



Agenda Item Summary Sheet

Item No. _____

Meeting Date: 10/6/08

Item Title: Dare County Tourism Board

Item Summary:

Dare County Commissioners approval of Dare County Tourism Board expenditures from restricted fund for the purchase of real property, specifically being the property owned by Sarah E. Forbes and identified as parcel numbers 012422001 and 012422000 .

(Use additional Paper if necessary)

Number of Attachments: 3

Will your presentation require audiovisual equipment? Yes No

Note: All audiovisual materials must be submitted in digital format to the Clerk of the Dare County Board of Commissioners with this sheet. Acceptable formats include: VHS, DVD, audio CD, Word document, Adobe Acrobat PDF files, PowerPoint files and jpeg files.

Specific Action Requested:

see item summary

Submitted By: Renee Cahoon, Vice-Chair, Dare County Tourism Board & Mayor, *Date:* 10/3/08

Dept. Head

Town of Nags Head

Comments:

Signature

Date:

Finance

Comments:

Signature

Date: 10/2/08

County Attorney

Comments:

Signature

Date:

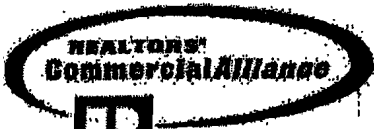
County Manager

Approval:

Signature

Date: 10/2/08

Commission Action:



REALTOR North Carolina Association of REALTORS

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

THIS AGREEMENT, including any and all addenda attached hereto ("Agreement"), is by and between Dare County Tourism Board, a Public Authority

a(n) Sarah E. Forbes ("Buyer"), and (individual or State of formation and type of entity)

a(n) ("Seller"). (individual or State of formation and type of entity)

FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. Terms and Definitions: The terms listed below shall have the respective meaning given them as set forth adjacent to each term.

(a) "Property": (Address)

All A portion of the property in Deed Reference: Book Page No. County; consisting of approximately acres.

Forbes Commercial Lots

1 of Plat Reference: Lot(s) 1 & 2, Block of Section, as shown on Plat Book or Slide D at Page(s) 192, Dare County, consisting of acres.

If this box is checked, "Property" shall mean that property described on Exhibit A attached hereto and incorporated herewith by reference,

(For information purposes, the tax parcel number of the Property is: 012422001 & 012422000)

together with all buildings and improvements thereon and all fixtures and appurtenances thereto and all personal property, if any, as shown and described on Exhibit A.

5,300,000.00 (b) "Purchase Price" shall mean the sum of Five Million Three Hundred Thousand Dollars,

3,990,000

payable on the following terms:

10,000.00 (i) "Earnest Money" shall mean Ten Thousand Dollars

20,000.00 (ii) "Additional Earnest Money" See Exhibit "B"

Upon this Agreement becoming a contract in accordance with Section 14, the Earnest Money shall be promptly deposited in escrow with Gray & Lloyd, LLP (name of person/entity with whom deposited), to be applied as part payment of the Purchase Price of the Property at Closing, or disbursed as agreed upon under the provisions of Section 10 herein.

XX ANY EARNEST MONEY DEPOSITED BY BUYER IN A TRUST ACCOUNT MAY BE PLACED IN AN INTEREST BEARING TRUST ACCOUNT, AND: (check only ONE box)

This form jointly approved by: North Carolina Bar Association North Carolina Association of REALTORS, Inc.

STANDARD FORM 580-T Revised 7/2006 © 7/2007

Buyer Initials Seller Initials

ANY INTEREST EARNED THEREON SHALL BE APPLIED AS PART PAYMENT OF THE PURCHASE PRICE OF THE PROPERTY AT CLOSING, OR DISBURSED AS AGREED UPON UNDER THE PROVISIONS OF SECTION 10 HEREIN. (Buyer's Taxpayer Identification Number is: _____)

ANY INTEREST EARNED THEREON SHALL BELONG TO THE ACCOUNT HOLDER IN CONSIDERATION OF THE EXPENSES INCURRED BY MAINTAINING SUCH ACCOUNT AND RECORDS ASSOCIATED THEREWITH.

(iii) Proceeds of a new loan in the amount of N/A Dollars for a term of _____ years, at an interest rate not to exceed _____ % per annum with mortgage loan discount points not to exceed _____ % of the loan amount, or such other terms as may be set forth on Exhibit B. Buyer shall pay all costs associated with any such loan.

(iv) Delivery of a promissory note secured by a deed of trust, said promissory note in the amount of _____ Dollars being payable over _____ months in equal monthly installments of principal, together with accrued interest on the outstanding principal balance at the rate of _____ percent (_____%) per annum, with the first principal payment beginning on the first day of the month next succeeding the date of Closing, or such other terms as may be set forth on Exhibit B. At any time, the promissory note may be prepaid in whole or in part without penalty and without further interest on the amounts prepaid from the date of such prepayment. (NOTE: In the event of Buyer's subsequent default upon a promissory note and deed of trust given hereunder, Seller's remedies may be limited to foreclosure of the Property. If the deed of trust given hereunder is subordinated to senior financing, the material terms of such financing must be set forth on Exhibit B. If such senior financing is subsequently foreclosed, the Seller may have no remedy to recover under the note.)

