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**AGREEMENT TO PURCHASE AND SELL**  
(Florida Property)

THIS AGREEMENT is made and entered into by and between WHITNEY NATIONAL BANK (hereinafter referred to as "Seller") and MARTIN BARKLEY or their successors and assigns as approved by Seller (hereinafter referred to as "Purchaser"), and is effective on the date that the last of the parties hereto have executed this Agreement (hereinafter the Effective Date).

WITNESSETH

**1. CONVEYANCE.**

(a) In consideration of the mutual obligations undertaken herein, Seller does hereby agree to sell and Purchaser does hereby agree to buy, subject to the terms and conditions hereinafter set forth, the property known as 4170 C.R. 16, ST PETE, FL 33709 County, Florida, as shown by the legal description attached hereto, and all improvements thereon (hereinafter referred to as the "Property").

(b) Purchaser agrees to purchase the Property subject to all zoning and land use restrictions, title restrictions, reservations, servitudes, easements, rights-of-ways, all documents of record, and all unrecorded documents and other matters affecting title to the Property.

(c) Seller has not made and shall make no representation or warranty concerning the condition, or the suitability for any purpose, of the Property, or any improvements thereon, and the act of sale shall include the following provisions, together with any other provisions that Seller may require in this regard:

"The Property, including all of the buildings and improvements thereon, is sold by Seller and accepted by Purchaser in its present "AS-IS, WHERE-IS" condition with all faults and without any warranties whatsoever."

"As a material and integral consideration for the execution of this act of sale by Seller, Purchaser waives and releases Seller from any and all claims or causes of action to which Purchaser may have or hereafter may otherwise be entitled, based on vices or defects in the Property herein sold, or any improvements or component parts thereof, whether in the nature of implied warranty of fitness or merchantability, reduction of the purchase price, concealment, or any other theory of law. The Purchaser further assumes the risk of all vices and defects in the Property, and all improvements and component parts thereof, whether those vices or defects are latent or not discoverable upon simple inspection, and including those vices or defects, knowledge of which would deter Purchaser from making this purchase."

"Purchaser further acknowledges that Purchaser (a) had ample opportunity to fully inspect the Property, including, but not limited to the environmental condition of the Property, (b) has inspected the Property to the extent Purchaser deemed necessary, (c) does hereby purchase the Property in its present condition, and (d) does hereby purchase the Property subject to any physical encroachments on the Property and any physical encroachments onto adjacent property by improvements located on the Property."

"Purchaser further waives and releases Seller from and agrees to protect, defend and indemnify Seller from and against any and all claims, demands, causes of action, liens, losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees, court costs, remediation, clean up or other response costs) of any and every kind or character, known or unknown, fixed or contingent, involving or relating to the Property, arising under or in connection with any federal, state or local law, rule, regulation, order, permit, or ordinance pertaining or relating to the environment including, but without limitation, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9607 et seq., as amended by the Superfund Amendment and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (codified as amended in various sections of 42 U.S.C.), the Hazardous Materials Transportation Act, Pub. L. No. 93-633, 88 Stat. 2156 (codified as amended in various sections of 46 U.S.C.); the Clean Water Act, 33 U.S.C. §§ 1251 et seq., the Clean Air Act, 42 U.S.C. §§ 7401 et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq., as they now exist or may subsequently be modified, supplemented or amended."

**2. TIME.** Time being of the essence, the transfer of title of the Property (the "Closing") shall be effected at the office of the attorney or closing agent ("Closing Agent") chosen by Purchaser that is reasonably satisfactory to Seller, at Purchaser's expense, on a date to be agreed in writing by Seller and Purchaser, which date shall be no later than 6/3/11. The sale shall be via a special warranty deed form provided by Seller.

**3. PURCHASE PRICE.** The purchase price shall be 32,000 and 38,000 /100 (\$38,000) Dollars (the "Purchase Price"), which shall be paid to Seller in cash.

