

RESOLUTION NO. 21-09-100

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AUTHORIZING THE PURCHASE OF PROPERTY LOCATED AT 81981 OVERSEAS HIGHWAY (PARCEL ID #00400120-000000) WITHIN ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA; AUTHORIZING VILLAGE MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS TO IMPLEMENT THE PURCHASE; AUTHORIZING THE VILLAGE MANAGER TO EXPEND FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council of Islamorada, Village of Islands (the "Village Council"), is committed to fostering the Community Character of the Village and providing beneficial municipal uses on properties within the Village for residents and visitors; and

WHEREAS, the Village Council desires to approve the purchase of the property located at 81981 Overseas Highway (Parcel ID #00400120-000000) (the "Property") for the purpose of providing beneficial municipal uses in the business district of Islamorada; and

WHEREAS, the Village Council finds that the purchase of the Property for the purpose of municipal use is in the best interest of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing Recitals are true and correct and are incorporated herein by this reference.

Section 2. Approval of Purchase of Property. The Village Council hereby approves the purchase of the Property for municipal use as set forth in the purchase contract set forth as Exhibit "A" hereto.

Section 3. Authorization to Village Officials. The Village Manager or his designee is authorized to execute all necessary documents to implement the purchase of the Property

subject to approval as to form and legality by the Village Attorney.

Section 4. Authorization of Fund Expenditure. Notwithstanding the limitations imposed upon the Village Manager pursuant to the Village’s Purchasing Procedures Ordinance, the Village Manager is authorized to expend budgeted funds to implement the purchase of the Property.

Section 5. Effective Date. This Resolution shall take effect immediately upon its adoption.

Motion to adopt by Councilman Henry Rosenthal, second by Vice Mayor Pete Bacheler.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:

Mayor Joseph B. Pinder III	YES
Vice Mayor Pete Bacheler	YES
Councilman Mark Gregg	YES
Councilman Henry Rosenthal	YES
Councilman David Webb	YES

PASSED AND ADOPTED THIS 30TH DAY OF SEPTEMBER, 2021.



JOSEPH B. PINDER III, MAYOR

ATTEST:



KELLY TOTH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF ISLAMORADA, VILLAGE OF ISLANDS ONLY:



ROGET V. BRYAN, VILLAGE ATTORNEY

**CONTRACT FOR THE PURCHASE AND SALE
OF REAL PROPERTY**

THIS CONTRACT FOR THE PURCHASE AND SALE OF REAL PROPERTY (“**Agreement**”), made and entered into this 18th day of October, 2021 (the “**Effective Date**”), by and between WALGREEN CO., an Illinois corporation, hereinafter referred to as “**Seller**”; and ISLAMORADA, VILLAGE OF ISLANDS, a municipal corporation, hereinafter referred to as “**Buyer**”.

WHEREAS, Seller is the present owner of approximately 1.15 acres of real property commonly known as 81981 Overseas Highway, Islamorada, FL and as legally described on Exhibit “A” attached hereto and made a part hereof and the improvements thereon (the “**Property**”); and

WHEREAS, Seller is willing to sell the Property and Buyer is willing to purchase the Property pursuant to the terms and conditions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the performance of the mutual covenants and benefits described herein, the existence, sufficiency and receipt of which are hereby acknowledged, Buyer and Seller hereby agree as follows:

1. Purchase and Sale: Subject to the terms and conditions of this Agreement, Seller hereby agrees to sell the Property to Buyer and Buyer hereby agrees to purchase the Property from Seller subject only to the Permitted Exceptions (as hereinafter defined in Article 6(c)), for the Purchase Price set forth in Article 2 below, on the date that is thirty (30) days from the expiration of the Due Diligence Period (as hereinafter defined in Article 3(a)) or on such earlier date as may be agreed in writing by Seller and Buyer (“**Closing Date**”).

2. Purchase Price and Initial Earnest Money: Buyer agrees to pay Seller for the Property the total sum of Two Million Seven Hundred Fifty Thousand and 00/100 Dollars (\$2,750,000.00) (“**Purchase Price**”), plus or minus prorations (as herein provided) to be paid as follows:

(a) Initial Earnest Money: An initial earnest money deposit in the total amount of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) (the “**Initial Earnest Money**”) shall be paid by Buyer to Seller within seven (7) business days after execution of this Agreement by both parties by wire transfer of immediately available United States funds to Title Insurer (as hereinafter defined in Article 6) to be held by Title Insurer in an interest-bearing account (the “**Escrow Account**”). The Initial Earnest Money shall be held and disbursed in accordance with the terms of this Agreement. Any interest earned on the Earnest Money shall be paid to the party entitled to receive the Earnest Money as determined in accordance with the terms of this Agreement. The Earnest Money shall be credited to Buyer against the Purchase Price at Closing, forfeited to Seller as liquidated damages, or disbursed in accordance with this Agreement.

(b) Balance of Purchase Price: The balance of the Purchase Price plus or minus prorations and closing adjustments as herein provided shall be deposited by Buyer by wire transfer of immediately available United States funds to Title Insurer into the Escrow Account one business day prior to the Closing Date.

(c) Closing through Escrow: Title Insurer is executing this Agreement as escrow agent and the parties agree that the Earnest Money shall not be released absent a written direction by Buyer and Seller. The transactions contemplated herein shall be closed through a deed and money escrow with the Title Insurer, as escrowee, which shall provide for simultaneously recording of the Deed (as defined in Article 5(a) below), issuance of the Title Policy (as defined in Article 6 below) and payment of the Purchase Price. Close of escrow (the "**Closing**") and the disbursement of the Escrow Account shall occur on the Closing Date.