(v) Assumption of that unpaid obligation of Seller secured by a deed of trust on the Property, such obligation having an outstanding principal balance of \$ _____ and evidenced by a note bearing interest at the rate of _____ percent (_____%) per annum, or _____ Buyer shall pay all costs associated with any such assumption, including any assumption fee charged by the lender.

(vi) Cash balance of Purchase Price, at Closing in the amount of 5,270,000.00 Five Million Two Hundred Seventy Thousand _____ Dollars.

(c) "Closing" shall mean the date and time of recording of the deed. Closing shall occur on or before See Exhibit "B" or _____

(d) "Contract Date" means the date this Agreement has been fully executed by both Buyer and Seller.

(e) "Examination Period" shall mean the period beginning on the Contract Date and extending through 60 days after contract executed by all parties.

TIME IS OF THE ESSENCE AS TO THE EXAMINATION PERIOD.

(f) "Broker(s)" shall mean: None ("Listing Agency"), _____ ("Listing Agent" - License # _____)

Acting as: Seller's Agent; Dual Agent

and _____ ("Selling Agency"),

Buyer Initials Seller Initials

STANDARD FORM 580-T
Revised 7/2006
© 7/2007

(“Selling Agent”- License # _____)

Acting as: Buyer's Agent; Seller's (Sub)Agent; Dual Agent

(g) “Seller’s Notice Address” shall be as follows:

12420 Warwick Blvd.
Newport News, VA 23606

except as same may be changed pursuant to Section 12.

(h) “Buyer’s Notice Address” shall be as follows:

Ms. Carolyn McCormick, Managing Director
Outer Banks Visitors Bureau
One Visitors Center, Manteo, NC 27954

except as same may be changed pursuant to Section 12.

(i) If this block is marked, additional terms of this Agreement are set forth on Exhibit B attached hereto and incorporated herein by reference. (Note: Under North Carolina law, real estate agents are not permitted to draft conditions or contingencies to this Agreement.)

Section 2. Sale of Property and Payment of Purchase Price: Seller agrees to sell and Buyer agrees to buy the Property for the Purchase Price.

Section 3. Proration of Expenses and Payment of Costs: Seller and Buyer agree that all property taxes (on a calendar year basis), taxes, rents, mortgage payments and utilities or any other assumed liabilities as detailed on attached Exhibit B, if any, shall be prorated as of the date of Closing. Seller shall pay for preparation of a deed and all other documents necessary to perform Seller’s obligations under this Agreement, excise tax (revenue stamps), any deferred or rollback taxes, and other conveyance fees or taxes required by law, and the following:

N/A

Buyer shall pay recording costs, costs of any title search, title insurance, survey, the cost of any inspections or investigations undertaken by Buyer under this Agreement and the following:

N/A

Each party shall pay its own attorney’s fees.

Section 4. Deliveries: Seller agrees to use best efforts to deliver to Buyer as soon as reasonably possible after the Contract Date copies of all information relating to the Property in possession of or available to Seller, including but not limited to: title insurance policies, surveys and copies of all presently effective warranties or service contracts related to the Property. Seller authorizes (1) any attorney presently or previously representing Seller to release and disclose any title insurance policy in such attorney’s file to Buyer and both Buyer’s and Seller’s agents and attorneys; and (2) the Property’s title insurer or its agent to release and disclose all materials in the Property’s title insurer’s (or title insurer’s agent’s) file to Buyer and both Buyer’s and Seller’s agents and attorneys. If Buyer does not consummate the Closing for any reason other than Seller default, then Buyer shall return to Seller all materials delivered by Seller to Buyer pursuant to this Section 4 (or Section 7, if applicable), if any, and shall, upon Seller’s request, provide to Seller copies of (subject to ownership and copyright interests of the preparer thereof) any and all studies, reports, surveys and other information relating directly to the Property prepared by or at the request of Buyer, its employees and agents, and shall deliver to Seller, upon the release of the Earnest Money, copies of all of the foregoing without any warranty or representation by Buyer as to the contents, accuracy or correctness thereof.