**4. DEPOSIT.**

(a) Purchaser, upon acceptance hereof, shall immediately, and not later than forty-eight (48) hours after the Effective Date, deliver to Seller, Seller's agent, or ✓ Closing Agent, the sum of 1,000.00 and 0 /100 (\$1,000.00) Dollars as a deposit. The deposit(s) furnished by Purchaser pursuant to this Agreement shall hereinafter sometimes collectively be referred to as the "Deposit". If

Purchaser terminates this Agreement prior to expiration of the Due Diligence Period (defined *infra*), then the Deposit furnished by Purchaser pursuant to this Paragraph 4(a) hereof shall be returned immediately to Purchaser. If Purchaser does not terminate this Agreement prior to expiration of the Due Diligence Period, then the Deposit shall (subject to the provisions of Paragraph 6(b) and Paragraph 8 hereof) become the property of Seller and non-refundable, but will be credited to the Purchase Price upon closing.

(b) Seller agrees to allow Purchaser access to the Property for all reasonable purposes during reasonable business hours after the Effective Date hereof, provided, however, that Purchaser indemnifies and holds Seller harmless from and against any and all losses or liability as a result of Purchaser, its agents, contractors or employees entering on the Property and further agrees to defend Seller from any claim made as a result thereof.

5. **DUE DILIGENCE.** Purchaser shall have a period of 3 days after the Effective Date of this Agreement to examine title to the Property, inspect the Property, and to check zoning and environmental considerations regarding the Property (the "Due Diligence Period"). At any time during the Due Diligence Period, Purchaser may terminate this Agreement by notifying Seller in writing by mail or facsimile if Purchaser feels for any reason whatsoever that the Property is unmerchantable or is unsatisfactory for the intended purposes of Purchaser. Unless Purchaser notifies Seller in writing prior to the expiration of the Due Diligence Period that Purchaser elects to terminate this Agreement, Purchaser will (subject to the provisions of Paragraph 6(b) hereof) become unconditionally bound to purchase the Property pursuant to the terms set forth in this Agreement. Within ten (10) days of written request of Seller, any and all environmental reports regarding the Property shall be provided to Seller.

6. **FINANCING.** *N/A*

*NB*  
(a) This Agreement is conditioned upon the ability of purchaser to borrow upon the Property as security the minimum sum of \$ \_\_\_\_\_ at a rate of interest not to exceed \_\_\_\_\_ % per annum, interest and principal amortized over a period of not less than \_\_\_\_\_ years in monthly installments or on other terms that may be acceptable to Purchaser. Purchaser agrees to pay origination fee(s) and discount point(s), the sum of which shall not exceed \_\_\_\_\_ % of the total amount borrowed, in connection with said mortgage(s). Should Purchaser be unable to obtain the loan(s) stipulated above on or prior to \_\_\_\_\_ days after the Effective Date of this Agreement, this Agreement shall then be null and void and the parties shall have no further obligation to each other hereunder. Commitment by lender to make loan(s) subject to approval of title shall constitute obtaining of loan(s). Purchaser obligates himself to make good faith application for required loan(s) within 5 working days of the Effective Date of this Agreement. Failure to make application shall not void this Agreement but shall be considered as a breach of this Agreement.

(b) Purchaser shall have a period of \_\_\_\_\_ days after the Effective Date of this Agreement to obtain an appraisal of the Property reflecting a market value of at least \$ \_\_\_\_\_. So long as the appraisal is obtained within the time period designated herein, if the appraisal does not reflect sufficient market value, then the Deposit shall be returned to Purchaser (upon Purchaser's request), and both Seller and Purchaser shall be relieved of all further obligations under this Agreement.

7. **CLOSING.** At Closing the following shall apply:

(a) Taxes for the calendar year in which the sale is completed shall be prorated as of the date of execution of the act of sale. Purchaser shall be obligated for the payment of all taxes due and payable after the Closing. Any rents and income accruing from the Property shall be prorated as of the date of the execution of the act of sale. All of Seller's interest in any security deposits, shall be transferred to Purchaser at the Closing. Purchaser shall assume all liabilities and obligations in connection with any leases affecting the Property, including the return of deposits. Any keys to the Property shall be given to Purchaser at the Closing. Purchaser shall purchase the Property subject to any leases of record or otherwise.

(b) All Closing costs including, without limitation, costs of any certificates, tax researches, survey, title insurance, recordation costs, transaction tax, sales tax, or other registration fees and charges shall be paid by Purchaser, except that Seller will pay for documentary stamp taxes on the deed executed in connection with the sale of the Property.

(c) Seller shall convey title by Special Warranty Deed, subject to the matters listed in Paragraph 1(b) of this Agreement. The act of sale shall contain any provisions that Seller may require in this regard.

