defaulter or surety otherwise, upon any obligation to the City, or has failed to perform faithfully any previous contract with the City.

The Respondent states that the Proposal is based on the Request for Proposals issued by the City, dated \_\_\_\_\_ for the development and construction of a mixed-used or multifamily project on one of the sites available on **Exhibit D**.

\_\_\_\_\_  
Signature of Proposer

\_\_\_\_\_  
Address

\_\_\_\_\_  
Print Name of Proposer

STATE OF FLORIDA        )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ by \_\_\_\_\_(name of officer or agent, title of officer or agent), of \_\_\_\_\_(name of corporation acknowledging), a \_\_\_\_\_ (state or place of incorporation) corporation, on behalf of corporation. He/she is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification and who did (did not) take an oath.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Commission No.



**CERTIFICATE OF AUTHORITY  
(IF PARTNERSHIP)**

STATE OF                    )  
                                  ) SS:  
COUNTY OF                )

I HEREBY CERTIFY that a meeting of the Partners of the \_\_\_\_\_

\_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_, held on \_\_\_\_\_, 20\_\_\_\_\_, the following resolution was duly passed and adopted:

"RESOLVED, that, \_\_\_\_\_, as \_\_\_\_\_ of the Partnership, be and is hereby authorized to execute the Proposal dated, \_\_\_\_\_ 20\_\_\_\_\_, to the City of Miami and this partnership and that their execution thereof, attested by the \_\_\_\_\_ shall be the official act and deed of this Partnership."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_, day of \_\_\_\_\_, 20\_\_\_\_\_.

Secretary: \_\_\_\_\_

(SEAL)

**FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY YOUR RESPONSE.**





# #4

## MINORITY/WOMEN BUSINESS AFFAIRS AFFIDAVIT

Please Check  
One Box Only:

Hispanic

Female

Black

Not  
Applicable

If business is not 51% minority/female owned, affidavit does not apply. If not applicable, notarization is not required.

I (We), the undersigned agree to the following conditions:

1) that we have read Section 18-136, et. Seq. of the City of Miami Code and meet the fifty-one percent (51%) ownership and management requirement for minority/women registration status and will abide by all of the policies and regulations governing the City of Miami Minority and Women Business Enterprise Procedures;

2) that if at any time information submitted by the undersigned applicant in his/her Response/application should prove to be false, inaccurate, or misleading, applicant's name will be struck from the City of Miami's Master vendor's list with no further consideration given to this applicant;

3) that the City of Miami maintains the right, through award of RFP/Contract, to revoke the award, should it be found that false, inaccurate or misleading information or a change in the original information have occurred;

4) to notify the City of Miami within thirty (30) days of any change in the firm's ownership, control, management or status as an ongoing minority/women business concern as indicated on the Response or application, and that the City of Miami, upon a finding to the contrary, may render a firm's registration with the City null and void and cease to include that firm in its registered list of minority and women-owned businesses;

5) that the City of Miami has a right to diligently verify all information submitted by applicant in his/her Response/application to monitor the status of the Minority/Women Business Enterprise, once registered;

6) that the City of Miami may share a firm's registration information concerning its minority/women status and its capability with other municipal or state agencies for the sole purpose of accessing the firm to their procurement opportunities, unless otherwise specified by the firm in writing.

I (We) certify under the penalties of perjury that the information contained in any and all application documents submitted to the City of Miami is correct as per Section 18-136, et. Seq. of the City of Miami Code.

\_\_\_\_\_  
Signature of Proposer

\_\_\_\_\_  
Address

\_\_\_\_\_  
Print Name of Proposer

STATE OF FLORIDA        )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by \_\_\_\_\_ (name of officer or agent, title of officer or agent), of \_\_\_\_\_ (name of corporation acknowledging), a \_\_\_\_\_ (state or place of incorporation) corporation, on behalf of corporation. He/she is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification and who did (did not) take an oath.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Commission No.