Section 5. Evidence of Title: Seller agrees to convey fee simple marketable and insurable title to the Property free and clear of all liens, encumbrances and defects of title other than: (a) zoning ordinances affecting the Property, (b) Leases (if applicable) and (c) matters of record existing at the Contract Date that are not objected to by Buyer prior to the end of the Examination Period (“Permitted Exceptions”); provided that Seller shall be required to satisfy, at or prior to Closing, any encumbrances that may be satisfied by the payment of a fixed sum of money, such as deeds of trust, mortgages or statutory liens. Seller shall not enter into or record any instrument that affects the Property (or any personal property listed on ~~EXHIBIT A~~) after the Contract Date without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed. There is no Exhibit

Buyer Initials Seller Initials

STANDARD FORM 580-T
Revised 7/2006
© 7/2007

Section 6. Conditions: This Agreement and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon fulfillment (or waiver by Buyer, whether explicit or implied) of the following conditions:

(a) **New Loan:** The Buyer must be able to obtain the loan, if any, referenced in Section 1(b)(ii). Buyer must be able to obtain a firm commitment for this loan on or before N/A, effective through the date of Closing. Buyer agrees to use its best efforts to secure such commitment and to advise Seller immediately upon receipt of lender's decision. On or before the above date, Buyer has the right to terminate this Agreement for failure to obtain the loan referenced in Section 1(b)(ii) by delivering to Seller written notice of termination by the above date, *time being of the essence*. If Buyer delivers such notice, this Agreement shall be null and void and Earnest Money shall be refunded to Buyer. If Buyer fails to deliver such notice, then Buyer will be deemed to have waived the loan condition. Notwithstanding the foregoing, after the above date, Seller may request in writing from Buyer a copy of the commitment letter. If Buyer fails to provide Seller a copy of the commitment letter within five (5) days of receipt of Seller's request, then Seller may terminate this Agreement by written notice to Buyer at any time thereafter, provided Seller has not then received a copy of the commitment letter, and Buyer shall receive a return of Earnest Money.

(b) **Qualification for Financing:** If Buyer is to assume any indebtedness in connection with payment of the Purchase Price, Buyer agrees to use its best efforts to qualify for the assumption. Should Buyer fail to qualify, Buyer shall notify Seller in writing immediately upon lender's decision, whereupon this Agreement shall terminate, and Buyer shall receive a return of Earnest Money.

***15 days from the Contract Date.**

(c) **Title Examination:** After the Contract Date, Buyer shall, at Buyer's expense, cause a title examination to be made of the Property before the end of the Examination Period. In the event that such title examination shall show that Seller's title is not fee simple marketable and insurable, subject only to Permitted Exceptions, then Buyer shall promptly notify Seller in writing of all such title defects and exceptions, in no case later than ~~the end of the Examination Period~~, and Seller shall have thirty (30) days to cure said noticed defects. If Seller does not cure the defects or objections within thirty (30) days of notice thereof, then Buyer may terminate his Agreement and receive a return of Earnest Money ~~(or, withstanding that the Examination Period may have expired)~~. If Buyer is to purchase title insurance, the insuring company must be licensed to do business in the state in which the Property is located. Title to the Property must be insurable at regular rates, subject only to standard exceptions and Permitted Exceptions.

~~XXX Same Condition: If the Property is not in substantially the same condition at Closing as of the date of the offer, reasonable wear and tear excepted, then the Buyer may terminate this Agreement and receive a return of the Earnest Money or, if closed at Closing, Buyer shall be entitled to receive, in addition to the Property, any of the Seller's insurance proceeds, or any or all of the damage or destruction applicable to the Property.~~

(e) **Inspections:** Buyer, its agents or representatives, at Buyer's expense and at reasonable times during normal business hours, shall have the right to enter upon the Property for the purpose of inspecting, examining, performing soil boring and other testing, conducting timber cruises, and surveying the Property. Buyer shall conduct all such on-site inspections, examinations, soil boring and other testing, timber cruises and surveying of the Property in a good and workmanlike manner, shall repair any damage to the Property caused by Buyer's entry and on-site inspections and shall conduct same in a manner that does not unreasonably interfere with Seller's or any tenant's use and enjoyment of the Property. In that respect, Buyer shall make reasonable efforts to undertake on-site inspections outside of the hours any tenant's business is open to the public and shall give prior notice to any tenants of any entry into any tenant's portion of the Property for the purpose of conducting inspections. Upon Seller's request, Buyer shall provide to Seller evidence of general liability insurance. Buyer shall also have a right to review and inspect all contracts or other agreements affecting or related directly to the Property and shall be entitled to review such books and records of Seller that relate directly to the operation and maintenance of the Property, provided, however, that Buyer shall not disclose any information regarding this Property (or any tenant therein) unless required by law and the same shall be regarded as confidential, to any person, except to its attorneys, accountants, lenders and other professional advisors, in which case Buyer shall obtain their agreement to maintain such confidentiality. Buyer assumes all responsibility for the acts of itself, its agents or representatives in exercising its rights under this Section 6(e) and agrees to indemnify and hold Seller harmless from any damages resulting therefrom. This indemnification obligation shall survive the Closing or earlier termination of this Agreement. Buyer shall, at Buyer's expense, promptly repair any damage to the Property caused by Buyer's entry and on-site inspections. ~~Except as provided in Section 6(c) above~~ Buyer shall have from the Contract Date through the end of the Examination Period to perform the above inspections, examinations and testing. **IF BUYER CHOOSES NOT TO PURCHASE THE PROPERTY, FOR ANY REASON OR NO REASON, AND PROVIDES WRITTEN NOTICE TO SELLER THEREOF PRIOR TO THE EXPIRATION OF THE EXAMINATION PERIOD, THEN THIS AGREEMENT SHALL TERMINATE, AND BUYER SHALL RECEIVE A RETURN OF THE EARNEST MONEY.**

Section 7. Leases (Check one of the following, as applicable):

If this box is checked, Seller affirmatively represents and warrants that there are no Leases (as hereinafter defined) affecting the Property.