3. Buyer's Right to Inspect:

(a) Buyer and its authorized representatives and consultants shall have the right, at Buyer's sole cost and expense, for a period of time commencing on the Effective Date and terminating thirty (30) days thereafter (the "**Due Diligence Period**"), upon at least twenty-four (24) hours advance notice to Seller and without unreasonably disturbing the Property, subject to the limitations herein described, to conduct such due diligence investigations and inspections of the Property (collectively the "**Inspections**" and each individually, an "**Inspection**") as Buyer may deem desirable or advisable, including the right to enter upon all or any portion of the Property to make a complete physical inspection of the Property, including testing for the presence of any material or substances deemed hazardous or dangerous or potentially hazardous or dangerous by Buyer and conducting a non-invasive so-called "phase one" environmental site assessment of the Property. The conducting of any invasive soil tests and any Phase II environmental site assessment shall be subject to the prior written approval by Seller which may be granted or withheld in the sole discretion of Seller. Buyer shall immediately restore the Property to the condition existing immediately prior to any such activities. Anything herein contained to the contrary notwithstanding, under no circumstances shall Buyer or Buyer's employees, agents or independent contractors enter upon the Property, including, without limitation, for the purposes described above in this Article 3, unless and until notice of such intended entry is provided to Seller at least twenty-four (24) hours in advance to Brenden O'Brien, Real Estate Portfolio Manager, and Seller returns to Buyer a written approval of such entry setting forth the permitted times for and duration of such entry and other reasonable conditions and requirements with respect to such entry (the "**Terms of Authorized Entry**"). The consequent entry upon the Property shall be made in strict accordance with the Terms of Authorized Entry. Any entry onto the Property which is inconsistent with the Terms of Authorized Entry shall be a default by Buyer under the terms of this Agreement.

(b) In the event that Buyer discovers any adverse condition in connection with

any test or inspection of the Property within the Due Diligence Period, then Buyer may terminate this Agreement by sending written notice to Seller at any time during the Due Diligence Period and the Earnest Money tendered (less any costs incurred by Seller in connection with such cancellation) shall be returned to Buyer by Title Insurer on the joint direction of Seller and Buyer, such direction not to be unreasonably withheld, conditioned, or delayed. Upon such termination, neither party shall have any further obligation or liability to the other under this Agreement except for the indemnity obligations of Buyer pursuant to the terms of Article 3(c), immediately below.

(c) Buyer shall have the right to extend the Due Diligence Period for a period of thirty (30) days by giving Seller written notice of the election to so extend prior to the then scheduled expiration of the Due Diligence Period, and an additional earnest money deposit (the “**Additional Earnest Money**”, and together with the Initial Earnest Money is collectively referred to as the “**Earnest Money**”) in the amount of Fifty Thousand and 00/100 Dollars (\$50,000.00) is due within two (2) business days from the expiration of the Due Diligence Period. The Additional Earnest Money shall be paid by Buyer in the form of a wire transfer of immediately available United States funds into the Escrow Account. In the event that Buyer gives Seller written notice of the election to extend the Due Diligence Period and shall fail to deposit the Additional Earnest Money, if and as required hereunder, Buyer shall be in default hereunder and Seller may, at its option, terminate this Agreement in which event the Initial Earnest Money shall be delivered to Seller by the Title Insurer and all further rights and obligations of the parties hereunder will terminate except those of Buyer which are to survive termination of this Agreement. Any interest earned on the Earnest Money shall be paid to the party entitled to receive the Earnest Money as determined in accordance with the terms of this Agreement. The Earnest Money shall be credited to Buyer against the Purchase Price at Closing, forfeited to Seller as liquidated damages, or otherwise disbursed in accordance with this Agreement. In the event that Buyer exercises its right to extend the Due Diligence Period as set forth herein, all references in this Agreement to “Due Diligence Period” shall mean the Due Diligence Period, as extended.

(d) Buyer, its employees, agents, contractors and assigns (the “**Buyer Parties**”) enter the Property and conduct Inspections at their own risk and expense. Buyer shall indemnify, defend and hold Seller harmless from and against any and all losses, damages, costs, claims and expenses of any nature, including, without limitation, reasonable attorneys’ fees, incurred by Seller and arising from any entry to the Property by the Buyer Parties. Buyer shall not suffer nor permit to be enforced or recorded against the Property, or any part thereof, any mechanics’, materialmen’s, contractors’ or subcontractors’ liens or any claim for damage arising from any Inspection performed by the Buyer Parties, and Buyer shall pay or cause to be paid all of said liens, claims or demands before any action is brought to enforce the same against the Property. Without limitation of Seller’s rights and remedies, should Buyer fail within ten (10) days of a written request from Seller to pay and discharge any lien or claim arising out of any Inspection or access onto the Property arising

from an act or failure to act of the Buyer Parties, then Seller may, at its option, pay any such lien or satisfy any judgment thereon, and all costs, expenses and other sums incurred by Seller in doing so (including, but not limited to, attorneys' fees) shall be paid to Seller by Buyer upon written demand, together with interest thereon at the maximum rate permitted by law. Prior to entering upon the Property, Buyer shall provide a liability insurance policy naming Seller as an additional insured party in an amount not less than \$2,000,000 with respect to Buyer's inspections of the Property.

4. Cash Purchase: This is an all-cash sale and purchase. This Agreement is not contingent upon Buyer obtaining financing.

