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1 **2021-41 (1<sup>ST</sup> READING): AUTHORIZING THE SALE OF SURPLUS CITY**  
2 **PROPERTY ON OLD BRIDGE ROAD TO ROBERT LUKEY.**

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3 **Applicant/Purpose:** Staff / to sell surplus property for \$180,000.  
4

5 **Brief:**

- 6 • The City owns surplus property located at 855 Old Bridge Road.  
7

8 **Issues:**

- 9 • The sale is subject to the following terms and conditions:
  - 10 ○ The property is sold "AS IS WHERE-IS" condition.
  - 11 ○ Buyer shall be responsible for all taxes that may accrue as a result of the transfer.
  - 12 ○ Buyer shall pay all costs and fees associated with the sale and closing including but not  
13 limited to preparation of the deed and other documents associated with the transfer,  
14 attorney's fees, closing costs, and filing and recording fees to include deed stamps.
  - 15 ○ Buyer shall not build any structure or make any improvement that interferes with the ability  
16 of the City of Myrtle Beach to access underground lines and valves unless written  
17 permission is granted by the City.
  - 18 ○ Buyer recognizes the intent of the City of Myrtle Beach to reserve to itself a utility easement  
19 over, under and across the property for all water and sewer utilities and that the sale is  
20 subject to those easements.
  - 21 ○ City reserves the right to access the property for installation, operation, maintenance,  
22 inspection and/or repair of all water and/or sewer utilities. If the property is disturbed or  
23 damaged in connection with the installation, operation, maintenance, inspection and/or  
24 repair of utilities, the City has no liability or responsibility to repair the property or return the  
25 property to its condition prior to the damage or disturbance.
- 26 • No changes since 1<sup>st</sup> reading,  
27

28 **Public Notification:** Normal meeting notification.  
29

30 **Alternatives:**

- 31 • Modify the proposed ordinance.
- 32 • Deny the proposed ordinance.  
33

34 **Financial Impact:**

- 35 • This property is not in the City limits. Impact is limited to the proceeds of the sale.  
36

37 **Manager's Recommendation:**

- 38 • I recommend 1<sup>st</sup> reading (10.26.2021).
- 39 • I recommend 2nd and final reading (11.9.21).  
40

41 **Attachment(s):** Ordinance

**ORDINANCE 2021-41**

**CITY OF MYRTLE BEACH )  
COUNTY OF HORRY )  
STATE OF SOUTH CAROLINA )**

**AUTHORIZING THE SALE OF SURPLUS  
CITY PROPERTY ON OLD BRIDGE  
ROAD TO ROBERT LUKEY**

WHEREAS, the City of Myrtle Beach is the owner of surplus property located at 855 Old Bridge Road outside the municipal limits and bearing TMS #1550825035; and

WHEREAS, City Council has determined that the property is not needed for public use and the sale of the property would return the property to the tax rolls of the City; and

WHEREAS, the City is authorized to sell real property pursuant to South Carolina Code Ann. § 5-7-40; and

WHEREAS, the sale of the property is being made subject to terms and conditions including but not limited to the following:

1. The property is being sold in an "AS IS WHERE-IS" condition. The buyer is responsible for conducting any and all inspections and testing of the property at its own cost and expense.
2. No representation is made by the City of Myrtle Beach as to the utility, usability or environmental condition of the property.
3. Buyer shall be responsible for all taxes that may accrue as a result of the transfer.
4. Buyer shall pay all costs and fees associated with the sale and closing including but not limited to preparation of the deed and other documents associated with the transfer, attorney's fees, closing costs, and filing and recording fees to include deed stamps.
5. Buyer shall not build any structure or make any improvement that interferes with the ability of the City of Myrtle Beach to access underground lines and valves unless written permission is granted by the City.
6. Buyer recognizes the intent of the City of Myrtle Beach to reserve to itself a utility easement over, under and across the property for all water and sewer utilities and that the sale is subject to those easements as well as existing encumbrances, liens, easements, zoning ordinances, other restrictions of record, and such facts as an accurate survey would reveal.
7. Buyer recognizes the right of the City of Myrtle Beach to access the property for purposes related to installation, operation, maintenance, inspection and/or repair of all water and/or sewer utilities and any other underground assets. If the property is disturbed or damaged in connection with the installation, operation, maintenance, inspection and/or repair of utilities, the City has no liability or responsibility to repair the property or return the property to its condition prior to the damage or disturbance.

