



To the Honorable Council
City of Norfolk, Virginia

January 25, 2022

From: Susan Perry

**Subject: Approval of a Purchase and Sale Agreement
with TRG Community Development, LLC**

Reviewed:

Trista Pope, Deputy City Manager

Ward/Superward: 4/7

Approved:

Dr. Larry H. Filer II, City Manager

Item Number: PH-2

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**

This agenda item is an ordinance to authorize a Purchase and Development Agreement between the City of Norfolk (City) and TRG Community Development, LLC (Developer) and authorizing the City Manager to enter into the agreement on behalf of the City of Norfolk for the purchase and development of the Land located at 645 Church Street in the City of Norfolk, Virginia.

IV. **Analysis:**

- The City-owned property located at 645 Church Street in the City of Norfolk, Virginia, contains 1.5194 acres.
- The property's purchase price shall be \$417,835.00 with an initial deposit of \$25,000.00.
- Developer shall develop the Property as a multi-family mixed-used project known as ASPIRE.
- This development aligns with the vision for the St. Pauls' Transformation area.
- The project shall consist of 85 newly constructed affordable apartment units that will serve families with incomes ranging from 30% to 80% Area Median Income (AMI), with 6 of the units reserved for homeless and formerly homeless households.

- The project shall include no fewer than 21 project-based voucher units to support families living in the Tidewater Gardens public housing community having incomes at or below 40% AMI.
- The project will include a business center, clubroom/lounge area, permanent fixtures of art, fitness center, a playground, outdoor grilling area, dog park, allocated space for virtual medical care, and community garden, and art programs available to both residents of the project and the broader community.
- Developer shall adopt and comply with the City's economic inclusion plan that supports the City's established contracting goals for certified Women Businesses (13.3% of total construction costs) and certified Minority Businesses (12% of total construction costs).
- As part of the agreement, the Developer shall commence construction within 60 days after the Closing Date and follow the construction schedule terms.

V. Financial Impact:

- The City will receive the proceeds from the property sale of \$417,835.00.
- The City is exempt from grantor's tax in connection with the recordation of the Deed. Developer shall pay all other recordation costs, including state and local recordation taxes, in connection with the recordation of the Deed and any subdivision plat. Each party shall pay its respective attorneys' fees.
- The development will assist in supplying more affordable housing units for the community and increasing potential contracts for certified Women and Minority Businesses.
- Developer shall establish a property management training program with preference given to residents or former residents of Tidewater Gardens, Calvert Square, and Young Terrace.

VI. Environmental:

- The property does not contain any other Hazardous Materials other than incidental or trace quantities not in violation of Environmental Requirements except in Phase 1 Environmental Site Assessment dated March 27, 2019. The City is not aware of any studies that reveal environmental, soil, or other conditions within the Property that would materially adversely affect the development of the Property for the Intended Use.
- Developer shall re-install the historical marker honoring Evelyn T. Butts at the corner of Brambleton Avenue and Church Street.
- Developer shall work with the Norfolk Footprints: St. Paul's Story Project to incorporate their art selection(s) concepts at the Project.

VII. Community Outreach/Notification:

- This development is designed to the principles of the St. Paul's Transformation area project, which includes extensive community engagements.
- Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process.

VIII. Board/Commission Action:

- The City of Norfolk Architectural Review Board has approved the design and the City's Planning Commission has approved the rezoning.
- The St. Paul's Advisory Committee has reviewed and commented on the development.

IX. Coordination/Outreach:

This letter and ordinance have been coordinated with the City Manager's Office and City Attorney's Office.

Supporting Material from the City Attorney's Office:

- Purchase and Development Agreement
- Ordinance

Supporting Material:

- EX A-Purchase Development Agreement-TRG Community Development LLC-645 Church St (Willis Bldg)-4885-5407-6167-v5 City Revisions (PDF)

Form and Correctness Approved: *BAP*

Contents Approved:



By: _____
Office of the City Attorney

By: _____
DEPT. Department of Housing and
Community Development

NORFOLK, VIRGINIA

Ordinance No.

AN ORDINANCE APPROVING A PURCHASE AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF NORFOLK, AS SELLER, AND TRG COMMUNITY DEVELOPMENT, LLC, AS PURCHASER, FOR THAT CERTAIN PARCEL OF REAL PROPERTY LOCATED AT 645 CHURCH STREET IN THE CITY OF NORFOLK, VIRGINIA, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE PURCHASE AND DEVELOPMENT AGREEMENT ON BEHALF OF THE CITY OF NORFOLK.

