

CLAY COUNTY AGREEMENT/CONTRACT NO. \_\_\_\_\_

**PURCHASE AND SALE AGREEMENT**

**THIS PURCHASE AND SALE AGREEMENT** (this "Agreement") is made by and between **1621 Venture II, LLC**, a Florida limited liability company ("Seller"), and **Clay County**, a political subdivision of the State of Florida ("Purchaser"), and shall be effective on the last date of execution by the parties hereof ("Effective Date").

**RECITALS:**

**WHEREAS**, Seller submitted an unsolicited proposal to collaborate with Purchaser to develop and construct a multi-purpose youth sports complex ("Sports Complex"); and,

**WHEREAS**, on July 27, 2021, the Clay County Board of County Commissioners deemed Seller's proposal a qualifying project under Section 255.065, Florida Statutes, deserving of further consideration as a public-private partnership; and

**WHEREAS**, Purchaser intends the Sports Complex to enhance opportunities to host sporting activities for the purpose of promoting and increasing tourism within the meaning of Section 125.0104, Florida Statutes, throughout Clay County, as well as creating the ancillary benefit of providing additional recreational resources for Clay County residents; and

**WHEREAS**, Seller is the owner of a parcel of real property located in Clay County, Florida, a portion of which the Seller is willing to sell to Purchaser for the development and use as a Sports Complex; and

**WHEREAS**, an affiliate of Seller is willing to enter into a development agreement with Purchaser to design, construct and equip the Sports Complex on the Property.

**WITNESSETH:**

In consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, with each party accordingly waiving any challenge to the sufficiency of such consideration, the Purchaser and Seller agree as follows:

**ARTICLE 1  
PURCHASE AND SALE**

1.1 **Agreement of Purchase and Sale.** Subject to the terms and conditions hereinafter set forth, Seller agrees to sell and convey to Purchaser and Purchaser agrees to purchase that certain tract or parcel of land situated in Clay County, Florida, being approximately 250 acres in size and being a portion of parcel numbers **10-06-24-006820-000-00, 10-06-24-006821-000-00 and 03-06-24-006810-000-00**, particularly described in **Exhibit A** hereto and made a part hereof (the "Property").

**ARTICLE 2  
PURCHASE PRICE**

2.1 **Purchase Price.** The purchase price for the property is the sum of **Three Million and No/100 Dollars (\$3,000,000.00)** (the "Purchase Price").

2.2 **Payment of Purchase Price.** The Purchase Price is payable in full at Closing, without reduction, adjustment or setoff (other than as expressly authorized with respect to the closing adjustments and pro-rations set forth in Article 8), in cash by federal wire transfer of immediately available funds to a bank account designated by a title insurance company selected by Seller (the "Title Insurer") in writing to Purchaser at or prior to Closing.

2.3 **Deposit.** Within 10 days of the Effective Date, Purchaser shall deposit with Seller the sum of Fifty Thousand and No/100 Dollars (\$50,000.00). Such deposit shall be applied to the Purchase Price unless this Agreement is terminated. If this Agreement is terminated for any reason, the deposit shall be refunded to Purchaser less costs incurred by Seller up to the date of termination that are related to preparation for Closing including the Title Commitment and Survey.

### ARTICLE 3 TITLE AND SURVEY

#### 3.1 *Seller's Title and Survey Deliveries.*

(a) No later than 5 days prior to Closing, Seller will deliver to Purchaser a boundary survey of the Property (the "Survey") and

(b) Within 15 days of the Effective Date, Seller will deliver to Purchaser a commitment for title insurance (the "Title Commitment") issued by the Title Insurer, along with legible copies of all documents of record referred to therein, which shall commit to issue to Purchaser, upon recording of the "Deed" (as defined below), an owner's policy of title insurance in the amount of the Purchase Price subject only to the Permitted Exceptions (as defined below).