5. Delivery of Documents: All documents required of either party pursuant hereto shall be fully and properly prepared, executed, attested, sealed and, where necessary, acknowledged on or before the date of Closing. All original documents in final form shall be deposited into escrow by the respective party having responsibility for the same as part of the Closing. Copies of all documents shall be provided in advance to each party not later than five (5) days prior to the Closing. Seller shall deposit with Title Insurer, as escrowee, to be furnished to the Buyer upon Closing the following documents:

(a) Special warranty deed ("Deed") in the form of Exhibit "B" attached hereto (or similar form then in use in the jurisdiction where the Property is located) conveying to Buyer fee simple title to the Property, in recordable form, consistent with statutory requirements, providing for return thereof to the grantee therein after recording and the title so conveyed shall be free and clear of all liens, encumbrances, exceptions and defects except and subject only to the Permitted Exceptions and the use restrictions (as hereinafter described in Article 30). To the extent that Buyer accepts ownership of the Property subject to any other lien, encumbrance, exception, defect or matter of survey in addition to the Permitted Exceptions, the Deed shall also reflect that execution, delivery and recordation of the Deed is made subject to such other lien, encumbrance, exception and defect. To the extent permitted by applicable laws, the Deed shall recite nominal not actual consideration;

(b) Any documents required by law or reasonably required by the Title Insurer, for consummating the transaction contemplated hereunder, so long as such additional requirements do not expand or broaden the liability or exposure to expense of Seller beyond that described in this Agreement;

(c) A certificate stating that Seller is not a "foreign person" but rather is a "United States person" within the meaning of Section 1445 of the Internal Revenue Code (as amended);

(d) Seller shall make arrangements to deliver to Buyer the keys to the building on the Property.

6. Title and Survey Review:

(a) Title Review: No later than thirty (30) days following the full execution and delivery of this Agreement, Seller shall order and cause, at Seller's sole cost and expense, the issuance of a current preliminary title commitment (the "**Title Commitment**") from First American Title Insurance Company, 30 North LaSalle Street, Suite 2700, Chicago, IL 60062 (Attn: John Beckstedt Jr, National Commercial Services, Phone: 312-917-7233; jbeckstedt@firstam.com) (the "**Title Insurer**") to be prepared covering title to the Property, together with full and legible copies of all supporting documents. Buyer shall have thirty (30) days following the delivery of the Title Commitment to the Buyer to disapprove of any exceptions to title to the Property and to provide Seller with notice thereof in writing (the "**Objection Notice**"). Such Objection Notice shall be accompanied by a copy of said Title Commitment. Within ten (10) days of Buyer's Objection Notice to Seller disapproving exceptions to title pursuant hereto, Seller shall notify Buyer whether Seller intends to remove or insure over such disapproved exceptions prior to Closing. If Seller notifies Buyer that it intends to so eliminate or insure over such disapproved exceptions, Seller shall do so on or before the Closing Date. If Seller notifies Buyer in writing within such ten (10) day period that Seller does not intend to remove or insure over one or more of such disapproved exceptions or does not notify Buyer that it intends to remove or insure over such disapproved exceptions, Buyer shall have the right to terminate this Agreement by notifying Seller prior to the expiration of the Due Diligence Period. If Buyer fails to notify Seller that it elects to terminate this Agreement prior to the expiration of the Due Diligence Period, Buyer shall be deemed to accept the Property subject to such disapproved exceptions not to be removed or insured over by Seller (all exceptions to title to the Property not removed by Seller and accepted or deemed accepted by Buyer shall become additional Permitted Exceptions. The Title Company shall issue a standard ALTA owner's policy at the Closing insuring fee title in Buyer subject only to the Permitted Exceptions, standard preprinted conditions and stipulations, general exceptions and exclusions from coverage contained in the standard ALTA owner's policy (the "**Title Policy**"). Seller shall be responsible for paying the Title Policy premiums (or for any cancellation costs that may be incurred in the event Buyer terminates this Agreement). Buyer shall be responsible for any costs, fees and premiums for all additional coverages and endorsements desired by Buyer. The Title Commitment shall be conclusive evidence of good title as therein shown as to all matters insured by the Title Policy, subject only to the exceptions as therein stated.

(b) Survey. Buyer may obtain an ALTA survey of the Property at Buyer's expense (the "**Survey**"). Buyer shall provide a copy of the Survey to Seller and Title Insurer upon receipt thereof. Any matters raised on the Survey that are not acceptable to Buyer ("**Survey Issues**") shall be raised by Buyer in writing in the Objection Notice. Within ten (10) days of the Seller's receipt of the Objection Notice, Seller shall inform Buyer whether Seller shall agree to undertake any corrective action to address the Survey Issues. If Seller agrees to undertake the

correction of all or any Survey Issues, satisfaction of same shall be accomplished prior to Closing. If Seller shall not agree to undertake to satisfy any or all Survey Issues, Buyer shall have the right to terminate this Agreement prior to the expiration of the Due Diligence Period.

(c) Permitted Exceptions. In addition to the Permitted Exceptions that may be added in accordance with Article 6(a) or 6(b), Seller shall transfer the Property to Buyer subject to the following matters, collectively referred to in this Agreement as the “Permitted Exceptions”:

- (i) ad valorem real estate taxes and assessments not yet due and payable,
- (ii) all matters shown or raised on the Survey except those which are timely objected to by Buyer as provided in Article 6(b), above and which Seller agrees to cure,
- (iii) any matters of record raised on the Title Commitment except those which are timely objected to as provided in Article 6(a), above and which Seller agrees to cure,
- (iv) zoning ordinances, building codes and all applicable laws affecting the Property,
- (v) if Buyer does not elect to obtain the Survey, the Title Insurer’s standard preprinted exception for matters that would be disclosed by an accurate survey of the Property, and
- (vi) acts of Buyer and those claiming by, through or under Buyer.

7. Possession. Possession of the Property shall be delivered to Buyer on the Closing Date.

8. Warranties. All warranties contained herein are deemed and acknowledged by the parties to be materially significant to this Agreement. Either party may at any time prior to Closing demand reasonable evidence or assurance of the accuracy, truth and validity of the warranties made by the other party herein.