Buyer Initials [Signature] Seller Initials [Signature]

STANDARD FORM 580-T
Revised 7/2006
© 7/2007

If this box is checked, Seller discloses that there are one or more leases affecting the Property (oral or written, recorded or not - "Leases") and the following provisions are hereby made a part of this Agreement.

(a) All Leases shall be itemized on ~~EXHIBIT~~ YES/NO/OK by Seller and said list provided to Buyer.

(b) Seller shall deliver copies of any Leases to Buyer pursuant to Section 4 as if the Leases were listed therein;

(c) Seller represents and warrants that as of the Contract Date there are no current defaults (or any existing situation which, with the passage of time, or the giving of notice, or both, or at the election of either landlord or tenant could constitute a default) either by Seller, as landlord, or by any tenant under any Lease ("Lease Default"). In the event there is any Lease Default as of the Contract Date, Seller agrees to provide Buyer with a detailed description of the situation in accordance with Section 4. Seller agrees not to commit a Lease Default as Landlord after the Contract Date, and agrees further to notify Buyer immediately in the event a Lease Default arises or is claimed, asserted or threatened to be asserted by either Seller or a tenant under the Lease.

(d) In addition to the conditions provided in Section 6 of this Agreement, this Agreement and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon the assignment of Seller's interest in any Lease to Buyer in form and content acceptable to Buyer (with tenant's written consent and acknowledgement, if required under the Lease), and Seller agrees to use its best efforts to effect such assignment. Any assignment required under this Section 7 shall be required to be delivered at Closing by Seller in addition to those deliveries required under Section 11 of this Agreement. Buyer reserves the right to refuse outright and without cause the assignment of any Lease.

(e) Seller agrees to deliver an assignment of any Lease at Closing, with any security deposits held by Seller under any Leases to be transferred or credited to Buyer at Closing. Seller also agrees to execute and deliver (and work diligently to obtain any tenant signatures necessary for same) any estoppel certificates and subordination, nondisturbance and attornment agreements in such form as Buyer may reasonably request.

Section 8. Environmental: Seller represents and warrants that it has no actual knowledge of the presence or disposal, except as in accordance with applicable law, within the buildings or on the Property of hazardous or toxic waste or substances, which are defined as those substances, materials, and wastes, including, but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR Part 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302.4) and amendments thereto, or such substances, materials and wastes, which are or become regulated under any applicable local, state or federal law, including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a Hazardous Substance pursuant to Section 311 of the Clean Water Act of 1977 (33 U.S.C. §1321) or listed pursuant to Section 307 of the Clean Water Act of 1977 (33 U.S.C. §1317), (v) defined as a hazardous waste pursuant to Section 1004 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6903) or (vi) defined as a hazardous substance pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601); Seller has no actual knowledge of any contamination of the Property from such substances as may have been disposed of or stored on neighboring tracts.

~~Section 9. Risk of Loss/Damage/Repair: Until Closing, the risk of loss or damage to the Property, except as otherwise provided herein, shall be borne by Seller. Except as to maintaining the Property in its same condition, Seller shall have no responsibility for the repair of the Property, including any improvements, unless the parties hereto agree in writing.~~

Section 10. Earnest Money Disbursement: In the event that any of the conditions hereto are not satisfied, or in the event of a breach of this Agreement by Seller, then the Earnest Money shall be returned to Buyer, but such return shall not affect any other remedies available to Buyer for such breach. In the event this offer is accepted and Buyer breaches this Agreement, then the Earnest Money shall be forfeited, but such forfeiture shall not affect any other remedies available to Seller for such breach. NOTE: In the event of a dispute between Seller and Buyer over the return or forfeiture of Earnest Money held in escrow by a licensed real estate broker, the broker is required by state law to retain said Earnest Money in its trust or escrow account until it has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction, or alternatively, the party holding the Earnest Money may deposit the disputed monies with the appropriate clerk of court in accordance with the provisions of C.G.S. §93A-12.

Section 11. Closing: At Closing, Seller shall deliver to Buyer a general warranty deed unless otherwise specified on Exhibit B and other documents customarily executed or delivered by a seller in similar transactions, including without limitation, a bill of sale for any personalty listed on Exhibit A, an owner's affidavit, lien waiver forms and a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act), and Buyer shall pay to Seller the Purchase Price. At Closing, the Earnest Money shall be applied as part of the Purchase Price. The Closing shall be held at the office of Buyer's attorney or such other place as the parties hereto may mutually agree. Possession shall be delivered at Closing, unless otherwise agreed herein.