3.2 **Title Examination and Survey.** Purchaser shall notify Seller, in writing, of any and all objections to the Title Commitment within five (5) business days of receipt of the Title Commitment and Survey (the "Notice of Title Defect"). Any exception to title which is not timely identified shall be deemed accepted and approved by Purchaser. In the event that Purchaser gives Seller a timely Notice of Title Defect, Seller shall have the right, but not the obligation, to attempt to remove or otherwise cure the matters objected to in the Notice of Title Defect. Within five (5) business days after receipt of a timely Notice of Title Defect, Seller shall give written notice to Purchaser, informing Purchaser of Seller's election with respect to such exceptions ("Seller's Cure Notice"). If Seller elects to attempt to remove or otherwise cure any matter objected to in the Notice of Title Defect, Seller shall have fifteen (15) days to attempt to remove or otherwise cure the matters objected to by Purchaser (or agree to cure such matters at Closing). If Seller fails to give Purchaser a Seller's Cure Notice, Seller shall be deemed to have elected not to attempt to cure the title matters objected to by Purchaser. If Seller is unable or unwilling to remove or cure all of the matters identified in the Notice of Title Defects, or to make arrangements satisfactory to Purchaser, in its reasonable discretion, to have all such matters removed or cured within the fifteen (15) day time period provided immediately above (or to agree to cure such matters at Closing), and provided that Purchaser shall not thereafter waive such disapproved matter(s) in writing prior to expiration of the Title Objection Period (in which case such matter(s) shall be deemed accepted and approved by Purchaser), this Agreement shall be deemed terminated as of the Title Objection Period, and neither Seller nor Purchaser shall have any further right, obligation or liability under this Agreement, except for rights, obligations or liabilities that expressly survive termination of this Agreement. In addition, if Seller agrees to cure a Title Defect at Closing and fails to do so, then Purchaser shall have the right to terminate this Agreement on the Closing Date, and neither Seller nor Purchaser shall have any further right, obligation or liability under this Agreement, except for rights, obligations or liabilities that expressly survive termination of this Agreement. Any matters of title or survey approved or waived by Purchaser shall be deemed "Permitted Exceptions."

Notwithstanding the foregoing to the contrary, Seller agrees to remove all of the following from title prior to or simultaneous with the Closing: any financial liens, security interests, mortgages, deeds of trust, and other monetary encumbrances, any judgment liens, any accrued and unpaid taxes and assessments constituting a lien (or which may lead to the imposition of a lien) which are due and payable as of the Closing in connection with the Property, and any mechanics' or materialmen's liens.

#### **ARTICLE 4 INSPECTION**

4.1 Purchaser may inspect the Property and otherwise use due diligence to determine the suitability of the Property to be developed as a future Sports Complex, at its sole cost and expense. At any time prior to Closing, Purchaser has the right to elect to terminate this Agreement if Purchaser determines that the Property is not suitable to Purchaser for any reason. Any such election must be in writing, and upon timely receipt thereof by Seller, this Agreement will be terminated and of no further force and effect whatsoever, except for the terms of this Agreement which expressly survive termination by Purchaser. Without waiving and subject to and within the limitations set forth in Section 768.28, Florida Statutes, Purchaser hereby agrees to indemnify and hold Seller harmless from any loss or liability incurred by Seller as a result of Purchaser's inspection of the Property, except for the discovery of conditions not created by Purchaser or its agents. This indemnity shall survive the Closing or any earlier termination of this Agreement.

#### **ARTICLE 5 SELLER'S WARRANTIES & REPRESENTATIONS**

5.1 ***Seller's Authority, Etc.*** Seller has been duly organized and is validly existing under the laws of the State of Florida. Seller is duly qualified to do business and is in good standing in the State of Florida where the Property is located. Seller has the full right and authority to enter into this Agreement and to transfer all of the Property to be conveyed by Seller and to consummate or cause to be consummated the transactions contemplated herein in accordance with the terms hereof. The person signing this Agreement on behalf of Seller is authorized to do so and may bind the Seller without the joinder or cosignature of any other person.

5.2 ***No Litigation.*** To Seller's actual knowledge, there is no action, suit, arbitration, unsatisfied order or judgment, governmental investigation or proceeding pending against the Property or the transaction contemplated by this Agreement, which, if adversely determined, could individually or in the aggregate have a material adverse effect on title to the Property or any portion thereof or which could in any material way interfere with the consummation by Seller of the transaction contemplated by this Agreement.

5.3 ***Notices of Violations or Actions.*** Seller has not received any written notification from any governmental or public authority (a) that the Property is in violation of any applicable fire, health, building, use, occupancy or zoning laws where such violation remains outstanding or (b) that any work is required to be done upon or in connection with the Property, where such work remains outstanding. Seller has not received prior to the Effective Date any written notification from any governmental or public authority that the Property is the subject of any pending or threatened condemnation proceedings.