1 NOW, THEREFORE, IT IS ORDAINED that, subject to the foregoing conditions, the City of Myrtle  
2 Beach will sell by quit claim deed the real property located at 855 Old Bridge Road to Robert  
3 Lukey for One Hundred Eight Thousand (\$180,000.00) Dollars and the City Manager is hereby  
4 authorized to execute the deed and any other documents necessary effect the sale and transfer.

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6 This ordinance shall become effective immediately upon its adoption.

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9 ATTEST:

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BRENDA BETHUNE, MAYOR

\_\_\_\_\_  
JENNIFER ADKINS, CITY CLERK

1<sup>ST</sup> Reading: 10-26-2021

2<sup>nd</sup> Reading: 11-9-2021

## AGREEMENT OF PURCHASE AND SALE

**THIS AGREEMENT OF PURCHASE AND SALE** ("**Agreement**") is made and entered into as of this the 18<sup>th</sup> day of October, 2021 (the Effective Date), by and between CITY OF MYRTLE BEACH ("**Seller**"), and ROBERT LUKEY ("**Purchaser**").

### WITNESSETH:

**WHEREAS**, Seller intends to convey and Purchaser intends to accept the parcel described below, together with all improvements situated thereon, and all easements, privileges, and appurtenances thereunto belonging (the "**Real Property**" or "**Property**").

**WHEREAS**, Seller desires to sell, and Purchaser desires to purchase, the Property, in accordance with this Agreement and on the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the foregoing premises, which are incorporated by reference, the mutual covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, Seller and Purchaser hereby agree as follows:

1. **Agreement to Sell and Purchase**. Seller agrees to sell and Purchaser agrees to purchase the Real Property generally described as that certain lot or parcel at THE FOREST AT BRIARCLIFFE any improvements thereon. The Real Property is also identified as Horry County tax map number 1550825035. The purchase and sale shall be upon the terms and conditions set forth in this Agreement.

2. **Purchase Price and Terms**. The purchase price for the Property shall be One Hundred Eighty-Thousand Dollars and NO/100 (\$180,000.00) Dollars (the "**Purchase Price**"). The Purchase Price shall be payable as follows:

a. **Earnest Money Deposit**. Within five (5) business days of the execution of this agreement, Purchaser shall deposit in escrow with Law Firm of MacDonald and Hicks, PA 1107 48<sup>th</sup> Avenue N. Suite 21, Myrtle Beach, S.C. 29577 ("**Escrow Agent**"), the sum of Ten Thousand and No/100 (\$10,000.00) Dollars (the "**Earnest Money Deposit**"). The Escrow Agent shall acknowledge receipt of the Deposit in writing to the parties and agree to accept, hold, and return such Deposit and disburse any funds received hereunder, in accordance with the provisions of this Agreement.

b. **Cash at Closing**. At Closing hereunder, Purchaser shall pay by cash, certified check, or wire transfer of federal funds an amount equal to the Purchase Price less the Earnest Money Deposit which is One Hundred Seventy Thousand and No/100 (\$170,000.00) Dollars.

3. **Investigation of Property**.

a. **Delivery of Documents**. To the extent the following documents or materials are in Seller's possession or control (e.g., agents or consultants), within five (5) days after the Effective Date, Seller shall deliver to Purchaser all documents pertaining to the Property,

including all existing agreements, studies, surveys, site design documents, appraisals, engineering tests or reports, grading permits, environmental permits, zoning documents, environmental assessments, title insurance policies, soil and geological test and reports, flood control conditions, drainage and grading information, and all other tests or reports or governmental approvals, if any, relating to the Property ("**Property Documents**"). In addition, Seller shall deliver to Purchaser any additional Property Documents created by Seller or its agents after the Effective Date and prior to Closing.