Buyer Initials Seller Initials

STANDARD FORM 580-T
Revised 7/2006
© 7/2007

Section 12. Notices: Unless otherwise provided herein, all notices and other communications which may be or are required to be given or made by any party to the other in connection herewith shall be in writing and shall be deemed to have been properly given and received on the date delivered in person or deposited in the United States mail, registered or certified, return receipt requested, to the addresses set out in Section 1(g) as to Seller and in Section 1(h) as to Buyer, or at such other addresses as specified by written notice delivered in accordance herewith.

Section 13. Entire Agreement: This Agreement constitutes the sole and entire agreement among the parties hereto and no modification of this Agreement shall be binding unless in writing and signed by all parties hereto.

Section 14. Enforceability: This Agreement shall become a contract when signed by both Buyer and Seller and such signing is communicated to both parties; it being expressly agreed that the notice described in Section 12 is not required for effective communication for the purposes of this Section 14. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns and their personal representatives.

Section 15. Adverse Information and Compliance with Laws:

(a) **Seller Knowledge:** Seller has no actual knowledge of (i) condemnation(s) affecting or contemplated with respect to the Property; (ii) actions, suits or proceedings pending or threatened against the Property; (iii) changes contemplated in any applicable laws, ordinances or restrictions affecting the Property; or (iv) governmental special assessments, either pending or confirmed, for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property, and no pending or confirmed owners' association special assessments, except as follows:

None

(Insert "None" or the identification of any matters relating to (i) through (iv) above, if any). Seller shall pay all owners' association assessments and all governmental assessments confirmed as of the time of Closing, if any, and Buyer shall take title subject to all pending assessments, if any, unless otherwise agreed as follows:

None

Seller represents that the regular owners' association dues, if any, are \$ None per None.

(b) **Compliance:** To Seller's actual knowledge, (i) Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions pertaining to or affecting the Property; (ii) performance of the Agreement will not result in the breach of, constitute any default under or result in the imposition of any lien or encumbrance upon the Property under any agreement or other instrument to which Seller is a party or by which Seller or the Property is bound; and (iii) there are no legal actions, suits or other legal or administrative proceedings pending or threatened against the Property, and Seller is not aware of any facts which might result in any such action, suit or other proceeding.

Section 16. Survival of Representations and Warranties: All representations, warranties, covenants and agreements made by the parties hereto shall survive the Closing and delivery of the deed. Seller shall, at or within six (6) months after the Closing, and without further consideration, execute, acknowledge and deliver to Buyer such other documents and instruments, and take such other action as Buyer may reasonably request or as may be necessary to more effectively transfer to Buyer the Property described herein in accordance with this Agreement.

Section 17. Applicable Law: This Agreement shall be construed under the laws of the state in which the Property is located. This form has only been approved for use in North Carolina.

Section 18. Assignment: This Agreement is freely assignable unless otherwise expressly provided on Exhibit B.

Section 19. Tax-Deferred Exchange: In the event Buyer or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Seller and Buyer shall execute such additional documents, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

Section 20. Memorandum of Contract: Upon request by either party, the parties hereto shall execute a memorandum of contract in readable form setting forth such provisions hereof (other than the Purchase Price and other sums due) as either party may wish to

Buyer Initials Seller Initials

STANDARD FORM 580-T
Revised 7/2006
© 7/2007

incorporate. Such memorandum of contract shall contain a statement that it automatically terminates and the Property is released from any effect thereby as of a specific date to be stated in the memorandum (which specific date shall be no later than the date of Closing). The cost of recording such memorandum of contract shall be borne by the party requesting execution of same.

Section 21. Authority: Each signatory to this Agreement represents and warrants that he or she has full authority to sign this Agreement and such instruments as may be necessary to effectuate any transaction contemplated by this Agreement on behalf of the party for whom he or she signs and that his or her signature binds such party.

Section 22. Brokers: Except as expressly provided herein, Buyer and Seller agree to indemnify and hold each other harmless from any and all claims of brokers, consultants or real estate agents by, through or under the indemnifying party for fees or commissions arising out of the sale of the Property to Buyer. Buyer and Seller represent and warrant to each other that: (i) except as to the Brokers designated under Section 1(f) of this Agreement, they have not employed nor engaged any brokers, consultants or real estate agents to be involved in this transaction and (ii) that the compensation of the Brokers is established by and shall be governed by separate agreements entered into as amongst the Brokers, the Buyer and/or the Seller.

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. AND THE NORTH CAROLINA BAR ASSOCIATION MAKE NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION. IF YOU DO NOT UNDERSTAND THIS FORM OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE YOU SIGN IT.