5.4 ***Hazardous Substances.*** To Seller's knowledge, no Hazardous Substances have been released, stored, disposed of or discharged upon the Property or upon any immediately adjacent property owned at any time by the Seller. For purposes hereof, "Hazardous Substances" includes any and all materials or substances which are regulated by, or the presence of which could give rise to liability for an owner of property for removal or cleanup, under any federal, state, or local law, statute, rule, regulation or ordinance. Except as otherwise set forth herein, to the best of Seller's knowledge, there previously have

been and presently are no above-ground or underground tanks or lines for the storage or transmission of toxic or hazardous wastes, materials or substances, or petroleum products or waste oils upon the Property or upon any immediately adjacent property owned at any time by the Seller. The Seller has neither used nor permitted the use of the Property for any such purposes.

5.5 **Hazardous Materials.** Seller expressly represents and warrants: (a) compliance with "Environmental Laws" as that term is hereinafter defined, and (b) the absence of any materials, waste, contaminates, pollutants, mold, fungus, bacteria or other substances or conditions which are toxic, dangerous, radioactive, disease causing, carcinogenic, infectious, caustic, or contain petroleum products or by-products, asbestos, heavy metals, or are defined as toxic, dangerous to health or otherwise hazardous by reference to any Environmental Laws. As used in this Agreement, "Environmental Laws" means collectively Comprehensive Environmental Response, Compensation and Liability Act of 1980 (commonly known as "CERCLA"), as amended, the Superfund Amendments and Reauthorization Act (commonly known as "SARA"), the Resource Conservation and Recovery Act (commonly known as "RCRA"), and any other federal, state or local environmental legislation or ordinances applicable to the Property. In the event Hazardous Materials are discovered or other conditions which would impair the ability of the Purchaser to use the Property for a Sports Complex and other purposes, Seller shall remain obligated hereunder, with such obligation to survive the Closing and delivery and recording of the warranty deed, to diligently pursue and accomplish the clean-up of Hazardous Materials in a manner consistent with all applicable Environmental Laws and at Seller's sole cost and expense. Further, Seller shall indemnify and save harmless and defend Purchaser, its officers, servants, agents and employees from and against any and all claims, suits, actions, damages, liabilities, expenditures or causes of action of whatsoever kind arising from Hazardous Materials placed on the Property prior to Closing whether the Hazardous Materials are discovered prior to or after Closing. Seller shall defend, at its sole cost and expense, any legal action, claim or proceeding instituted by any person against Purchaser as a result of any claim, suit, or cause of action for injuries to body, life, limb or property for which Hazardous Materials placed on the Property prior to Closing are alleged to be a contributing legal cause. Seller shall save Purchaser harmless from and against all judgments, orders, decrees, attorney's fees, costs, expenses and liabilities in and about any such claim, suit, investigation or defense thereof, which may be entered, incurred or assessed as a result of the foregoing.

5.6 **Fit for Particular Purpose.** Seller expressly represents and warrants that the Property is fit to be developed, constructed and utilized as a Sports Complex and that the Property has no faults, defects, claims, liens, or other conditions, including no physical or environmental conditions, including defects seen and unseen and conditions natural and artificial, that would preclude the use of the Property as intended by Purchaser. Seller further represents and warrants compliance with all laws, ordinances, rules and regulations to which the Property is subject. In the event any of the Property being purchased is determined after closing to be unfit for the development of a Sports Complex, Seller agrees to provide additional acreage or equivalent acreage that is adjacent to the Property and fit to be developed, constructed and utilized as a Sports Complex as represented and warranted above.

5.7 **Endangered Species.** To Seller's knowledge, Seller is not aware that there are any endangered species, as defined by state or federal law, on the Property.

5.8 **Survival of Seller's Representations and Warranties.** The representations and warranties of Seller set forth in this Article 5 will survive Closing and will continue until all phases of the Sports Complex have been developed and constructed or for ten (10) years, whichever occurs earlier.

**ARTICLE 6**  
**PURCHASER'S WARRANTIES & REPRESENTATIONS**

6.1 **Purchaser's Authority, Etc.** Purchaser has the full right, power and authority to purchase the Property as provided in this Agreement and to carry out Purchaser's obligations hereunder, and all requisite action necessary to authorize Purchaser to enter into this Agreement and to carry out its obligations hereunder have been, or by the Closing will have been, taken. The person signing this Agreement on behalf of Purchaser is authorized to do so and may bind the Purchaser without the joinder or cosignature of any other person.