b. **Inspection of Property.** Seller grants Purchaser and its agents and representatives the right to enter onto the Property at all reasonable times after the Effective Date and prior to Closing or the termination of this Agreement for purposes of conducting surveys, wetlands determinations, environmental assessments, engineering tests, and any other matter that Seller deems relevant to its purchase of the Property provided that (i) all such tests, investigations, studies, and inspections shall be conducted at Purchaser's sole expense, (ii) Purchaser shall give Seller reasonable prior verbal notice of its entry onto the Property, and (iii) Purchaser shall indemnify and hold Seller harmless from and against any losses, liabilities, damages, costs, or expenses (including reasonable attorneys' fees) arising out of Purchaser's investigative activities and/or other entry onto the Property pursuant to this Section (collectively, "**Damages**") provided (a) such Damages are not caused by any act or omission of Seller, its agents or consultants; (b) such Damages are not due to the discovery by Purchaser of latent defects on the Property; (c) such Damages are not due to the discovery by Purchaser of any diminution in value of the Property arising from or relating to matters discovered by Purchaser during its investigation of the Property; or (d) such Damages are not due to the release or spread of any hazardous substances which are discovered (but not deposited) on or under the Property by Purchaser. In the absence of the events described in subsections (a) – (d) above, upon any termination of this Agreement, Purchaser shall return the Property to the extent damaged or disturbed by Purchaser or its agents to substantially the same condition it was in prior to the performance of such tests to the extent reasonably practicable; provided Purchaser shall not be required to replace any vegetation that is damaged or removed in the performance of permitted testing. This paragraph shall survive the expiration or other termination of this Agreement.

c. **Feasibility Period.** Purchaser shall have the right to terminate this Agreement for any reason or for no reason, within its sole and absolute discretion, on or before the date that is Thirty (30) Days after the Effective Date (the "**Feasibility Period**"). Purchaser shall have the right to extend the Feasibility Period for Two (2) additional Fifteen (15) day periods, by providing Seller with written notice of such extension, on or before the expiration of the Feasibility Period. In the event Purchaser exercises any of such right of extension, the Feasibility Period shall thereafter be defined as the expiration of such extension. Unless Purchaser provides written notice to the contrary to Seller and the Escrow Agent on or before the expiration of the Feasibility Period, or any extension thereof, Purchaser shall be deemed to have waived its right to terminate under this provision. Upon Purchaser's termination of this agreement within the Feasibility Period, the Earnest Money Deposit shall be returned to Purchaser and the parties hereto shall be released from any further liabilities or obligations except as otherwise specifically provided herein. In the event Purchaser does not terminate this Agreement within the Feasibility Period, the Earnest Money Deposit shall become non-refundable except as otherwise set forth herein.

4. **Contingencies.**

Purchaser's obligation to close on the purchase of the Property is expressly contingent upon the occurrence of the following conditions:

a. **Intended Use.** That upon the inspection during the Feasibility Period, that the Real Property is suitable for the Purchaser's Intended use and that the title to the property is not subject to any exceptions other than those deemed Permitted Exceptions, or which make it so the Purchaser cannot use Real Property for its intended use.

b. The Seller must remove existing concrete foundations from the property prior to closing.