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WHEREAS, the City of Norfolk ("Seller") owns and TRG Community Development, LLC ("Purchaser") desires to purchase that certain parcel of real property containing 1.5194 acres, more or less, and located at 645 Church Street in the City of Norfolk, Virginia (the "Property");

WHEREAS, Purchaser intends to develop the Property as a multifamily mixed use development to be known as ASPIRE (the "Project") consisting of eighty-five (85) newly constructed affordable apartment units that will serve families with incomes ranging from 30% AMI to 80% AMI with six (6) of the units reserved for homeless and formerly homeless households, and including a business center, clubroom/lounge area, dog park, allocated space for virtual medical care, and community garden,

with art programs available to both residents of the Project and the broader community, in accordance with the terms and conditions set forth in the Purchase and Development Agreement; now, therefore,

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the Purchase and Development Agreement between the City of Norfolk, as Seller, and TRG Community Development, LLC, as Purchaser, a copy of which is attached hereto as Exhibit A, wherein the City of Norfolk agrees to sell and TRG Community Development, LLC agrees to purchase all that certain parcel of real property containing 1.5194 acres, more or less, and located at 645 Church Street in the City of Norfolk, Virginia, subject to the terms and conditions set forth in the Purchase and Development Agreement, is hereby approved.

Section 2:- That the City Manager is authorized to correct, amend, or revise the Purchase and Development Agreement as he may deem necessary in order to carry out the intent of the Council and to execute the Purchase and Development Agreement, as corrected, amended, or revised in accordance herewith, for and on behalf of the City, subject however to approval as to form and correctness by the Office of the City Attorney.

Section 3:- That this ordinance shall be in effect thirty (30) days after the date of its adoption.

Attachment:

Exhibit A - Purchase & Development Agreement (28 pages)

PURCHASE AND DEVELOPMENT AGREEMENT

THIS PURCHASE AND DEVELOPMENT AGREEMENT (this “*Agreement*”) is made as of the ____ day of February, 2022 by and between the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia (the “*Seller*”), and **TRG COMMUNITY DEVELOPMENT, LLC**, a Delaware company, and its affiliates and/or assigns, hereinafter collectively called the “*Developer*”, with an address c/o JDF, LLC, 777 West Putnam Avenue, Greenwich, CT 06830.

1. Property. Subject to the terms and conditions of this Agreement, Seller shall sell to Developer and Developer shall purchase from Seller certain real property and any improvements located thereon (the “*Land*”) located at 645 Church Street in the City of Norfolk, Virginia (Tax Account No. 7281-9348 and GPIN 1437270517) and containing 1.5194 acres, more or less, as shown generally on Exhibit A attached hereto and made a part hereof, together with all easements, covenants and other rights, if any, appurtenant to the Land (collectively, the “*Property*”).

2. Consideration; Purchase Price. The purchase price (the “*Purchase Price*”) for the Property shall be Four Hundred Seventeen Thousand Eight Hundred Thirty-Five and 00/100 Dollars (\$417,835.00). In consideration for Seller’s conveyance of the Property to Developer, Developer shall pay to Seller the Purchase Price and shall develop the Property in accordance with the terms and conditions set forth in this Agreement. The Purchase Price, less the Deposit, as hereinafter defined, shall be paid by Developer by wire transfer at Closing, as hereinafter defined.

3. Initial Deposit. Within five (5) business days after a fully executed copy of this Agreement is delivered to Developer, Developer shall pay the sum of Twenty Five Thousand and 00/100 Dollars (\$25,000.00) (the “*Initial Deposit*”) to _____ (“Escrow Agent”) to be held in escrow in accordance herewith. The term “*Deposit*” shall collectively refer to the Initial Deposit and any Additional Deposit, as hereinafter defined, made pursuant to Section 5(b) below. The Deposit shall be credited against the Purchase Price at Closing. The Initial Deposit shall be non-refundable except in the circumstances set forth in Section 6 below and in Section 20 below, provided however, if Developer terminates this Agreement on or before the expiration of the Due Diligence Period, as defined below, any Additional Deposits shall be returned to Developer.