6.2 **No Litigation.** To Purchaser's knowledge, there is no action, suit, arbitration, unsatisfied order or judgment, government investigation or proceeding pending against Purchaser which, if adversely determined, could individually or in the aggregate interfere with the consummation of the transaction contemplated by this Agreement.

6.3 **Survival of Purchaser's Representations and Warranties.** The representations and warranties of Purchaser set forth in this Article 6 will survive Closing and will be a continuing representation and warranty without limitation.

**ARTICLE 7**  
**CONDITIONS TO CLOSING**

7.1 **Conditions to Purchaser's Obligations.** Purchaser's obligation to close the purchase and sale of the Property is conditioned upon each and every one of the foregoing conditions precedent:

(a) Seller has performed and observed in all material respects all covenants and agreements to be performed by Seller;

(b) All express conditions in this Agreement to Purchaser's performance have been satisfied;

(c) All of the representations and warranties of Seller contained in this Agreement are true and correct in all material respects as of the date of Closing; and

(d) H. Smith, Inc., a Florida Corporation, or its assigns and Purchaser enter into, fully execute and deliver a Development Agreement on or before the Closing Date.

7.2 **Conditions to Seller's Obligations.** Seller's obligation to close the purchase and sale of the Property is conditioned upon each and every one of the foregoing conditions precedent:

(a) Purchaser has performed and observed in all material respects all covenants and agreements to be performed by Purchaser under this Agreement; and

(b) All of the representations and warranties of Purchaser contained in this Agreement are true and correct in all material respects as of the date of Closing.

**ARTICLE 8**  
**CLOSING**

8.1 **Time and Place.** The consummation of the transaction contemplated hereby ("Closing") will be held at the offices of the Title Insurer or by mail away on the date mutually agreed to by Purchaser

and Seller on or before October 30, 2021 (the "Closing Date"). At Closing, Seller and Purchaser must perform their respective obligations set forth in this Article 8 and elsewhere in this Agreement (to the extent not previously performed). The Purchaser's County Manager is authorized to execute an amendment to this Agreement to extend the Closing for a period not to exceed 60 days past the original closing date, and in no event to exceed the Outside Closing Date (as defined below). Should Closing fail to occur on or before the Outside Closing Date, Seller may terminate this Agreement, upon which neither Seller nor Purchaser shall have any further right, obligation or liability under this Agreement, except for rights, obligations or liabilities that expressly survive termination of this Agreement.

8.2 ***Seller's Obligations at Closing.*** At Closing, Seller will:

(a) convey to Purchaser a good, marketable and insurable title in fee simple to the Property free and clear of all encumbrances, except for any Permitted Exceptions;

(b) execute and deliver to Purchaser, in recordable form, a Special Warranty Deed similar to the form of ***Exhibit B*** (the "Deed"), conveying the Property;

(c) deliver to the Title Insurer such evidence as the Title Insurer may reasonably require as to Seller's authority to sell the Property and the authority of the person or persons executing documents on behalf of Seller;

(d) deliver to Purchaser a Certificate of Non-Foreign Status in the form of ***Exhibit C***, duly executed by Seller stating that Seller is not a "foreign person" as defined in the Federal Foreign Investment in Real Property Tax Act of 1980 and the 1984 Tax Reform Act;

(e) deliver to Purchaser possession of the Property, subject to any Permitted Exceptions;

(f) execute and deliver a closing statement (the "Closing Statement") for the purchase and sale of the Property, in form and substance reasonably acceptable to Purchaser and Seller;

(g) deliver to the Title Insurer any customary affidavit (in a form acceptable to Seller and the Title Insurer) required by the Title Insurer to issue to the Purchaser an Owner Policy of Title Insurance; and

(h) deliver such additional documents as are reasonably required to consummate the transaction contemplated by this Agreement, provided such additional documents do not impose upon Seller any additional obligations or expenses not otherwise provided for hereunder.

8.3 ***Purchaser's Obligations at Closing.*** At Closing, Purchaser will:

(a) pay to Seller the full amount of the Purchase Price in the manner and subject to the adjustments and credits described in Article 2 and Section 8.4;

(b) deliver to Seller such evidence as Seller and/or the Title Insurer may reasonably require as to the authority of the person or persons executing documents on behalf of Purchaser;

(c) execute and deliver a Closing Statement for the purchase and sale of the Property, in form and substance reasonably acceptable to Purchaser and Seller; and

(d) deliver such additional documents as are reasonably required to consummate the transaction contemplated by this Agreement.