(a) Seller covenants, represents and warrants to Buyer that the following are true and correct as of the Effective Date and will be true and correct on the Closing Date, unless expressly stated otherwise:

- (i) Seller has full, legal authority to enter into this Agreement with Buyer, to execute or cause execution of all documents required hereunder, including the Deed as herein required, to consummate or cause consummation of the transaction contemplated hereby and to convey or cause conveyance of the Property pursuant hereto to Buyer; and

(ii) To the best of Seller's knowledge, there are no contracts for the sale and purchase (including options, redemption rights and rights of first refusal) of the Property (other than this Agreement). "To the best of Seller's knowledge," or words of similar meaning, as used herein shall mean the actual (as opposed to constructive or imputed) knowledge of Brenden O'Brien, Real Estate Portfolio Manager of Seller, without any independent investigation or inquiry.

(b) Buyer covenants, represents and warrants to Seller that the following are true and correct as of the Effective Date and will be true and correct on the Closing Date, unless expressly stated otherwise:

(i) Buyer, subject to the authorization of its Village Council, has full, legal authority to enter into this Agreement, execute or cause execution of all documents required hereunder as herein required, to consummate or cause consummation of the transaction contemplated hereby and pay or cause payment of the Purchase Price to Seller;

(ii) There are no actions, suits, proceedings, judgments, orders, decrees, defaults, delinquencies or deficiencies outstanding, pending or threatened against Buyer which would affect Buyer's ability to perform hereunder;

(iii) Buyer's entry into this Agreement, execution hereof and performance hereunder does not violate any other contract, mortgage, instrument, private formative instrument (such as a charter, articles of incorporation, by-laws or partnership agreement), order, regulation, ordinance or law to which Buyer is bound; and

(iv) Buyer does not require any consent, approval or permission from any governmental or quasi-governmental authority or any other party to enter into or perform its obligations under this Agreement.

9. Risk of Loss/Eminent Domain: Seller shall have all risk of loss, damage or destruction due to fire or other casualty until Closing. If at any time prior to Closing, all or any portion of the Property is destroyed or damaged as a result of fire or other casualty (other than the negligent or intentional act of Buyer or Buyer's agents, employees, or contractors), or if any condemnation proceedings are threatened in writing or initiated or notice of the initiation of any such eminent domain or condemnation proceedings is received by Seller, Seller shall promptly give notice thereof to Buyer and Buyer shall have the right to either (i) terminate this Agreement, in which case the Earnest Money shall be returned to Buyer, or (ii) proceed to Closing, in which event Seller shall deliver to Buyer at Closing, all insurance or condemnation proceeds. In lieu of insurance proceeds in the event of a casualty, Seller may elect to provide a cash credit to Buyer in the amount of the estimated cost to repair the damage to the Property. Effective upon Closing, Buyer shall have all risk of loss, damage or destruction due to fire or other casualty. Under no

circumstances shall Seller be obligated to change the condition of or repair or restore the Property after a casualty.

10. Closing Costs, Prorations and Adjustments. The Purchase Price to be paid by Buyer to Seller for the Property pursuant to Article 2, above, shall be adjusted as follows:

(a) Closing Costs. Seller shall pay for the expenses of preparing the Deed, lien affidavits and other documents necessary to transfer the Property to Buyer, as well as transfer taxes imposed upon a seller of real property by law or local custom, if any. Each party shall pay its own attorney fees. Closing costs or any escrow fees charged by Title Insurer (other than fees payable upon termination which shall be paid by Buyer) shall be split equally between Buyer and Seller. All fees charged by Buyer's lender, if any, including, without limitation, any escrow fee or recording fees shall be paid by Buyer as well as the cost of the Survey and any costs imposed by reason of transfer taxes imposed upon a purchaser of real property by laws or local custom (e.g., a grantee tax). Any and all other closing costs shall be paid by Seller, including without limitation, the costs and expenses incurred (i) for issuance of the title commitment and copies of documents of record, (ii) for the issuance of the Title Policy and recording costs.

(b) Prorations and Adjustments. Unless otherwise specified in this Agreement, all expenses and costs relating to the Property shall be pro-rated, adjusted and apportioned as of the Closing Date in the manner hereinafter set forth. To the extent such apportionments, adjustments and pro-rations are required, they shall be charged and credited against the Purchase Price.

(i) Taxes. All real estate ad valorem taxes shall be pro-rated as of the Closing Date (with Buyer being deemed to have the benefits and burdens of ownership on the Closing Date) on the basis of the most recent tax bills. There shall be no re-proration upon issuance of the actual tax bill. Seller shall be obligated to and shall discharge prior to Closing all past due ad valorem property taxes, both real and personal, against the Property and relating to prior years.

(ii) Utilities. Prior to Closing, Seller shall notify all utilities servicing the Property of the change in ownership and direct that all future billings for services rendered on and after the Closing Date be made to Buyer with no interruption of service. Seller shall request that all meters will be read on the morning of the Closing Date, with the charges to such time payable by Seller and charges thereafter payable by Buyer. Any charges for utilities which are paid on a monthly basis shall be pro-rated at Closing. In the event the actual amounts for such charges for utilities are not known as of the closing or cannot be billed separately to the responsible party, such charges shall be pro-rated between the parties as of the Closing Date based upon estimates agreed upon by the parties and such proration(s) shall be adjusted after Closing once the actual amounts thereof become known. The terms of

this Article 10(b)(ii) shall survive Closing for a period not to exceed ninety (90) days. Any and all prepaid deposits for such utilities, if refundable, shall be reimbursed to Seller; if not refundable, Buyer shall succeed to the ownership thereof and Seller shall receive a credit therefor at Closing.