4. Intended Use/Permitted Use. Developer shall develop the Property as a multi-family mixed used project to be known as ASPIRE substantially consistent with Developer’s conceptual site plan prepared by Hooker DeJong Architects & Engineers and attached hereto as Exhibit B (the “Developer’s Proposal”) and in accordance with the terms and conditions set forth in this Agreement (the “Project”) and all applicable laws. The Project shall consist of eighty-five (85) newly constructed affordable apartment units that will serve families with incomes ranging from 30% AMI to 80% AMI with six (6) of the units reserved for homeless and formerly homeless households (collectively, the “Affordable Units”). Further, the Project shall include no fewer than twenty-one (21) project-based voucher units to support families living in the Tidewater Gardens public housing community having incomes at or below 40% AMI (the

“PBV Units”). The project will include a business center, clubroom/lounge area, permanent fixtures of art, fitness center, a playground, outdoor grilling area, dog park, allocated space for virtual medical care, and community garden, and art programs available to both residents of the Project and the broader community.

5. Right of Entry; Due Diligence Period; Inspection.

(a) At all reasonable times prior to Closing, Developer, its agents, employees, designees, representatives and contractors (collectively, the “*Developer Parties*”), at Developer’s sole cost and expense, shall have the right to do the following: (i) to enter the Property to perform such tests, inspections and examinations of the Property as Developer deems advisable; (ii) to make investigations with regard to title to the Property, soil and environmental tests (including invasive testing), matters of survey, flood plain of the Property, utilities availability, zoning and building code, and other applicable governmental requirements with regard to the Property; and (iii) to erect signage marketing the Project in accordance with the signage provisions set forth in Section 5.7 of the Norfolk Zoning Ordinance. Developer shall indemnify, defend, and hold Seller harmless from and against all cost, loss, damage and expense, including reasonable attorneys’ fees, arising out of the activities of Developer and the Developer Parties upon the Property pursuant to this Section 5(a), excepting, however; the gross negligence and willful misconduct of Seller, its agents, employees, designees, and representatives. The foregoing indemnity does not include indemnification for loss, cost or expense (including attorney’s fees) resulting from any unfavorable test results or the discovery of any undesirable existing conditions on the Property, including, without limitation, any loss resulting from any decrease in the fair market value of all or any portion of the Property or the inability of Seller to market the Property due to any such discovery of unfavorable test results. The preceding indemnity obligation shall survive termination of this Agreement. Upon Seller’s execution of this Agreement, Seller agrees to furnish Developer within ten (10) business days, copies of any surveys, title policies, environmental reports, soil reports and engineering studies, and any other documentation relating to the Property in Seller’s possession or control.

If Developer determines that the results of its inspections, investigations and the like are unsatisfactory to Developer, in its sole discretion Developer may terminate this Agreement by giving Seller written notice thereof pursuant to Section 28 below on or before the expiration of the Due Diligence Period (as defined below). Further, so long as Seller is not in default under the terms of this Agreement, in the event Developer terminates this Agreement, Developer shall provide Seller without warranty a copy of all environmental and engineering reports prepared by Developer or Developer’s agents.

(b) (i) The “*Due Diligence Period*” shall be a period of 120 days following the date that Purchaser receives a fully executed copy of this Agreement from Seller.

(ii) Purchaser shall have the right to terminate this Agreement, in its sole and absolute discretion, at any time during the Due Diligence Period, by giving written notice of the exercise of such right to Seller prior to the end of the Due Diligence Period. If Purchaser terminates this Agreement at any time on or before the expiration of the Due Diligence Period, the Seller shall immediately (within seven (7) days of receiving notice of termination) instruct the Escrow Agent to return the entire Deposit, including any Additional Deposits, to

Purchaser, and neither party shall have any further liability to the other under this Agreement, except as otherwise expressly provided in this Agreement or with respect to provisions which by their terms survive the termination of this Agreement. If Purchaser terminates this Agreement after the expiration of the Due Diligence Period, and such termination is not because of a Seller default or because the conditions to Closing set forth in Sections 20(a)(i) or 20(a)(ii) were not satisfied, the entire Deposit shall be surrendered to Seller, and neither party shall have any further liability to the other under this Agreement, except as otherwise expressly provided in this Agreement.