5. **Title and Survey.** At Closing hereunder, Seller shall convey by general warranty deed fee simple title to the Real Property, marketable, indefeasible, and good of record and in fact, and insurable as such in an amount equal to the Purchase Price by such South Carolina licensed title insurance company as Purchaser may choose, at regular rates, on an ALTA Form Owner's Policy acceptable to Purchaser, free and clear of any and all liens, defects, encumbrances, occupancies, leases, easements, covenants, restrictions, or other matters whatsoever, whether recorded or unrecorded, except for (i) the lien of real estate taxes not yet due and payable, (ii) any existing easements and restrictions of record; and (iii) the title exceptions set forth in Schedule B-II of Purchaser's title commitment to which Purchaser makes no objection or to which Purchaser waives its objection (items (i), (ii) and (iii) are collectively the "**Permitted Exceptions**"). Purchaser shall notify Seller, in writing, of its title and survey objections, if any, on or before the expiration of the Feasibility Period, and Seller shall have the right, within ten (10) days from receiving such notice, to elect to cure the defect(s) at Seller's cost and expense or not. If Seller elects not to cure any defect, Purchaser, by delivering notice to Seller within five (5) business days following Seller's actual or deemed notice to Purchaser that it elects not to cure the defect, may either: (i) waive the defect and close without a reduction in the Purchase Price; or (ii) terminate this Agreement, whereupon the Deposit shall be returned to Purchaser and the parties hereto shall not have any further obligation or liability to the other except as otherwise as may be specifically set forth herein. If Seller elects to cure, Seller shall do so within thirty (30) days after electing to cure. Purchaser shall not be required to object to monetary liens or governmental assessments encumbering the Property, and the parties agree that such items will be released at Seller's expense as of the Closing. In addition, Seller shall satisfy the requirements applicable to Seller set forth in Schedule B-I of Purchaser's title commitment, including, without limitation, the release, at or prior to the Closing, of all monetary liens encumbering the Property and may apply sale proceeds therefor.

6. **Closing.**

a. **Time and Place.** The closing of the Property under this Agreement (the "**Closing**") shall be held on or before the date of the expiration of the Feasibility Period, and following the satisfaction of all conditions to Closing set forth below, unless (1) the Closing is extended pursuant to an express extension right set forth in the Agreement or (2) an earlier date is selected by Purchaser with ten (10) days advance written notice to Seller (the "**Closing Date**"). Closing shall be held at the offices of MacDonald and Hicks, P.A. or as otherwise designated by Purchaser. At closing, Seller shall deliver the general warranty to the Real Property and Purchaser shall deliver the remainder of the Purchase Price. Both parties agree to execute such other and further documents necessary to transfer the Property.

b. **Closing Adjustments.** Purchaser and Seller shall prorate, to the Closing Date, all items customarily prorated and adjusted in connection with the closing of real estate similar to the Property, including all ad valorem taxes on a calendar year basis. Seller shall be responsible for the payment of any “rollback” or other deferred taxes due in connection with a change in use of the Property. If the ad valorem tax bill for the Property is available at Closing, such taxes shall be prorated by the parties and paid at Closing

c. **Closing Costs.** Seller shall pay for (i) all transfer taxes, (ii) the cost of recording instruments necessary to effect the cancellation or satisfaction of all financing encumbrances and monetary liens against the Property, and (iii) the preparation of the limited warranty deed, (iv) the cost of any survey of the property, and (v) the brokerage fees. Purchaser shall pay for (i) the cost of any title search, (ii) the cost of recording the deed and the mortgage entered into by Purchaser, if any, (iii) the cost of any owner’s or mortgagee’s policy of title insurance. Except as otherwise provided herein, each party shall bear its own expenses, including its own attorneys’ fees.

7. **Delivery of Possession of Property.** At Closing, Seller shall deliver sole and exclusive possession of the Property to Buyer.

8. **Obligations Pending Closing.**

a. **Title to and Condition of Property.** From the date of this Agreement to the Closing, Seller shall not cause or knowingly permit any change in the status of title to the Property or the physical condition of the Property except for customary maintenance and operations and as otherwise expressly permitted in the Agreement.

b. **Condemnation.** In the event any governmental agency should notify Seller, or Seller should become aware, of any permanent or temporary actual or threatened taking of all or any portion of the Property or the street and utility infrastructure serving the Property, Seller shall promptly notify Purchaser of the same. In such event, Purchaser shall have the right, at Purchaser’s option, either to (i) in the event of a taking of all of the Property or any part of the Property that would adversely affect the Property as determined by Purchaser in its reasonable discretion, terminate this Agreement, and after the return of the Deposit Purchaser and Seller shall thereafter have no further obligations hereunder except for any liability of Purchaser for indemnification of Seller and restoration of the Property under Section 3(b) above, or (ii) proceed with the Closing and accept title to the Property without any reduction in the Purchase Price, and Seller shall deliver or assign to Purchaser any condemnation awards paid or due Seller with respect to such damage and lost revenues for the period after the Closing. If Purchaser elects to terminate the Agreement under (i) above, the Deposit shall be returned to Purchaser.