(iii) Non-Ad Valorem Wastewater Assessments. Seller shall be responsible for payoff and full discharge of the balance of all non-ad valorem central wastewater assessments on the property at Closing.

(iv) Other Expenses. All other expenses not otherwise specified herein in connection with the operation of the Property accruing and relating to the period to the Closing Date will be the responsibility of and paid by Seller. All other such costs and expenses in connection with the operation of the Property accruing and relating to the period commencing on the day of Closing and thereafter shall be the responsibility of and paid by Buyer.

11. Indemnification:

(a) Except for matters arising from the negligent or willful acts of the Buyer Parties, Seller shall indemnify and hold Buyer harmless from and against any and all claims, demands, liabilities, costs and expenses of every nature and kind (including without limitation reasonable attorneys' fees and expenses) which Buyer may sustain from and after the Closing which arise from the operation, ownership, custody or control of the Property by Seller prior to Closing, such indemnification to survive Closing for a period of six (6) months from the Closing Date.

(b) Buyer agrees to indemnify and hold Seller harmless from and against any and all claims, demands, liabilities, costs and expenses of every nature and kind (including without limitation reasonable attorneys' fees and expenses) which Seller may sustain at any time as a result of, arising out of, or in any way connected with the operation, ownership, custody or control of the Property by Buyer from and after Closing, such indemnification to survive Closing.

12. Remedies:

(a) In the event of a breach hereunder by Seller which results in a failure to close this transaction in accordance with the terms set forth herein, Buyer shall be entitled to elect, as its sole and exclusive remedy, to either (i) terminate this Agreement by written notice to Seller and Title Insurer and receive a return of the Earnest Money, or (ii) pursue the remedy of specific performance of this Agreement, so long as such specific performance action is served upon Seller no later than thirty (30) days after the scheduled Closing Date.

(b) In the event of a breach hereunder by Buyer which results in a failure to close this transaction in accordance with the terms set forth herein, Seller shall have as its sole remedy at law and in addition to all of its remedies at equity, the right to

retain the Earnest Money and all interest earned thereon as full liquidated damages for such default of Buyer, the parties hereto acknowledging that it is impossible to more precisely estimate the damages to be suffered by Seller upon Buyer's default, and the parties expressly acknowledge that retention of the Earnest Money, and all interest earned thereon, are intended not as a penalty, but as full liquidated damages. Buyer hereby waives and releases any right to (and hereby covenants that it shall not) sue Seller to recover the Earnest Money, and all interest earned thereon, or any part thereof on the grounds that it is unreasonable in amount or that its retention by Seller is a penalty and not agreed upon or constitute reasonable liquidated damages.

(c) In the event of a breach hereunder by either party other than a failure to close the transaction as set forth above, each party reserves all rights and remedies available to it at law or in equity.

(d) Notwithstanding the foregoing or anything in this Agreement to the contrary, each of Seller and Buyer waives any right to sue the other for any consequential or punitive damages for matters arising under this Agreement (it being understood that each of Seller and Buyer has waived the right to obtain incidental, special, exemplary or consequential damages in connection with any default of Buyer or Seller, respectively, or otherwise, which in the case of Buyer, includes, without limitation, loss of profits or inability to secure lenders, investors, buyers or tenants). This Section shall survive the Closing or termination of this Agreement.

13. **Brokerage:** Each party to this Agreement represents to the other that neither party has dealt with any broker or other intermediary with regard to this transaction except Mark Hollenbeck of Retail Net Real Estate (the "**Broker**"), the commission of which shall be paid by Seller pursuant to a separate agreement. Buyer and Seller each hereby indemnify and hold the other harmless against any claims for brokerage commissions or compensation or other claims of any kind (including reasonable attorneys' fees and costs) arising out of the negotiation and execution of this Agreement.

14. **Further Acts.** In addition to the acts and deeds stated herein and contemplated to be performed, executed and delivered by the respective parties hereto, each of the parties hereto agrees to perform, execute and deliver or cause to be performed, executed and delivered at Closing and after Closing any and all such further acts, deeds and assurances as may be reasonably necessary to consummate the transaction contemplated hereby.

15. **Counterparts:** This Agreement may be executed in any number of counterparts, each of which, assuming they have not been modified, shall be deemed an original and shall be binding upon the parties hereto. This Agreement may be executed via facsimile signature, (or scanned in pdf format sent by e-mail transmission), and any such signature shall constitute an original and all such signatures when taken together shall constitute one and the same original instrument.

16. **Binding Effect:** All covenants, agreements, warranties, and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns.

17. **Applicable Law:** This Agreement is made and entered into under the laws of the State of Florida and said laws shall control interpretation of this Agreement. If, and in the event that, after taking all steps available under Florida law, compliance with this Agreement would constitute a violation of such law, this Agreement shall be deemed modified to the extent that it does not violate such law.

18. **Notices:** Any notice required or permitted to be given under this Agreement shall be in writing and sent via a nationally recognized private express delivery service providing proof of receipt and delivery and “same-day” or “next-day” delivery service, or the United States Mail, registered or certified mail, postage prepaid, return receipt requested, and shall be deemed to have been given upon receipt or refusal of receipt. Notices shall be sent to the following addresses:

Seller: Walgreens #16507
Real Estate Law Department
104 Wilmot Road, MS 144G
Deerfield, IL 60015
Attention: Rebecca Lidskin

With a copy to: Walgreens #16507
Facilities Development
106 Wilmot Road, MS 1630
Deerfield, IL 60015
Attention: Brenden O’Brien

With a copy to: Robert M. Silverman, Esq.
Equis Law Group, LLC
2901 Butterfield Road
Oak Brook, IL 60523
Email: rsilverman@equislaw.com
Tel: 847-331-6739

Buyer: Attn: Gregory J. Oravec, Village Manager
Islamorada, Village of Islands
86800 Overseas Hwy
Islamorada, FL 33036

With a copy to: Roget V. Bryan, Village Attorney
Islamorada, Village of Islands
86800 Overseas Hwy
Islamorada, Florida 33036

Either party may, from time to time by notice as herein provided, designate a different address or addresses to which notice shall be sent.