(c) Developer shall have the right to extend the Due Diligence Period for up to two additional successive periods of sixty (60) days each by giving Seller written notice thereof prior to the expiration of the then current phase of the Due Diligence Period together with paying an additional deposit for each extension in the amount of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) (each, an “**Additional Deposit**”). If Developer terminates this Agreement after expiration of the Due Diligence Period in accordance herewith, Developer’s right to a refund of the Additional Deposits shall be governed by the provisions of Section 6 and Section 0 below. The Additional Deposit(s) shall be paid to Escrow Agent to be held in escrow in accordance herewith.

(d) Developer will accept the Property from the Seller at Closing subject to the terms and conditions set forth in this Agreement. Except as expressly set forth in this Agreement, Developer shall accept the Property “as is.”

6. Title and Survey.

(a) After the Execution Date, Developer shall promptly order and obtain, at its expense, a commitment from the Title Company for an owner’s policy of title insurance on the Property (the “**Title Commitment**”), as well as copies of all documents relating to the title exceptions referred to in the Title Commitment and upon receipt furnish a copy thereof to Seller. After the Execution Date, Developer may also order and obtain, at its cost and expense, a current physical survey of the Property prepared by a surveyor licensed in Virginia (the “**Survey**”).

(b) By no later than sixty (60) days after the Execution Date, Developer shall notify Seller of any title exceptions or survey matters that Developer does not approve (collectively herein “**Objectionable Title Matters**”). If Developer fails to deliver to Seller the notice described above within sixty (60) days after the Execution Date, then Developer shall be deemed to be satisfied with all matters of title and survey and to have waived any Objectionable Title Matters thereto, except for Objectionable Title Matters arising after the date of the Title Commitment and/or Survey, if the Survey is obtained, that are reflected in subsequent updates thereto (other than Permitted Exceptions). Seller shall respond in writing to Developer’s Objectionable Title Matters (if any) to the Title Commitment and Survey within ten (10) business days after receipt of Developer’s Objectionable Title Matters (if any). Seller’s response shall detail what (if anything) Seller agrees to do in response to cure Developer’s Objectionable Title Matters (and, if applicable, the manner by which Seller intends to try to effectuate a cure) and how long the Closing Date will need to be extended (not to exceed thirty (30) days) provided said period may be extended up to a maximum of sixty (60) days if Seller commences the cure within said thirty (30) day period and is diligently pursuing the cure, if at all (the “**Cure**”).

Extension Period”), for Seller to try to cure such Objectionable Title Matters. Failure of Seller to respond as set forth herein shall be deemed to mean that Seller intends to take no action to cure Developer’s Objectionable Title Matters. Developer shall have ten (10) days from (a) the receipt of Seller’s response to Developer’s Objectionable Title Matters or (b) the expiration of Seller’s response period, to deliver to Seller written notice of Developer’s election either to terminate or not to terminate this Agreement (“***Election Notice***”). If Seller is unable to cure (in the manner set forth in Seller’s response) Developer’s Objectionable Title Matters on or before the Closing (as it may be extended by the Cure Extension Period), then Seller shall give Developer written notice thereof prior to expiration of the Cure Extension Period and Developer shall be entitled either (i) to waive such Objectionable Title Matters and proceed with Closing or (ii) to terminate this Agreement by delivering the Election Notice to Seller within five (5) business days after the earlier of receipt of such notice or after expiration of the Cure Extension Period if not cured. If Developer elects to terminate this Agreement as permitted herein, this Agreement shall terminate upon the Election Notice being given in accordance with Section 28 and the Termination Provisions, as defined, shall apply. If Developer fails to send an Election Notice as permitted herein, Developer shall be deemed to have elected not to terminate, and Developer shall be deemed to be fully satisfied with Seller’s response, or the absence of any response by Seller, as the case may be, and to have waived all Objectionable Title Matters to matters set forth in the Title Commitment and Survey, except those which Seller has agreed to try to cure and except for any new matters (other than Permitted Exceptions) reflected in subsequent updates thereto. Seller’s breach of any covenants made pursuant to this Section 6(b) shall constitute a default of Seller and Developer shall have the right as its sole remedy in such event to terminate this Agreement and provisions (i) and (ii) of the Termination Provisions shall apply. “Termination Provisions” shall mean the following:

(i) This Agreement shall be of no further force and effect and the parties hereto shall no further obligation to one another other than with respect to Developer’s indemnification obligations set forth herein;

(ii) The Deposit shall be returned promptly to Developer;

(iii) Developer shall return to Seller all information regarding the Property that was provided to Developer by Seller pursuant to this Agreement; and

(iv) Developer shall assign, without warranty to Seller, at no cost to Seller, copies of any studies, reports and surveys it has obtained from third parties in regard to the Property, provided however, if reliance upon or use of any such study requires the third-party preparer’s consent, obtaining such consent shall be at the sole cost and expense of Seller. At no time shall Developer be obligated to provide Seller with any of its internal reports or studies it has created in evaluating the feasibility of the purchase of the Property.