8.4 **Credits and Prorations.** For the year of Closing, Seller shall be responsible for prorated taxes through the date of the Closing on the Property. If taxes for the year of Closing are not known or cannot be reasonably estimated, taxes will be prorated as of Closing based on taxes for the year prior to Closing, using the maximum discount allowed by law. Any additional taxes relating to the year of Closing will likewise be prorated and payment thereof will be made between the parties. The provisions of this Section 8.4 will survive the Closing.

8.5 **Closing Costs.**

- (a) Seller will be solely responsible for
  - (i) the costs to cure, including recording fees and documentary stamps associated with such, any title matters in accordance with Section 3.2 including the cost to obtain and prepare any satisfaction of mortgage and recording fees, if applicable;
  - (ii) the cost of the survey;
  - (iii) recording costs of the Deed;
  - (iv) the cost of an appraisal (if any);
  - (v) all title search and insurance fees and premiums associated with the Owner's Policy of Title Insurance and issuance in the amount of the purchase price;
  - (vi) the transfer tax and/or the documentary stamp tax on the Deed;
  - (vii) taxes for 2021 prorated to Closing;
  - (viii) its attorney's fees; and
  - (ix) all other costs required to close the transaction.
- (b) Purchaser will be solely responsible for:
  - (i) its attorney fees.

**ARTICLE 9**  
**DEFAULT**

9.1 **Default by Purchaser.** If Purchaser fails to purchase the Property at Closing as required herein for any reason other than Seller's default or the permitted termination of this Agreement by either Seller or Purchaser as herein expressly provided, Seller will be entitled, as its sole remedy, to retain the Property as liquidated and agreed upon damages, and all Parties shall be relieved from any further obligations under this Agreement. It is agreed by the Parties that such remedy is a fair and reasonable measure of the damages to be suffered by Seller in the event of such default and that the exact amount thereof is incapable of ascertainment.

9.2 **Default by Seller.** In the event Seller fails to consummate this Agreement or perform any other covenant in this Agreement for any reason other than Purchaser's default or the permitted termination of this Agreement by Seller or Purchaser as herein expressly provided, Purchaser's sole and exclusive remedy will be to either (i) seek specific performance of Seller's obligation to deliver the documents to consummate the Closing, or (ii) terminate this Agreement.

The provisions of Article 9 shall survive the Closing or any termination of this Agreement.

**ARTICLE 10  
RISK OF LOSS**

10.1 Seller assumes all risk of loss or damage to the Property prior to the date of Closing and warrants that the Property shall be transferred and conveyed to Purchaser in the same or essentially the same condition as of the date of Seller's execution of the Agreement, ordinary wear and tear excepted. Seller represents and warrants that there are no parties other than Seller in occupancy or possession of any part of the Property. Seller warrants that there are no facts known to Seller materially affecting the value of the Property that have not been disclosed to Purchaser.

**ARTICLE 11  
BROKER**

11.1 The Seller and the Purchaser both represent that neither of them has retained a real estate broker to assist it with the sale or purchase of the Property. Each party agrees that should any claim be made for brokerage commissions or finder's fees by any broker or finder by, through or on account of any acts of said party or its representatives, said party will be responsible for and reimburse the other party for any and all loss, liability, cost, damage and expense in connection therewith. The provisions of this Article 11 will survive Closing.

**ARTICLE 12  
ZONING**

12.1 The Closing shall be contingent upon any change in the land use classification and zoning classification of the Property for uses consistent with government services, specifically a Sports Complex and including but not limited to parks, athletic fields and courts, playgrounds, amphitheaters and accessory uses related to such services. Promptly upon the execution hereof by both parties, the Purchaser agrees to diligently pursue and prosecute any such needed land use amendment and rezoning, using all reasonable best efforts to cause such land use designation amendment and rezoning, all at the Purchaser's sole expense. The Seller hereby authorizes the Purchaser to file for and pursue the land use amendment and rezoning as the Seller's agent. So long as the land use amendment and rezoning of the Property is being pursued and prosecuted in good faith, and has a reasonable possibility of being approved, the period of time provided in this Agreement for the occurrence of the Closing shall be extended for the minimum period of time necessary to give effect to this paragraph; provided, however, in no event shall the Closing occur later than December 31, 2021 (the "Outside Closing Date"). If either the land use designation amendment or the rezoning of the Property is ultimately denied, or not obtained by the Outside Closing Date, the Purchaser or Seller, at their sole discretion may declare this Agreement terminated and the parties shall go hence without day.