19. Assignment; Binding upon Successors and Assigns. No party shall delegate or assign this Agreement or any rights or duties hereunder (including without limitation by the merger or consolidation of a party with any third person) without the prior written consent of the other. This Agreement shall be binding upon and shall inure to the benefit of Seller and Buyer and the respective successors and permitted assigns of each upon execution hereof by Seller and Buyer. This Agreement creates no rights as a third-party beneficiary or otherwise in any person not a party. Prior to Closing, and upon written notice delivered to Seller no later than seven (7) days prior to Closing, Buyer may designate another legal entity in which Buyer has an interest to take title to the Property, provided that all costs, expenses, fees or taxes arising from such assignment or designation by Buyer shall be paid solely by Buyer, and Buyer shall indemnify and hold harmless Seller from and against any and all such expenses or liabilities.

20. Severability of Provisions: This Agreement shall not be severable or divisible; provided, however, that a judicial or administrative determination by any jurisdiction of the invalidity or unenforceability of any one or more of the provisions hereof, or any one or more of the provisions of any instrument or Exhibit related hereto or referred to herein shall not invalidate the remaining provisions of this Agreement or any instrument or Exhibit related hereto or referred to herein, or the application of such provision(s) to persons or circumstances other than those with respect to which it is determined to be invalid or unenforceable, all the provisions of the same being deemed for purposes of the aggregate validity thereof to be separate. Further, with respect to any such provision(s) determined to be invalid or unenforceable, such provision(s) shall be deemed reformed to the extent necessary to be valid and enforceable, and to accomplish the intention of the parties as is most nearly possible. It is the intent and belief of the parties that each and every provision of applicable law required to be inserted in this Agreement should be and is hereby deemed to be inserted and that this Agreement in all respects comports with applicable law. If any provision(s) required to be inserted in this Agreement by law is/are not inserted, or not inserted in correct form, then this Agreement shall forthwith, upon the request of either party be deemed amended so that such provision(s) required by law is/are deemed inserted herein in correct form without prejudice to the rights of either party.

21. Confidentiality and Non-Disclosure: Neither party shall publicly disclose or publicize the provisions hereof or the terms and circumstances of the transaction contemplated hereby to any person whomsoever except as required by law (including without limitation regulatory requirements or filings) or as necessary to consummate the transaction contemplated hereby, without the express written consent of the other party.

22. Calculation of Time: If the time period by which any right, option, or election provided under this Agreement must be exercised, or by which any act required herein must be performed or by which the Closing Date must be held, expires on a Saturday, Sunday or legal holiday (as determined in the jurisdiction in which the Property is located), then such time period shall be automatically extended to the close of business on the next regular business day.

23. Entire Contract and Modification: This Agreement constitutes the entire and complete contract between the parties hereto. This Agreement may be modified or amended only by an amendment in writing and signed by the parties hereto.

24. Section Headings: The section headings of this Agreement are for reference only and shall not be used to construe or interpret this Agreement.

25. Waiver: No express or implied waiver of any default shall constitute a waiver of any other default or of any rights upon default. No failure or delay in acting by a party hereto shall be deemed a waiver of such party's rights.

26. Gender and Number: As required for the reasonable interpretation of this Agreement, the singular shall include the plural, the neuter shall include the masculine and feminine, and vice versa.

27. Time; Recording: Time is of the essence to this Agreement. Neither party shall record this Agreement, or any memorandum, short form, redacted form or notice thereof. Any recording of this Agreement by Buyer shall cause an immediate termination of this Agreement and a failure to close, in which event the Earnest Money shall be paid in accordance with Article 12 above.

28. **"AS IS", "WHERE IS" CONDITIONS; WAIVER OF ALL WARRANTIES:** THE PROPERTY IS BEING SOLD ON AN "AS IS, WHERE IS" CONDITION AND BASIS WITH ALL FAULTS, AND SELLER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND AS TO THE CONDITION THEREOF, AND BUYER ACKNOWLEDGES AND AGREES THAT SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (I) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, AND EACH PORTION THEREOF, (II) THE INCOME TO BE DERIVED FROM THE PROPERTY, (III) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON, (IV) THE COMPLIANCE OF THE SELLER WITH REGARD TO THE PROPERTY OR THE PROPERTY ITSELF WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (V) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (VI) THE MANNER QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY, OR (VII) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE EXISTENCE IN OR ON THE PROPERTY OF HAZARDOUS MATERIALS. BUYER FURTHER

ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, BUYER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER AND, AT CLOSING, AGREES TO ACCEPT THE PROPERTY AND WAIVE ALL OBJECTIONS OR CLAIMS AGAINST SELLER (INCLUDING, BUT NOT LIMITED TO, ANY RIGHT OR CLAIM OF CONTRIBUTION) ARISING FROM OR RELATED TO THE PROPERTY OR TO ANY HAZARDOUS MATERIALS ON THE REAL PROPERTY. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT SELLER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. SELLER IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE HAS BEEN ADJUSTED BY PRIOR NEGOTIATION TO REFLECT THAT THE PROPERTY IS SOLD BY SELLER AND PURCHASED BY BUYER SUBJECT TO THE FOREGOING. THE PROVISIONS OF THIS SUBSECTION SHALL SURVIVE CLOSING.