9. **Representations and Warranties of Seller.** Seller represents and warrants to Purchaser as follows, all of which representations and warranties are true and correct in all material respects as of the date hereof and shall be true and correct in all material respects as of Closing hereunder: (i) Seller has properly authorized the execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated hereby and has the full power and authority to sell the Property without the consent of any other person or entity; (ii) Seller is the sole legal and equitable owner of record and holds indefeasible, fee simple title to the Property;

(iii) to the best of Seller's knowledge, no taking by power of eminent domain or condemnation proceedings have been instituted or threatened for the permanent or temporary taking or condemnation of all or any portion of the Property; (iv) to the best of Seller's knowledge, there is no pending litigation, proceeding or investigation pending relating to the Property or title thereto; (v) to the best of Seller's knowledge, there exists no violation of any law, regulation, orders, or requirements issued by any governmental agency or authority, or action in any court on account thereof, against or affecting the Property; (vi) Seller has no notice of, and to the best of Seller's knowledge, there are in existence at the Property no "hazardous wastes," "hazardous substances," or "hazardous materials" as those terms are defined by federal and state law; (vii) to the best of Seller's knowledge, there are no parties in possession of any portion of the Property as lessees, tenants at sufferance, or trespassers; and (viii) to the best of Seller's knowledge: no grave sites are located upon the Property; no portion of the Property has been designated by any governmental body or private organization as having historic or archeological significance or deserving of historic landmark status; and the Property has not been identified by any governmental body or private organization as a habitat for any endangered or rare species of wildlife or vegetation worthy of special protection. The foregoing representations, warranties, and obligations shall survive Closing and shall not merge with the deed.

10. **Representations and Warranties of Purchaser.** Purchaser represents and warrants to Seller the Purchaser has properly authorized the execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated hereby and has the full power and authority to purchase the Property. The foregoing representations and warranties shall survive Closing and shall not merge with the deed.

11. **Default.**

a. **Default.** If Purchaser defaults in any manner, this Agreement shall terminate and the portion of the Deposit then held in escrow by Escrow Agent shall be paid to Seller as liquidated damages and not as a penalty, as Seller's sole and exclusive remedy (it being agreed between Purchaser and Seller that Seller's actual damages in the event of a default by Purchaser will be difficult to ascertain, that such liquidated damages represent the parties' best estimate of such damages, that Seller and Purchaser believe such liquidated damages are a reasonable estimate of such damages, and that the foregoing liquidated damages are intended not as a penalty, but as full liquidated damages), and the parties hereto shall be relieved from any further liabilities or obligations (except for any liability of Purchaser for indemnification of Seller and restoration of the Property under Section 3(b) above, which may be enforced by action at law or in equity). If Seller defaults in any manner under this Agreement, Purchaser, as its sole and exclusive remedy, shall elect either (i) to terminate this Agreement, and receive an immediate refund of the Deposit, but such election shall not affect Purchaser's right to pursue all remedies available at law or in equity, including, but not limited to an action at law for damages for such default which damages shall be limited to the Buyers actual cost incurred in its investigation of the property and title, cost related to obtaining financing, legal work related to this transaction plus Twenty Five Thousand and no/100 (\$25,000) Dollars; or (ii) to pursue an action for specific performance to enforce the obligations of Seller hereunder.

b. **Obligations That Survive Closing.** Notwithstanding the remedies set forth in Section 11(a) above, with respect to any breach of any representations or warranties that survive



the Closing or covenants that are performable after the Closing contained in this Agreement, the non-defaulting party may seek to recover any actual damages suffered as a result of such breach from the defaulting party as its sole and exclusive remedy. In no event shall either party be liable to the other party for special, consequential, or punitive damages.

c. **Cure Period.** Upon an event of default and prior to exercising any remedy available to the non-defaulting party hereunder, the non-defaulting party shall give the defaulting party notice of said default and a ten (10) day right to cure said default. If said default is not cured within such ten (10) days, the non-defaulting party may exercise the aforementioned applicable remedies.