BUYER:
Individual

Date: _____

Date: _____

SELLER:
Individual Sarah E. Forbes
Sarah E. Forbes

Date: 8-19-08

Date: _____

Business Entity
Watauga County Tourism Board
(Name of Entity)
[Signature]
Name: Douglas Scott Leggat
Title: Chairman
Date: 8-22-08

Business Entity

(Name of Entity)
By: _____
Name: _____
Title: _____
Date: _____

I, the undersigned hereby acknowledges receipt of the Earnest Money set forth herein and agrees to hold said Earnest Money in accordance with the terms hereof.

Gray & Lloyd, LLP
(Name of Firm)

By: _____

Buyer Initials DL Seller Initials SA

STANDARD FORM 580-T
Revised 7/2006
© 7/2007

This instrument has been pre-audited in the manner required by the Local Government and Fiscal Control Act	
Finance Officer Dare County Tourism Board	

Exhibit B
To the
Agreement for Purchase and Sale of Real Property
Between
Dare County Tourism Board, a Public Authority (hereinafter "Buyer")
and
Sarah E. Forbes (hereinafter "Seller")

THIS AGREEMENT and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon fulfillment (or waived by Buyer) of the following conditions:

1. Section 1(b)(vi) is modified to read as follows:

\$5,270,000.00 shall be paid in the following manner:

- a. \$3,870,000.00 cash at closing.
- b. \$1,400,000.00 by deed of gift from the Seller to the Buyer for a 26.41% undivided interest in the property.

Simultaneous conveyances shall be by general warranty deed to be delivered at Closing.

2. Prior to the expiration of the Examination Period, Buyer Dare County Tourism Board must receive express written approval for this purchase from the Dare County Board of Commissioners. If Buyer Dare County Tourism Board does not receive the express approval for this purchase from the Dare County Board of Commissioners prior to the end of the Examination Period, then Buyer may provide written notice to Seller thereof prior to the expiration of the Examination Period, and this Agreement shall terminate and Buyer shall receive a return of the earnest money.

3. Seller shall deliver to Buyer within fifteen days after the Contract Date (time is of the essence), copies of the following: (1) all environmental studies and examinations, (2) wastewater agreements, (3) easements, (4) appraisals, (5) wastewater feasibility studies, (6) such other existing reports as Buyer may request that Seller possesses or can obtain, and (7) copies of all agreements, easements and notices relating to that certain wastewater system (the "Forbes Wastewater System") located on the Property which is owned by Dr. Sarah E. Forbes ("Forbes").

4. The Buyer must be able to obtain, prior to the expiration of the Examination Period, a firm commitment from the Town of Nags Head for \$700,000.00 to be applied toward the Purchase Price. Buyer Dare County Tourism Board shall pay the balance of the Purchase Price. If Buyer does

Buyer Initials

Seller Initials

not receive a firm commitment from the Town of Nags Head for the \$700,000.00 prior to the end of the Examination Period, the Buyer may provide written notice to Seller thereof prior to the expiration of the Examination Period and upon such written notice, this Agreement shall terminate and Buyer shall receive a return of the earnest money.

5. Buyer Dare County Tourism Board and Buyer Town of Nags Head shall share any joint pre-closing and closing expenses in the percentages of their relative contribution of the Purchase Price.

6. Buyer Dare County Tourism Board shall pay the Earnest Money.

7. If, Buyer does not provide written notice of termination of this Agreement prior to the end of the Examination Period, then this Agreement shall continue and all conditions shall be deemed waived except as expressly set forth herein. If such written notice of termination is not provided by the end of the Examination Period, then Buyer shall deposit on the day after the last day of the Examination Period, an additional \$20,000.00 Additional Earnest Money, being \$10,000.00 from the Dare County Tourism Board and \$10,000.00 from the Town of Nags Head, with the Escrow Agent to be applied as part payment of the Purchase Price at Closing, or be disbursed as agreed upon under the provisions of Section 10 of the Agreement for Purchase and Sale of Real Property (Commercial). Both the Initial Earnest Money Deposit and the Additional Earnest Money Deposit shall become non-refundable upon the end of the Examination Period unless Buyer shall have provided written notice prior to the end of the Examination Period of termination of this Agreement.

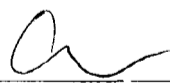
8. As to all structures contained on the Premises, Buyer acknowledges that Buyer is acquiring the Property "as is, where is". Seller shall have no responsibility for the repair of any structure and all risk of loss or damage to the Property, shall be borne by Buyer.

Notwithstanding the preceding sentences, Seller shall have the right within sixty (60) days after the date of closing, to remove from the Property the following:

- a. Generator
- b. All furniture, fixtures and equipment as contained in the restaurant to include, all U.S.S. United States memorabilia.
- c. The storage shed (gray in color) lying to the east of the Windmill Point Restaurant and its contents.

The work shall be completed in a good and workmanlike manner and with all possible speed. Seller shall be under no obligation to commence obtaining the necessary permits and approvals to move the shed from the Property to a new site until the expiration of the Examination Period. After removal, Seller shall ensure that the Property is free from all debris associated with the removal of the shed. The Town of Nags Head will cooperate to allow Seller to expeditiously obtain all necessary permits and approvals to physically move the shed to a new site.