(d) Seller shall deliver possession at Closing.

(e) Seller shall apply the Deposit to the Purchase Price.

(f) Purchaser and Seller shall each be responsible for their own attorneys' fees incurred in connection with the Closing.

(g) All aspects of closing, recording, and documentary stamps shall be controlled by the laws of the State of Florida, and Pinellas County.

8. **DEFAULT.** If Seller fails to perform any of Seller's obligations hereunder within the time stipulated herein, Purchaser shall have the right either to demand the return of the Deposit, or alternatively, Purchaser may demand specific performance. If Purchaser fails to perform any of Purchaser's obligations hereunder, within the time stipulated herein, Seller shall have the right to declare the Deposit forfeited, without formality beyond tender of title to Purchaser, or alternatively, Seller may demand specific performance.

9. **ENERGY EFFICIENCY.** Purchaser may, at Purchaser's expense, have the Property's energy efficiency rating determined.

10. **RADON GAS.** 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. Purchaser may, at Purchaser's expense, have an appropriately licensed person test the Property for radon.

11. **PROPERTY TAX DISCLOSURE SUMMARY.** PURCHASER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE PURCHASER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION

12. **COMMISSIONS.** Seller shall pay a real estate broker's commission of \$ Broderick + Assoc to the commission shall be earned and payable only at closing of the sale of the Property and upon receipt by Seller of the sale proceeds. No other parties are entitled to commissions relating to the sale of the Property.

13. **ENTIRE AGREEMENT.** This Agreement sets forth the entire understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior agreements, understanding and negotiations with respect to the subject matter hereof.

14. **ATTORNEYS FEES.** If any party fails to comply with the terms of this Agreement, if accepted, then such defaulting party is obligated to and agrees to pay all reasonable attorneys' fees and costs incurred by the non-defaulting party in enforcing its respective rights.

15. **COUNTERPART.** This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement.

16. **NOTICES.** All notices or communications required or permitted hereunder shall be in writing and shall be deemed to have been given when delivered in person or when received by the party being notified by notice deposited in the United States mail, postage prepaid, certified mail, overnight courier, return receipt requested, addressed to the party being notified at its address shown below, or at such other address as may be indicated through proper written notice.

17. **SURVIVAL.** All obligations relating to the conveyance of the Property as set forth in this Agreement shall survive any closing on the Property. Additionally, Purchaser's obligations to indemnify Seller shall survive any closing on the sale of the Property, and any other termination of this Agreement.

18. **EXECUTION.** This Agreement has been signed by Seller on this 7 day of JUNE, 2011 and shall stand as an offer which, if accepted by Purchaser by 5:00 p.m. on the 7 day of JUNE, 2011 shall constitute an Agreement to Purchase and Sell as provided herein. This offer shall be considered to have been accepted upon the execution by all parties hereto and upon the delivery of notice thereof by Purchaser to Seller. If Purchaser does not accept Seller's offer within the required time and in the required manner, then this instrument shall become null and void, and the parties shall have no further obligation to each other hereunder.

Purchaser acknowledges that nothing contained in this Agreement, shall constitute or be construed as an acceptance by Seller as lender of any of the financing terms that may be set forth herein. This Agreement does not constitute an agreement to make any financial accommodations whatsoever to Purchaser, does not constitute an approval of a loan to Purchaser, and does not constitute a commitment to lend any funds to Purchaser on the terms set forth herein or on any terms whatsoever. If Purchaser desires to request financing from Seller, Purchaser understands and agrees that Purchaser must make a written application, separate from this Agreement, to Seller, as lender, and submit said application for approval to the appropriate bank officer/department. At the time of making such application for the loan, Purchaser must meet all of Seller's financing requirements as lender. Seller's entering into this Agreement does not mean that Purchaser has met any of Seller's financing requirements as lender.

This provision shall apply to this Agreement and is expressly incorporated by reference herein into any and all amendments, endorsements, addenda, or modifications to this Agreement.

This Agreement is effective as of the date of execution by Purchaser and Seller. This Agreement is subject to the Management and/or Board of Directors approval of Whitney ~~National~~ Bank; provided that, unless this Agreement is approved by the Management and/or Board of Directors of Whitney ~~National~~ Bank by                     , this Agreement shall become null and void, and the parties shall have no further obligation to each other hereunder.