(c) Permitted Exceptions. The restrictions, conditions, reservations and easements of record in the chain of title to the Property as of the date of this Agreement that are not objected to by Developer or waived by Developer after objection thereto in accordance with Section 6(b) above, any mortgages and other monetary liens to be satisfied by Seller out of the Purchase Price, all matters that would be disclosed by a current physical survey of the Property and a physical inspection of the Property in connection therewith that are not objected to by

Developer or waived by Developer after objection thereto in accordance with Section 6(b) above and liens for real estate taxes and assessments not yet due and payable as of the Closing Date shall be deemed to be “Permitted Exceptions” for purposes of this Agreement.

(d) Pre-Closing “Gap” Title Defects. As contemplated hereunder, whether or not Developer shall have furnished to Seller any notice of title or survey objections pursuant to the foregoing provisions of this Agreement, Developer shall have the right to object (by delivery of written notice to Seller) to any Objectionable Title Matter (not created by, through or under Developer) which affects the Property and arises after the later of (i) the date of the Title Commitment and/or Survey or (ii) a Subsequent Title Commitment, as defined below. A “***Subsequent Title Commitment***” means an updated title commitment satisfactory to Developer issued as a result of actions taken pursuant to Section 6(b). If Seller fails to cure such objections, Seller shall not be in default (except to the extent Seller is otherwise in breach of this Agreement) but Developer shall have the option either to accept the Property subject to such matters without a reduction in the Purchase Price or to terminate this Agreement as Developer has with respect to Objectionable Title Matters pursuant to Section 6(b).

7. Restrictive Covenants. The Seller has determined that to carry out the objective of maintaining, retaining, improving, and expanding existing development, and to set a prevailing high standard in aesthetics, public policy is best served by the imposition of conditions and restrictions upon the Property other than the residential sites (collectively, “***Excluded Lots***”). To that end, it is hereby agreed that the Property other than the Excluded Lots shall be conveyed subject to the covenants, restrictions, limitations and conditions set forth in **Exhibit C** attached hereto and made a part hereof, which covenants are to be imposed as covenants running with and binding upon the aforesaid Property except the Excluded Lots (the “***Restrictive Covenants***”). The Restrictive Covenants set forth in **Exhibit C** shall expire forty (40) years after the date of this Agreement. It is intended and agreed hereby that the Restrictive Covenants shall be covenants running with the land and that they shall in any event, and without regard to technical classification or designation, legal or otherwise, shall only be binding and enforceable against the then owner, at the time of the violations. The Restrictive Covenants shall be Permitted Exceptions and shall be included in the deed to Developer or otherwise recorded at Closing.

The Restrictive Covenants are intended for the benefit of the Property other than the Excluded Lots provided that (i) only the Seller and any successor or assignee of the Seller that is a local governmental agency shall have the right, power and authority to enforce the Restrictive Covenants; and provided, further, that the Seller shall have the right, power, and authority (without the necessity of obtaining the consent of Developer) to waive compliance by Developer or any successor assignee of Developer with any of the Restrictive Covenants whenever it makes a determination, in its reasonable discretion, that such non-compliance or default does not materially interfere with the objectives of the Seller as a municipality with regard to development. In addition to, but not in lieu of, any other right or remedy for breach of any one or more of the Restrictive Covenants, the Seller shall be entitled to seek injunctive relief, without necessarily showing monetary or special damages and without posting bond or security for a bond for the award of a permanent injunction. The violation of any of the Restrictive Covenants, and the exercise of any right or remedy for breach of any of the Restrictive Covenants, shall not destroy, impair, or otherwise affect the lien of any recorded instrument given by Developer or

any of its successors or assigns to secure repayment of a loan or loans made for any purpose, or any loan to refinancing any such loan, or cause a reversion or forfeiture of title. Seller and Developer recognize that the development and operation of the Property in a manner which is in the best interests of both parties may from time to time require the confirmation, clarification, amplification, or elaboration of the Restrictive Covenants in order to deal adequately with circumstances, which may not now be foreseen or anticipated by the Parties. The parties, therefore, reserve unto themselves the right to enter into such interpretive, implementing, amendatory, or confirmatory agreements from time to time as they may deem necessary or desirable for any such purpose without obtaining the consent or approval of any person not a party to this Agreement.