12. **Brokers.** The parties acknowledge that Tradd Commercial is the Listing agent and there is no Selling Agent in this transaction. Seller will pay all commissions due to the Listing Agent at Closing from the proceeds of the this transaction. Seller and Purchaser shall indemnify and hold each other harmless from the claims of any other person claiming by or through it for any commission or fee by reason of this Agreement or the transaction contemplated hereby.

13. **Notices.** Notice required or permitted to be given hereunder shall be in writing and shall be hand-delivered, delivered by overnight courier, sent by electronic mail transmission (e-mail), or mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at their respective addresses set forth below, or at such other addresses of which either party shall notify the other party in accordance with the provisions hereof, and shall be deemed given (i) if hand delivered, upon actual receipt by the addressee, (ii) if sent by overnight courier, upon delivery evidenced by such courier, (iii) if sent by e-mail, upon transmission with a confirmed delivery, and (iv) if mailed, on the earlier of actual receipt or the 3rd business day after same is delivered to the U.S. Postal Service, properly addressed and with proper postage thereon:

If to Purchaser:                      City of Myrtle Beach  
                                                  Attn: William A. Bryan, Jr., City Attorney  
                                                  PO Drawer 2468  
  
                                                  Myrtle Beach, SC 29578-2468

With a Copy to:  
  
Daniel J. MacDonald  
MacDonald and Hicks PA  
1107 48<sup>th</sup> Aven North, Suite 210  
Myrtle Beach, S.C. 29577  
Telephone: 843-449-4493  
Email: dmacdonald@machickslaw.com

If to Seller:

If to Escrow Agent:                      Daniel J. MacDonald  
                                                  MacDonald and Hicks PA



1107 48<sup>th</sup> Aven North, Suite 210  
Myrtle Beach, S.C. 29577  
Telephone: 843-449-4493  
Email: dmaacdonald@machickslaw.com

The parties agree that each party and the Escrow Agent may rely and act upon delivery by facsimile or electronic mail transmission of a signed counterpart of any instrument or notice required or allowed hereunder.

14. **Binding Effect and Assignment.** Seller and Purchaser agree that the terms and conditions of this Agreement shall be binding upon, and shall inure to the benefit of, their respective heirs, legal representatives, successors, and assigns. Seller and Purchaser shall have no right to assign this Agreement without the prior written consent of the other party; provided, however, that Purchaser may assign this Agreement, in whole or in part, without Seller's consent to an entity in which the Purchaser or a member or members of the Purchaser own a controlling interest.

15. **Escrow Agent.** The duties of the Escrow Agent hereunder shall be as specifically as described herein or as necessary to carry out the provisions of this Agreement and are purely ministerial in nature. Escrow Agent may act upon any instrument or writing believed by it in good faith to be genuine and executed by the proper person, and shall not be liable in connection with the performance of its duties hereunder except for its own willful misconduct or negligence. In the event of any dispute or litigation hereunder concerning the disposition of the Deposit, Escrow Agent shall have the right to pay the same and all interest thereon into the registry of any court of competent jurisdiction, and Escrow Agent shall hereupon be released from any further liabilities with respect to the Deposit except as aforesaid.

16. **General Provisions.** This Agreement contains the entire understanding between the parties hereto with respect to the Property and is intended to be an integration of all prior or contemporaneous agreements, conditions, or undertakings between the parties hereto; and there are no promises, agreements, conditions, undertakings, warranties, or representations, oral or written, express or implied, between and among the parties hereto with respect to the Property other than as set forth herein. No changes or modifications of this Agreement shall be valid unless the same is in writing and signed by Seller and Purchaser. No purported or alleged waiver of any of the provisions of this Agreement shall be valid or effective unless in writing signed by the party against whom it is sought to be enforced. Except as otherwise expressly provided to the contrary herein, all representations, warranties, and covenants herein shall survive Closing hereunder and shall not be merged in any deed of conveyance. If a party incurs attorney fees or costs in connection with a dispute, breach, default, or misrepresentation hereunder and is the prevailing party in a legal action or proceeding to enforce the terms of this Agreement that party shall be entitled to recover those fees and costs from the other party. Any date specified in this Agreement which is a Saturday, Sunday, or legal holiday shall be extended to the first regular business day after such date which is not a Saturday, Sunday, or legal holiday. **Time is of the essence with regard to this Agreement.**