Buyer Initials



Page 2 of 4

Seller Initials



Any item not removed within the sixty (60) days time frame after date of closing, shall be deemed abandoned and Seller shall have no right, title or interest in the same. Title to said item will transfer to Buyer.

At Closing, Seller shall deposit with Buyer's attorney, \$15,000.00 in cash as a bond. This bond shall be payable to Buyer if, at the end of the sixty (60) day time frame, Seller has not removed the shed from the Property. If the shed has been removed from the Property within the sixty (60) day time frame, then said \$15,000.00 bond shall be returned to Seller. This fund is the estimated cost that Buyer will incur to remove, demolish and destroy the shed and its contents. The disbursement of the \$15,000.00 performance bond will be solely contingent on the issue of whether, in fact, the shed has been removed or not within the sixty (60) day time frame.

At the termination of the sixty (60) day time frame, all of Seller's rights and license to go upon the Property for the permitted purposes as set forth in this paragraph, shall terminate and Seller shall have no further right to come upon the Property without Buyer's express written consent or, such rights as may apply to the general public.

Notwithstanding anything else as set forth within this Section 8, Seller covenants and agrees that all kitchen equipment which presently is located in the kitchen, shall be left by Seller and title thereto shall transfer to Buyer as of date of closing. All such equipment is being transferred "as is, where is" and Seller shall have no responsibility for repair or maintenance of any item of kitchen equipment presently located in the kitchen of the restaurant.

9. Buyer shall assist Seller in any reasonable way necessary for Seller to receive such income and capital gain tax-related benefits, offsets, credits or deductions (the "Tax Benefits") as Seller may determine are appropriate for itself without expense or liability accruing to Buyer. Buyer shall not be required to sign any tax related forms or letters evidencing such Tax Benefits without first being provided such appraisals or other documentation required by the Internal Revenue Service as part of such tax related forms or letters. Such appraisals and other documentation shall be provided to Buyer and procured by Seller at Seller's sole cost and expense, except Seller may use the appraisal procured by Buyer.

10. Time is of the essence as to all dates stated in this Agreement.

11. Buyer and Seller agree that the terms of this Agreement and the negotiations may not be disclosed to the public until Buyer decides to reveal the information to the public at sometime in the future when disclosure would not frustrate the purposes for which confidentiality was employed. Seller and Buyer shall be entitled to disclose all terms of this Agreement and the negotiations to any advisors of the Buyer or the Seller and to all other appropriate and necessary parties, but excluding the general public until Buyer makes the disclosure to the public.

12. Seller is entitled to convey any real property lying below the mean highwater mark without warranties.

13. Buyer agrees that, upon any construction of a convention center either on the Property or on any adjoining property owned by Buyer, said convention center will contain a plaque depicting the

Buyer Initials C

Page 3 of 4

Seller Initials JSJ

interior and exterior of the Windmill Point Restaurant as it presently exists, with such plaque to be appropriately displayed. This provision shall survive closing and shall be binding upon Buyer, their successors and assigns.

14. If a convention center is constructed on the Property or on any adjoining property owned by Buyer, then Buyer shall name an open public portion of the principal structure not less than 1/3 of the same in honor of Seller. Buyer and Seller shall work together using their best efforts to agree on an appropriate name to be displayed in an appropriate manner and place within the convention center. This provision shall inure to the benefit of the Seller, and her successors, and shall be binding upon Buyer, their successors and assigns and shall survive closing.

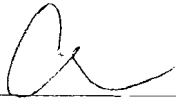
15. If, Buyer elects or refuses to maintain the windmill, Buyer must so notify Seller prior to the expiration of the Examination Period. If Buyer elects to refuse to maintain the windmill, then Seller shall have no further obligations to maintain the same prior to closing.

16. Subject to the provisions of Section 8, above, Closing shall occur no later than fifteen (15) days after the earlier of the expiration of the Examination Period or Buyer's acceptance of its Examination.

17. Notwithstanding Section 18 of the Agreement for Purchase and Sale of Real Property, no assignment may be made by either party, without the express written consent of the other party to this Agreement.

N:\WORD\clients\Forbes.Sarah\5281-009 (Misc. Rep)\Exhibit B.081808.wpd

Buyer Initials



Page 4 of 4

Seller Initials



SUMMARY APPRAISAL REPORT

OF

**WINDMILL POINT RESTAURANT
A 7,359 SQUARE FOOT BUILDING
WITH A SECOND LEVEL LOUNGE
6906 SOUTH CROATAN HIGHWAY
NAGS HEAD, DARE COUNTY, NORTH CAROLINA**

Prepared For:

Ms. Carolyn McCormick
Managing Director
Outer Banks Visitors Bureau
One Visitors Center Circle
Manteo, North Carolina 27954

Prepared By:

Asset Appraisal Services, LLC
Richard P. Greenlee, Jr. MAI
Post Office Box 7178
Kill Devil Hills, North Carolina 27948

Effective Date and Date of Appraisal:

September 17, 2008

Ms. McCormick
September 19, 2008
Page 2

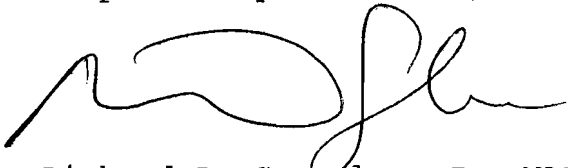
Subtracting the use value for the F,F&E from the final value gives an approximation of real property value. The depreciated value in use for the restaurant's equipment is \$50,000 which results in an implied real property value of \$3,050,000 (\$3,100,000 - \$50,000). However, the value of the equipment may be substantially less if it is sold separately from the business as in a yard sale.

The subject is a special purpose property and as such, the sale price and marketing period are dependent on the health of the local economy as well as the profitability of the business operation. Special purpose property can sell immediately if the right buyer and economic conditions exist or the property can have an extended marketing period up to several years unless the seller drastically reduces the asking price.

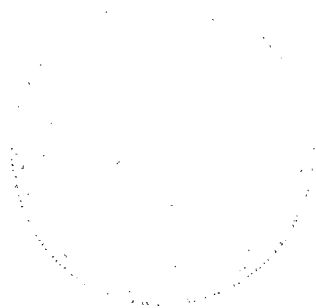
The number of permitted seats can change as a result of a water usage study. If a water usage study is performed, the number of permitted seats could increase or decrease from the current number. The appraiser can not anticipate the outcome of a water study and is not responsible for any loss in value due to a decrease in the number of permitted seats caused by an unfavorable water study subsequent to the date of the appraisal. The "as is" market value is based on the current number of permitted seats as reported to the appraiser by the Dare County Health Department.

Thank you for this opportunity to be of service to you. If I can be of further assistance, please advise.

Respectfully submitted,



Richard P. Greenlee, Jr. MAI



SUMMARY APPRAISAL REPORT

OF

**KITTY HAWK SPORTS RENTAL SITE
A 2.00 +/- ACRE WATER FRONT PARCEL
6900 SOUTH CROATAN HIGHWAY
NAGS HEAD, DARE COUNTY, NORTH CAROLINA**

Prepared For:

Ms. Carolyn McCormick
Managing Director
Outer Banks Visitors Bureau
One Visitors Center Circle
Manteo, North Carolina 27954

Prepared By:

Asset Appraisal Services, LLC
Richard P. Greenlee, Jr. MAI
Post Office Box 7178
Kill Devil Hills, North Carolina 27948

Effective Date and Date of Appraisal:

September 15, 2008

ASSET APPRAISAL SERVICES, LLC

Commercial Appraisals and Consulting

Phone & Fax
(252) 441-6652
(252) 441-7201

Richard P. Greenlee, Jr. MAI
Post Office Box 7178
Kill Devil Hills, NC 27948

Ms. Carolyn McCormick
Managing Director
Outer Banks Visitors Bureau
One Visitors Center Circle
Manteo, NC 27954

September 16, 2008

Re: Summary Appraisal Report of a water sports staging area on a 2.0+/- acre parcel of land on the Roanoke Sound, 6900 South Croatan Highway, Nags Head, Dare County, NC (File number: 08-1996)

Dear Ms. McCormick:

I have visited the above referenced property, reviewed the necessary documents and have collected market data indicative of the "as is" market value of the subject property in fee simple title. This is a Summary Appraisal Report which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice (USPAP) for a Summary Appraisal Report. As such, it presents only summary discussions of the data, reasoning and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning and analyses is retained in the appraiser's file. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated in the report. The appraiser is not responsible for unauthorized use of this report.

The report contains a brief description of the property and a summary of the valuation procedures. Other pertinent information may be found in the addenda or is retained in the appraiser's work files.

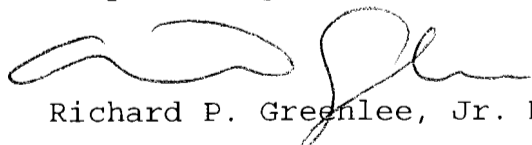
Based on my analysis of the data collected, subject to the limiting conditions and definitions set forth in this report (**particularly #s 17, 20 through 22**), it is my opinion that the "as is" market value of the property as of September 15, 2008, is:

ONE MILLION ONE HUNDRED FIFTY THOUSAND DOLLARS (\$1,150,000)

The estimated exposure period is 12 to 18 months at the appraised value. The owner currently leases the site but the appraiser was not furnished with a copy of the lease. For purposes of the appraisal, the fee simple market value is analyzed in the report and no consideration has been given to the lease.

Thank you for this opportunity to be of service to you. If I can be of further assistance, please advise.

Respectfully submitted,



Richard P. Greenlee, Jr. MAI