29. Irrevocable Offer: Buyer acknowledges that the Buyer has read and understands the terms and conditions of purchase as set forth in this Agreement, agrees to purchase the Property or, for and upon the terms of this Agreement and for the stipulated price and agrees that Buyer's execution and delivery of this Agreement shall constitute an irrevocable offer to purchase made to Seller.

30. Use Restrictions: Buyer acknowledges and agrees that Seller requires that certain restrictions be imposed on the future use of the Property as a material inducement to Seller to sell the Property to Buyer. Accordingly, Buyer acknowledges and agrees that the Property shall be conveyed subject to the following restrictions (except in the event that Seller or Seller's affiliates shall again become a tenant or owner of the Property): the operation of a drug store or a so-called prescription pharmacy or prescription ordering, processing or delivery facility, whether or not a pharmacist is present at such facility, or for any other purpose requiring a qualified pharmacist or other person authorized by law to dispense medicinal drugs, directly or indirectly, for a fee or remuneration of any kind. Said restrictions shall remain in effect in perpetuity or for so long as allowed by law. This use restriction shall be set forth in the Deed and shall run with the land.

31. Title Insurer as Escrow Agent Duties and Disputes:

(a) Title Insurer as escrow agent shall not be bound in any way by any other agreement or contract between Seller and Buyer, whether or not Title Insurer has knowledge thereof. Title Insurer's only duties and responsibilities shall be to hold the Earnest Money and other documents delivered to it as agent and to dispose of the Earnest Money and such documents in accordance with the terms of this Agreement. Without limiting the generality of the foregoing,

Title Insurer shall have no responsibility to protect the Earnest Money and shall not be responsible for any failure to demand, collect or enforce any obligation with respect to the Earnest Money or for any diminution in value of the Earnest Money from any cause, other than Title Insurer's gross negligence or willful misconduct. Title Insurer may, at the expense of Seller and Buyer, consult with counsel and accountants in connection with its duties under this Agreement. Title Insurer shall be fully protected in any act taken, suffered or permitted by it in good faith in accordance with the advice of counsel and accountants. Title Insurer shall not be obligated to take any action hereunder that may, in its reasonable judgment, involve it in any liability unless Title Insurer shall have been furnished with reasonable indemnity satisfactory in amount, form and substance to Title Insurer.

(b) Title Insurer is acting as a stakeholder only with respect to the Earnest Money. If there is any dispute as to whether Title Insurer is obligated to deliver the Earnest Money or as to whom the Earnest Money is to be delivered, Title Insurer shall not make any delivery, but shall hold the Earnest Money until receipt by Title Insurer of an authorization in writing, signed by all the parties having an interest in the dispute, directing the disposition of the Earnest Money, or, in the absence of authorization, Title Insurer shall hold the Earnest Money until the final determination of the rights of the parties in an appropriate proceeding. Title Insurer shall have no responsibility to determine the authenticity or validity of any notice, instruction, instrument, document or other item delivered to it, and it shall be fully protected in acting in accordance with any written notice, direction or instruction given to it under this Agreement and believed by it to be authentic. If written authorization is not given, or proceedings for a determination are not begun, within thirty (30) days after the date scheduled for the closing of title and diligently continued, Title Insurer may, but is not required to, bring an appropriate action or proceeding for leave to deposit the Earnest Money with a court of the State of Florida pending a determination. Title Insurer shall be reimbursed for all costs and expenses of any action or proceeding, including, without limitation, attorneys' fees and disbursements incurred in its capacity as Title Insurer, by the party determined not to be entitled to the Earnest Money. Upon making delivery of the Earnest Money in the manner provided in this Agreement, Title Insurer shall have no further liability hereunder. In no event shall Title Insurer be under any duty to institute, defend or participate in any proceeding that may arise between Seller and Buyer in connection with the Earnest Money.

(Text of the document ends here - signatures commence on next page.)


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


Buyer:

Seller:

ISLAMORADA, VILLAGE OF ISLANDS,
A municipal corporation

WALGREEN CO.,
an Illinois corporation


By: 
Name: Gregory J. Graves
Its: Village Manager

By: 
Name: Chris Noble
Its: DVP, Real Estate -Delegatee

SOX Approval	By	Date
C&RE Law	RLL	10/18/2021
Fac. Dev.	CK	10/18/2021

Witnesses:

Kelly S. Soth
Stephanie Conde



Solely to confirm its obligations hereunder:

Title Insurer as escrow agent:

FIRST AMERICAN TITLE INSURANCE
COMPANY

By: _____
Name: _____
Its: _____

EXHIBIT "A"

LEGAL DESCRIPTION

LOT 6,7 AND 8, BLOCK 8, STRATTON'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 38 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA

EXHIBIT "B"

FORM OF DEED

SPECIAL WARRANTY DEED

THIS AGREEMENT, made this _____ day of _____, 2021 between WALGREEN CO., an Illinois corporation, party of the first part, whose address is 104 Wilmot Road, MS 144G, Deerfield, Illinois 60015 and ISLAMORADA, VILLAGE OF ISLANDS, a municipal corporation, party of the second part, whose address is 86800 Overseas Highway, Islamorada, Florida 33036.