17. **Interpretation.** This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina. Any exhibits or attachments referred to herein shall

be incorporated by reference. Captions herein are for convenience of reference only and in no way define, limit, or expand the scope or intent of this Agreement. Whenever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female, and vice versa. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties and their respective successors and assigns, any rights, interests, or remedies. This Agreement may be executed in two (2) or more counterparts, all of which together shall constitute but one and the same Agreement. Facsimile or electronic mail signatures shall have the same effect as original signatures. In the event that one or more of the provisions hereof shall be held to be illegal, invalid, or unenforceable, such provisions shall be deemed severable and the remaining provisions hereof shall continue in full force and effect. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that the Agreement may have been prepared primarily by counsel for one of the parties.

18. **Expiration of Offer.** Execution of this Agreement by one party shall constitute an offer to purchase or sell the Property, as applicable, on the terms and conditions set forth herein. In the event this Agreement shall not have been fully executed by both parties and a counterpart thereof delivered to each party on or before the date that is five (5) business days after the date the first party signs, such offer shall expire and be of no further force or effect.

19. **Effective Date.** The Effective Date of this Agreement shall be the later of the date this Agreement is executed by the last party to this Agreement or the date that the last deed for the Real Property into the Seller is filed with the Horry County Register of Deeds,

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed as of the Effective Date.

:: Please Note Attached Addendum I ::

PURCHASER:

**Robert Lukey**

DocuSigned by:

*Robert Lukey*

4BC9E64DEC074E7...

Date: 11/3/2021

SELLER:

**CITY OF MYRTLE BEACH**

By: \_\_\_\_\_  
**Authorized Agent of the Purchaser**

Date: \_\_\_\_\_

**Addendum I**

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**2021-XX (1<sup>ST</sup> READING): AUTHORIZING THE SALE OF SURPLUS CITY PROPERTY ON OLD BRIDGE ROAD TO ROBERT LUKEY.**

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**Applicant/Purpose:** Staff / to sell surplus property for \$180,000.00.

i. Brief:

- The City owns surplus property located at 855 Old Bridge Road.

**Issues:**

- The sale is subject to the following terms and conditions:
  - The property is sold "AS IS WHERE-IS" condition.
  - Buyer shall be responsible for all taxes that may accrue as a result of the transfer.
  - Buyer shall pay all costs and fees associated with the sale and closing including but not limited to preparation of the deed and other documents associated with the transfer, attorney's fees, closing costs, and filing and recording fees to include deed stamps.
  - Buyer shall not build any structure or make any improvement that interferes with the ability of the City of Myrtle Beach to access underground lines and valves unless written permission is granted by the City - within 20 feet of the property from the roadway
  - Buyer recognizes the intent of the City of Myrtle Beach to reserve to itself a utility easement over, under and across the property for all water and sewer utilities and that the sale is subject to those easements - within 20 feet of the property from the roadway
  - City reserves the right to access the property for installation, operation, maintenance, inspection and/or repair of all water and/or sewer utilities. If the property is disturbed or damaged in connection with the installation, operation, maintenance, inspection and/or repair of utilities, the City has no liability or responsibility to repair the property or return the property to its condition prior to the damage or disturbance - within 20 feet of the property from the roadway

ii. Public Notification: Normal meeting notification.

iii.

iv. Alternatives:

- Modify the proposed ordinance.
- Deny the proposed ordinance.

**Financial Impact:**

- This property is not in the City limits. Impact is limited to the proceeds of the sale.

v. Manager's Recommendation:

- I recommend 1<sup>st</sup> reading (10.26.2021).

**Attachment(s):** Ordinance