8. Design Review; Review by Planning. The design and materials of any improvements to the Property are subject to review and approval by the City of Norfolk Architectural Review Board (the “**ARB**”). If not already submitted, no later than one hundred twenty (120) days after the Effective Date, Developer shall submit the proposed design of the Project to the ARB.

If Developer wishes to make modifications to the design of the exterior of any structure that is part of the Project that has been approved by ARB, Developer shall submit such proposed modifications to the ARB for review and approval with a copy to the Department of Housing of Community Development. Any such submission shall clearly identify all changes, omissions, and additions as compared to the previously approved design documents. If the ARB determines, in its reasonable judgment, that the proposed modifications are not acceptable, the Seller shall so notify Developer, specifying in reasonable detail in what respects such proposed modifications are not acceptable, and Developer shall either (a) withdraw the proposed modifications, in which case construction of the Project shall proceed on the basis of the design previously approved by the ARB, or (b) revise the proposed modifications in response to the ARB’s objections and resubmit such modifications to the ARB, within thirty (30) days after receipt of such notice of objections, for review and approval. Notwithstanding anything in this Agreement to the contrary, any changes required by the City in order to obtain approval for any permit or approval required for the plans for the Project shall not require ARB approval.

If at any time prior to the expiration of the Due Diligence Period, Developer determines that it will be unable to obtain ARB approval on terms satisfactory to it in its sole discretion for its proposed design or materials for the improvements to the Property, Developer may terminate the Agreement by written notice to Seller in which event neither party shall thereafter have any rights against, or liability to the other, except for Developer’s indemnification obligation in Section 5(a).

Developer shall hereafter submit plans for Project to the City’s Department of Planning and Community Development (the “**Planning Department**”) and to the City’s Department of Housing and Community Development when the design is approximately 30% complete, (b) when the design is approximately 60% complete, and (c) when the design is sufficiently complete such that Developer’s contractor can proceed with construction (the “**Final Plans**”). The City’s Planning Director, or his/her designee, shall review the design submissions for the Property. Developer may not proceed with construction until the Final Plans for the Project are approved by the Department of Planning and Community Development and, in order to enforce

this Section 8, Seller shall be entitled to seek injunctive relief without the necessity of showing monetary or special damages and without posting bond or security for a bond for the award of a permanent injunction. Review by the Department of Planning shall be limited to confirmation that the design at the 30% stage, the 60% stage, and the Final Plans are in substantial conformance with the previous plans approved by ARB and are otherwise consistent with this Agreement, the Developer's Proposal, and the City of Norfolk Zoning Ordinance.

9. Zoning. If not already submitted, no later than thirty (30) days after the Effective Date, Developer shall submit a completed application to the City's Department of Planning for rezoning of the Property to a zoning classification that permits the development of the Project for its Intended Use (the "**Rezoning**"). The Seller shall sign such application as the owner of the Property. "**Final Rezoning**" means Rezoning of the Property and any appeal period related to such Rezoning shall have expired without any appeals or challenges thereof or in the event of any such appeals or challenges such appeals or challenges having been dismissed without adverse effect upon the Rezoning, and the date upon which the Final Rezoning is referred to herein as the "**Final Rezoning Date**."

10. Subdivision. Intentionally Omitted.

11. Approvals. Developer is solely responsible for securing all governmental permits, licenses and other approvals on terms satisfactory to Developer in its sole discretion including, but not limited to, site plan, subdivision plat, zoning, building permits, and environmental permits necessary for Developer's development of the Property for its Intended Use. Upon the full execution of this Agreement, the Seller shall notify Developer of its representative for the Project who will be responsible for assisting Developer with coordinating the City of Norfolk approvals required hereunder. The Seller, upon further written notice, may change its designee. Developer acknowledges that the City approvals required for development of the Property are administrative functions of the City of Norfolk that are separate from and independent of this Agreement and any duty of Seller to cooperate as landowner under the terms of this Agreement.