**ARTICLE 13**  
**MISCELLANEOUS**

13.1 **Notices.** Any notice or other communication required or permitted to be given to a party under this Agreement shall be in writing, unless otherwise specified in this Agreement, and shall be given by one of the following methods to such party at the address set forth at the end of this provision. The notice may be sent, and is deemed received as follows: (i) by registered or certified United States mail, and deemed received as of the second business day after it was mailed, (ii) by hand, and deemed received when delivered at the address, whether or not the specific person to whose attention it is directed is in at the time, (iii) by reputable overnight delivery service, and deemed received when delivered to the address whether or not the specific person to whose attention it is directed is in at the time, or (iv) when sent or delivered by e-mail, and deemed received upon receipt so long as the same is sent on the same day by a reputable overnight delivery service. Either party may change its address for notice by giving written notice thereof to the other party. The address of each party for notice is as follows:

Seller:	<b>1621 VENTURE II, LLC</b> Attention: John N Day 3741 San Jose Place, Suite 7 Jacksonville, FL 32257 Telephone: 904-268-9990 Email: nday@hsmith-inc.com
Seller Copy to:	V. Hawley Smith, Jr. 3741 San Jose Place, Suite 7 Jacksonville, FL 32257 Telephone: 904-268-9990 Email: vhsjr@hsmith-inc.com
Seller Copy to:	E. Chester Stokes 25655 Marsh Landing Parkway Ponte Vedra Beach, FL 32082 Telephone: 904-813-4005 Email: chesterstokes@bellsouth.net
Purchaser:	<b>CLAY COUNTY</b> Attention: County Manager P.O. Box 1366 Green Cove Springs, Florida 32043 Telephone: 904-269-6313 Email: howard.wanamaker@claycountygov.com
Purchaser Copy to:	County Attorney P.O. Box 1366 Green Cove Springs, Florida 32043 Telephone: 904-269-6303 Email: courtney.grimm@claycountygov.com

13.2 **Modifications.** This Agreement cannot be changed orally, and no executory agreement will be effective to waive, change, modify or discharge it in whole or in part unless such executory agreement is in writing and is signed by the parties against whom enforcement of any waiver, change, modification or discharge is sought.

13.3 **Calculation of Time Periods.** Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday under the laws of the State in which the Property is located, in which event the period will run until the end of the next day which is neither a Saturday, Sunday or legal holiday. **The final day of any such period will be deemed to end at 5 p.m., Eastern Time.**

13.4 **Successors and Assigns.** The terms and provisions of this Agreement are to apply to and bind the permitted successors and assigns of the parties hereto. Purchaser may not assign this Agreement without Seller's consent, such consent in Seller's sole discretion.

13.5 **Entire Agreement.** This Agreement, including the Exhibits, contain the entire agreement between the parties pertaining to the subject matter hereof and fully supersede all prior written or oral agreements and understandings between the parties pertaining to such subject matter.

13.6 **Further Assurances.** Each party agrees that it will without further consideration execute and deliver such other documents and take such other action, whether prior or subsequent to Closing, as may be reasonably requested by the other party to consummate more effectively the purposes or subject matter of this Agreement. The provisions of this Section 13.6 will survive Closing for a period of one (1) year.

13.7 **Counterparts; Facsimile Signatures.** This Agreement may be executed in identical counterparts, and all such executed counterparts will constitute the same agreement. It will be necessary to account for only one such counterpart in proving this Agreement. Signatures to this Agreement transmitted by telecopy, facsimile or electronic mail will be valid and effective to bind the party so signing. Each party agrees to promptly deliver any execution original to this Agreement with its actual signature to the other party, but a failure to do so will not affect the enforceability of this Agreement, it being expressly agreed that each party to this Agreement will be bound by its own signature sent by telecopy, facsimile or electronic mail and will accept the signature of the other party so transmitted.

13.8 **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement will nonetheless remain in full force and effect.