PURCHASER:

Date:

Address:

SELLER:

WHITNEY ~~NATIONAL~~ BANK

By:

Title:

Date:

Address: 228 St. Charles Avenue

New Orleans, LA 70163

### Statement of Material Facts and Defects Addendum

Seller obtained ownership of this property by foreclosure or repossession. Accordingly, Seller is an absentee owner. Seller has made no detailed inspection of this property and is unaware of its condition. If Seller is aware of any material facts or defects on the property or its improvements, they are set forth below:

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

Any potential buyer should make independent inspection of the property and improvements thereon and Broker should so advise. Seller hereby directs the Broker to provide a copy of this statement to any potential buyer of the property and return a signed original to Seller along with any signed Contract for Purchase Offer.

Seller: Whitney National Bank

Date: 5/31/11

By: E. Dale Lindsey, Jr.

Its \_\_\_\_\_

**E. DALE LINDSEY, JR.  
VICE PRESIDENT**

Purchaser acknowledges that he/she/it has read the above information and has or will prior to closing make independent investigation of the property and improvements thereon and understand that Seller makes no warranties as to the condition of the property or improvements thereon.

Purchaser: [Signature]

Date: 6-7-11

Purchaser: \_\_\_\_\_

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

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ADDENDUM TO AGREEMENT TO PURCHASE AND SELL (RESIDENTIAL PROPERTY)

PURCHASER: \_\_\_\_\_ PROPERTY ADDRESS: 4170 CRIC ST PETE, FL.  
SELLER: WHITNEY NATIONAL BANK 9660 Blind Pass Rd., St. Pete Beach, FL.

DISCLOSURE OF INFORMATION ON LEAD-BASED PAINT  
AND LEAD-BASED PAINT HAZARDS

LEAD WARNING STATEMENT

Every Purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

SELLER'S DISCLOSURE (Initial)

- EW (a) Presence of lead-based paint and/or lead-based paint hazards (check one below):
- ☐ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).
  - ☒ Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.
- EW (b) Records and reports available to the seller (check one below):
- ☐ Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).
  - ☒ Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

PURCHASER'S ACKNOWLEDGMENT (Initial)

- ☐ (c) Purchaser has received copies of all information listed above.
- ☐ (d) Purchaser has received the pamphlet Protect Your Family from Lead in Your home.
- ☐ (e) Purchaser has (check one below):
  - ☐ Received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or
  - ☐ Waived the opportunity to conduct a risk assessment or inspection for the presence of lead based paint and/or lead-based paint hazards.

AGENT'S ACKNOWLEDGMENT (Initial)

- ☐ (f) Agent has informed the seller of the seller's obligations under 42 U.S.C. 4852(d) and is aware of his/her responsibility to ensure compliance.

CERTIFICATION OF ACCURACY

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information provided by the signatory is true and accurate.

Seller/Whitney National Bank

By: E. Dale Lindsey, Jr.  
His: Vice President  
E. DALE LINDSEY, JR.  
VICE PRESIDENT

5/31/11  
Date

Purchaser [Signature]  
Purchaser [Signature]  
Seller's Agent [Signature]

Date 6-7-11  
Date 5/31/11  
Date \_\_\_\_\_

Purchaser's Agent

Date

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## Duffy, Stephen

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**From:** Karl Moeller [karlm@broderickrealty.com]  
**Sent:** Tuesday, June 07, 2011 3:10 PM  
**To:** Duffy, Stephen  
**Subject:** 4170 cr 16 offer  
**Attachments:** AR-M455N\_20110607\_154256.pdf; IMAG0090.jpg

Hello Steve,

Here's an offer on 4170 cr 16. It is from the neighbor on the west side of the property who is looking to expand his green house operation. My guess is that he will pay more. This is a depressed property in a marginal neighborhood. I did get a bid for trash out of the property \$475. This buyer is not expecting the property to be cleaned but we should have it cleaned if we are not able to come to terms with him.

Also, expecting an offer for 4150 cr 16 for the neighbor that adjoins that property. 4150 has a tenant that is not currently paying rent but was paying \$650/month to the previous owner.

Thanks,  
Karl

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This email has been scanned by the MessageLabs Email Security System.  
For more information please visit <http://www.messagelabs.com/email>

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