12. Utilities. Developer shall be responsible for confirming the existing water and sanitary sewer systems adjacent to or downstream of the Property are adequate to support the Project. Any water or sanitary sewer system upgrades necessary to support the project shall be designed and constructed by Developer at the Developer's expense. The Developer shall be responsible for the relocation of any utilities which is necessitated by the construction on the Property and for connecting to water, storm and sanitary sewer lines currently located in public rights of way, and all costs thereof shall be paid and borne by Developer. Connection fees and tap fees for such public utilities serving the Property will be Developer's responsibility. The cost of franchise utility services for the Property shall be the responsibility of Developer. In addition, Developer shall cause all electric, telephone and other utility lines located within the boundaries of the Property or within public rights of way immediately adjacent to the Property to be placed underground either within the public right of way or within utility easements located within the Property lines.

13. Financing Commitment. As a condition to Closing, Developer shall provide evidence reasonably satisfactory to Seller that Developer has obtained a financing commitment evidencing Developer's financial ability to design, construct and equip the Project for its

Intended Use (the “**Financing Commitment**”). If the Seller is not satisfied with the Financing Commitment submitted by Developer, the Seller shall provide Developer with written notice of the reason or reasons why the Financing Commitment is unacceptable to the Seller. Seller agrees not to unreasonably withhold, delay, or condition its approval of the Financing Commitment.

14. Permits. At no cost to the Seller, Seller shall execute as owner, as may be required, zoning applications, subdivision plats, all building permit applications, plans of development, utility permit applications, utility easements, and such other documents as may be reasonably required for Developer to develop the Project. Developer agrees to indemnify, defend, and save Seller harmless from any liabilities resulting from incorrect information therein, unless such information was provided by Seller.

15. Sidewalks; Streetscape; Lincoln Street Realignment.

(a) Developer shall upgrade, reconstruct, and, in the absence of a sidewalk, construct sidewalks and shall install streetscape improvements such as benches, trashcans and bike racks, in accordance with the City of Norfolk’s streetscape guidelines applicable to the Project area, or in the absence of such guidelines, the City’s Complete Streets specifications where such streets abut the Project. The sidewalk improvements and construction and other streetscape improvements shall be completed as part of Developer’s development of the Project.

(b) Developer agrees that its realignment of Lincoln Street, if any, must be closely coordinated with the adjacent property owner to accommodate temporary access by its suppliers and customers during the roadway construction and that long-term access for such customers and suppliers must be maintained in a manner reasonably satisfactory to the adjacent property owner.

16. Construction Schedule.

(a) Project. Subject to Permitted Delays, as hereinafter defined, Developer shall commence construction of the Project on or before that date which is sixty (60) days after the Closing Date (the “**Construction Commencement Deadline**”). Developer shall provide written notice to the Seller of the date of the commencement of construction within five (5) business days after such commencement.

(b) Construction of the Project shall be Completed, as defined below, by Developer no later than that date which is eighteen (18) months after the date of commencement of construction, subject only to extensions for Permitted Delays, as hereinafter defined (the “**Substantial Completion Date**”). Final Completion shall occur within two (2) months following such Substantial Completion, subject to Permitted Delays (the “**Construction Completion Deadline**”). “**Completed**” or “**Completion**” means, with respect to the Project, the date when the construction of the last multifamily building(s) of the Project is sufficiently completed (“**Substantial Completion**”) so as to permit use of that building(s) for the purposes for which it was intended and the issuance of a certificate of occupancy, which date may precede the full completion of all punch-list items, landscaping and similar design and development functions.

In the event a delay in construction of the Project is caused by a Permitted Delay, the Construction Commencement Deadline and the Construction Completion Deadline shall be

extended but only by the number of days of delay caused by the Permitted Delay; provided, however, there shall be no extension of any of such deadlines unless, (x) within ten (10) business days after the occurrence of the Permitted Delay, Developer provides written notice to the Seller of the occurrence of such Permitted Delay, (y) within ten (10) business days after conclusion of such Permitted Delay, Developer provides an additional written notice to the Seller of the total number of days of such Permitted Delay and of the adjusted deadlines, and (z) the Seller agrees to the date(s) of such adjusted deadline in writing, which agreement shall not be unreasonably withheld, conditioned or delayed. Any Seller Delay, as defined below, and/or Unavoidable Delay, as defined below, properly documented in accordance with the terms of this Section 16(b) shall be referred to herein as a “**Permitted Delay**,” and the terms “Construction Commencement Deadline” and “Construction Completion Deadline” shall be deemed to mean such deadline as adjusted by any Permitted Delays. “**Seller Delay**” means any delay in completion of the Project resulting from any failure by City to perform timely any of its obligations under this Agreement. “**Unavoidable Delay**” means a delay due to war, riots, civil commotion, strikes, labor disputes, embargoes, natural disaster, Acts of God or any other cause or contingency similarly beyond the reasonable control of the parties or Developer’s contractors.