13.9 **Applicable Law.** Seller and Purchaser hereby irrevocably (i) agree that any suit under this Agreement will in all respects be governed by and construed in accordance with the laws of the State of Florida and, as applicable, the substantive federal laws of the United States and (ii) submit to the jurisdiction of any state court sitting in Clay County, Florida in any action or proceeding arising out of or relating to this Agreement and hereby irrevocably agree that all claims in respect of such action or proceeding will be heard and determined in a state court sitting in Clay County, Florida. Purchaser and Seller agree that the provisions of this Section 13.9 will survive the Closing.

13.10 **No Third-Party Beneficiary.** The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Seller and Purchaser only and are not for the benefit of any third-party, and accordingly, no third-party will have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing. The foregoing shall not limit any release or exculpation of Seller's or Purchaser's representatives or any party as provided in Section 13.14 below.

13.11 **Captions.** The section headings appearing in this Agreement are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.

13.12 **Construction.** The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

13.13 **Termination of Agreement.** It is understood and agreed that if either Purchaser or Seller terminates this Agreement pursuant to a right of termination granted hereunder, such termination will operate to relieve Seller and Purchaser from all obligations under this Agreement, except for such obligations as are specifically stated herein to survive the termination of this Agreement.

13.14 **Exculpation of Seller and Purchaser and Related Parties.** Notwithstanding anything to the contrary contained in this Agreement or in any exhibits attached hereto or in any documents executed in connection herewith, it is expressly understood and agreed by and between the parties hereto that no personal liability or personal responsibility of any sort with respect to any of Seller's or Purchaser's obligations or warranties hereunder or any alleged breach thereof is assumed by, or will at any time be asserted or enforceable against, Seller, Purchaser or their affiliates, or against any of their respective shareholders, directors, officers, employees, agents, advisors, constituent partners, members, beneficiaries, trustees or representatives.

13.15 **Time of the Essence.** Time is of the essence in this Agreement.

13.16 **Attorneys' Fees.** In the event either party files a lawsuit in connection with this Agreement or any provisions contained herein, then the party that prevails in such action shall be entitled to recover from the non-prevailing party, in addition to all other remedies or damages, as limited herein, reasonable attorneys' fees and costs of court incurred in such lawsuit. Nothing contained herein is intended to serve as a waiver of sovereign immunity and extend the Purchaser's liability beyond the limits established in Section 768.28, Florida Statutes. This covenant shall survive the Closing or termination of this Agreement.

13.17 **Non-Waiver of Sovereign Immunity.** Nothing contained in this Agreement or in any instruments executed pursuant to the terms of this Agreement shall be construed as a waiver or attempted waiver by Purchaser of its sovereign immunity under the constitution and laws of the State of Florida; provided, however, that this Section shall not be construed as an attempt by the Purchaser to negate any partial waiver of sovereign immunity made by the Florida Legislature under the provisions of The Tort Claims Act, Section 768.28, Florida Statutes or any future statute or Act adopted by the Florida Legislature.

13.18 **Radon Gas.** Pursuant to the provisions of Section 404.056(8), Florida Statutes, Seller hereby notifies Purchaser as follows with respect to the Land: "Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit."

[SIGNATURE PAGE FOLLOWS]

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

**SELLER:**

**1621 Venture II, LLC**  
a Florida limited liability company

By: \_\_\_\_\_  
V. Hawley Smith, Jr., Manager

By: \_\_\_\_\_  
E. Chester Stokes, Jr., Manager

**ATTEST:**

\_\_\_\_\_  
Tara S. Green  
Clay County Clerk of Court and Comptroller  
Ex Officio Clerk to the Board

**PURCHASER:**

**CLAY COUNTY**, a political subdivision of the  
State of Florida

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**SCHEDULE OF EXHIBITS:**

<i>EXHIBIT A</i>	<i>LEGAL DESCRIPTION</i>
<i>EXHIBIT B</i>	<i>FORM OF DEED</i>
<i>EXHIBIT C</i>	<i>FORM OF CERTIFICATE OF NON-FOREIGN STATUS</i>