WITNESSETH, that the party of the first part, for and in consideration of the sum of TEN DOLLARS AND NO/100 (\$10.00) and other good and valuable considerations in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, by these presents does GRANT, SELL AND CONVEY unto the party of the second part, and to its successors and assigns, FOREVER, all the following described real estate, situated in the County of Monroe and State of Florida known and described as follows, to wit:

See Exhibit "A" attached hereto, subject to matters listed on Exhibit "B" attached hereto

TO HAVE AND TO HOLD title to said real estate, together with all and singular rights and appurtenances thereto in anyway belonging, unto the party of the second part and its successors. The said party of the first part does hereby fully WARRANT AND will FOREVER DEFEND all and singular said real estate unto the party of the second part, its successors and assigns, against every person whomsoever lawfully claiming, or claim the same, or any part thereof, by, through or under the party of the first part but not otherwise and subject to any such matters listed on Exhibit "B" attached hereto and incorporated herein, none of which shall be deemed extended or reimposed hereby.

P.I.N.(s): 00400120-000000

Address of Real Estate: 81981 Overseas Highway, Islamorada, FL

EXHIBIT "A"

LEGAL DESCRIPTION

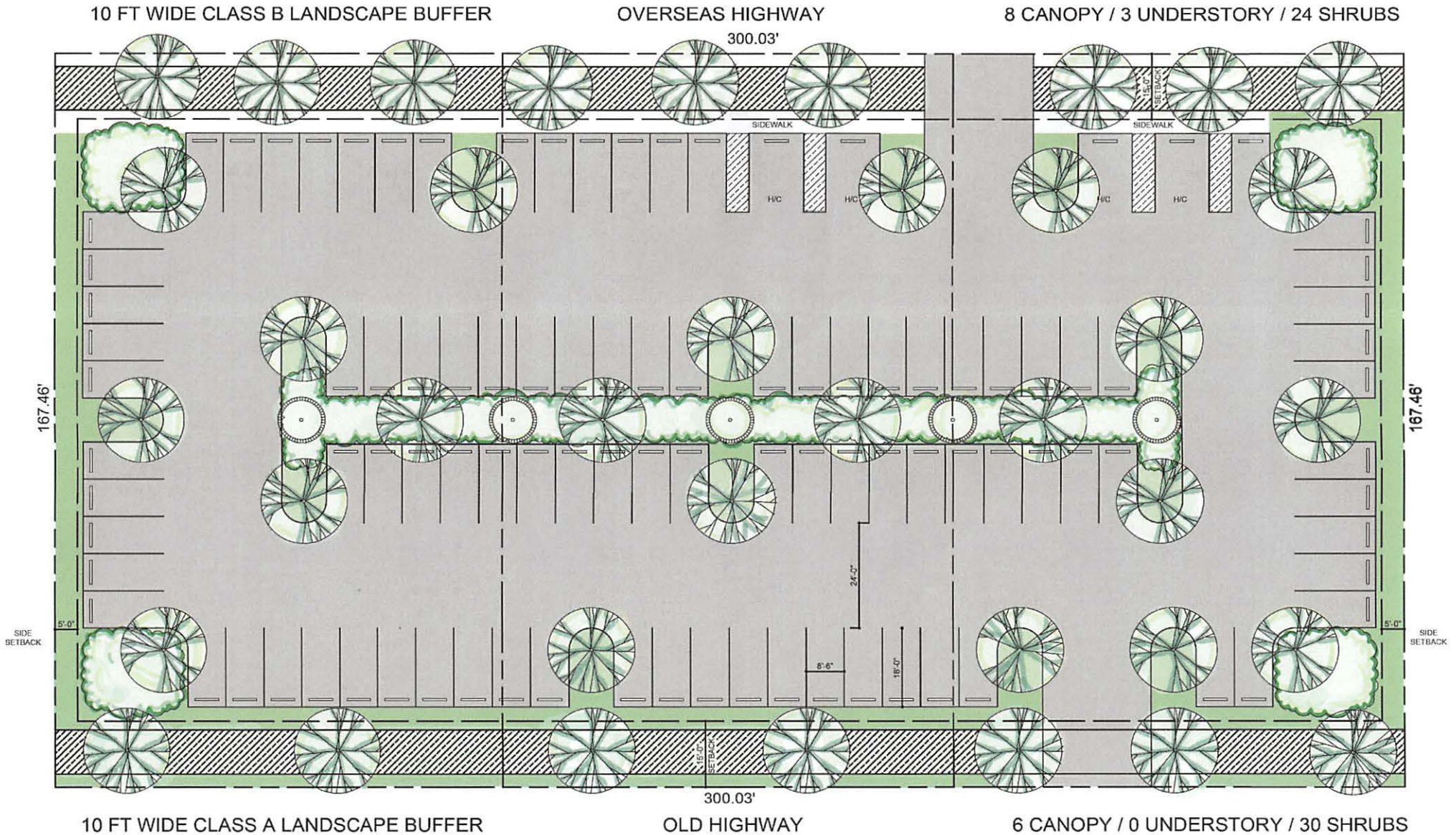
LOT 6,7 AND 8, BLOCK 8, STRATTON'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 38 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA

EXHIBIT "B"

1. This conveyance is further made subject to the following restriction: Except in the event that Grantor or Grantor's affiliates shall again become a tenant or owner of the property hereby conveyed), the property conveyed by this deed shall not be used for the operation of a drug store or a so-called prescription pharmacy or prescription ordering, processing or delivery facility, whether or not a pharmacist is present at such facility, or for any other purpose requiring a qualified pharmacist or other person authorized by law to dispense medicinal drugs, directly or indirectly, for a fee or remuneration of any kind. Said restrictions shall remain in effect in perpetuity or for as long as allowed by law. This use restriction shall be set forth in the Deed and shall run with the land.

2. General Taxes not yet due and payable.

3. **(TO BE ADDED FROM TITLE COMMITMENT)**



Conceptual Parking Lot for 81981 Overseas Hwy.

SCALE: 1" = 20'-0"

96 / 4 HC parking spaces