*EXHIBIT A*

*LEGAL DESCRIPTION*

A PORTION OF SECTION 3, TOWNSHIP 6 SOUTH, RANGE 24 EAST & A PORTION OF SECTION 10, TOWNSHIP 6 SOUTH, RANGE 24 EAST, ALL LYING EAST OF STATE ROAD No. 21 CLAY COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A **POINT OF REFERENCE**, COMMENCE AT THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF STATE ROAD No. 21 (A 100 FOOT RIGHT OF WAY AS NOW ESTABLISHED) WITH THE NORTH RIGHT OF WAY LINE OF STATE ROAD No. 16 (A 120 FOOT RIGHT OF WAY AS NOW ESTABLISHED); THENCE NORTH 00°38'52" EAST ALONG SAID EAST RIGHT OF WAY LINE OF STATE ROAD No. 21, A DISTANCE OF 1320.00 FEET TO THE NORTH LINE OF SECTION 15, TOWNSHIP 6 SOUTH, RANGE 24 EAST; THENCE CONTINUE ALONG SAID EAST RIGHT OF WAY LINE, NORTH 00°38'52" EAST, A DISTANCE OF 1260.00 FEET TO THE SOUTH LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1859, PAGE 1204 OF SAID COUNTY; THENCE CONTINUE ALONG SAID EAST RIGHT OF WAY LINE NORTH 00°38'52" EAST, A DISTANCE OF 2020.00 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE ALONG SAID EAST RIGHT OF WAY LINE, NORTH 00°38'52" EAST, A DISTANCE OF 3520.00 FEET; THENCE DEPARTING SAID EAST RIGHT OF WAY LINE, NORTH 82°00'00" EAST, A DISTANCE OF 2480.00 FEET; THENCE SOUTH 47°00'00" EAST, A DISTANCE OF 487.75 FEET; THENCE SOUTH 14°38'16" WEST, A DISTANCE OF 1246.13 FEET; THENCE SOUTH 40°57'37" EAST, A DISTANCE OF 1723.43 FEET; THENCE SOUTH 01°34'05" WEST, A DISTANCE OF 398.67 FEET; THENCE SOUTH 73°58'05" WEST, A DISTANCE OF 3048.28 FEET; THENCE NORTH 73°29'55" WEST, A DISTANCE OF 757.82 FEET TO THE SAID EAST RIGHT OF WAY LINE OF STATE ROAD No. 21 AND THE **POINT OF BEGINNING**.

CONTAINING: 10,895,000 SQUARE FEET / 250.11 ACRES MORE OR LESS

**EXHIBIT B**

**FORM OF DEED**

**SPECIAL WARRANTY DEED**

THE STATE OF FLORIDA    §  
  §  
COUNTY OF CLAY         §

**THAT** \_\_\_\_\_, a \_\_\_\_\_ (“Grantor”), whose address is \_\_\_\_\_, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) cash in hand paid by \_\_\_\_\_, a \_\_\_\_\_ (“Grantee”), whose address is \_\_\_\_\_, Attn: \_\_\_\_\_, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Grantor, does GRANT, BARGAIN, SELL, and CONVEY unto Grantee, that certain tract of real property situated in Clay County, Florida, and described in Exhibit “A” attached hereto and made a part hereof for all purposes, together with all and singular the rights, privileges, hereditaments, and appurtenances pertaining to such real property (the “Property”).

This conveyance is being made by Grantor and accepted by Grantee subject to all encumbrances, restrictions, covenants, easements, rights-of-way, reservations or ordinances in full force and effect, affecting the Property and properly filed of record in Clay County, Florida.

**TO HAVE AND TO HOLD** the Property in fee simple, together with, all and singular, the rights and appurtenances thereto in anywise belonging, to Grantee and Grantee’s successors and assigns forever; and except for those matters set forth on Exhibit “B” attached hereto and made a part hereof for all purposes, Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons claiming by, through, or under Grantor, but against none other.

[SIGNATURE PAGE FOLLOWS]





**Exhibit C**

**FORM OF CERTIFICATE OF NON-FOREIGN STATUS**

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by \_\_\_\_\_, a \_\_\_\_\_ ("Seller"), the undersigned hereby certifies the following on behalf of the Seller:

1. Seller is not a foreign corporation (as this term is defined in the Internal Revenue Code and Income Tax Regulations);
2. Seller is not a disregarded entity as defined in §1.1445-2(b)(2)(iii);
2. Seller's U.S. employer identification number is \_\_\_\_\_; and
3. Seller's address is \_\_\_\_\_.

Seller understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury the undersigned declares that it has examined this certification and to the best of its knowledge and believe it is true, correct and complete, and it further declares that it has authority to sign this document on behalf of Seller.

Dated: \_\_\_\_\_, 20\_\_

**Seller:**

\_\_\_\_\_  
a \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_