17. Staging Area and Construction Operations. The Seller has no obligation to Developer and/or its contractor to provide a staging area or any particular construction easements for construction of the Project. Developer shall see that any pile driving or use of generators and power tools is not started before 7:00 a.m. and ceases by 7:00 p.m. Monday through Friday and is not started before 11:00 a.m. and ceases by 7:00 on Saturday. No pile driving or use of generators and power tools is permitted on Sundays. Developer shall coordinate construction with construction activity taking place on adjacent properties, shall attend standing construction meetings, and work with the City points-of-contact managing all construction efforts taking place in the St. Paul's area. The City shall provide the Developer with written notice of such City points-of-contact.

18. Representations and Warranties. Seller makes the following representations and warranties to Developer, which shall survive Closing:

(a) Seller is the legal and equitable owner of the Property, with the full right to convey the same without the joinder of any other person or party, and without limiting the generality of the foregoing, Seller has not granted any option contract, right of first refusal or other sales contract pursuant to which any other party has any right to purchase any interest in the Property or any part thereof.

(b) There are no leases, tenancies or other rights of occupancy relating to or affecting any portion of the Property.

(c) There are no pending or, to Seller’s actual knowledge, threatened, judicial, municipal or administrative proceedings affecting the Seller or any portion of the Property (including condemnation proceedings) or affecting Seller’s right to sell any portion of the Property.

(d) To Seller’s actual knowledge, the Property is not in violation of any wetlands or environmental law, or other zoning, subdivision or land use law.

(e) Except as otherwise identified in that certain Phase 1 Environmental Site Assessment, dated March 27, 2019, and prepared by SCS Engineers (the “*Phase 1 Report*”), to Seller’s actual knowledge, the Property does not contain any other Hazardous Materials (as defined in **Exhibit D** attached hereto), other than incidental or trace quantities not in violation of Environmental Requirements (as defined in **Exhibit D** attached hereto), and the Property has not been used for the use, manufacturing, storage, discharge, release or disposal of Hazardous Materials. A copy of the Phase 1 Report has been provided to Developer prior to execution of this Agreement.

(f) Except for the Phase 1 Report, to Seller’s actual knowledge, Seller is not aware of any environmental or other engineering study that reveals environmental, soil or other conditions within the Property that would materially adversely affect development of the Property for the Intended Use.

19. Covenants.

(a) Seller makes the following covenants to Developer:

(i) While this Agreement is in effect, Seller will neither negotiate nor enter into any back up contract for the sale of any portion of the Property.

(ii) While this Agreement is in effect, Seller shall not enter into any new leases or other rights of occupancy with respect to any portion of the Property.

(iii) Seller agrees to use good faith reasonable efforts to assist Developer with the applications for the City approvals required herein in order to enable Developer to satisfy the conditions set forth in Section 20(a)(iii) below, but Developer acknowledges that the City approvals required for development of the Project are independent administrative functions of the City of Norfolk that are separate from and independent of this Agreement.

(b) Developer makes the following covenants to Seller:

(i) Developer agrees, at its sole cost and expense, to use commercially reasonable efforts to satisfy the conditions set forth in Section 20(a)(iii).

(ii) The Project shall include the Affordable Units and no fewer than twenty-one (21) PBV Units. The PBV Units shall be included for so long as is required by the award of such vouchers by the Norfolk Redevelopment and Housing Authority. No distinctions shall be made in the unit design between the PBV Units, the Affordable Units, and market rate units at the Project.

(iii) Promptly after the execution and delivery of this Agreement, Developer shall commence and diligently prosecute its due diligence investigations and studies related to the Property and the feasibility of the Project. Developer shall commence and diligently prosecute any necessary applications, architectural and engineering work, negotiations, letting and execution, as the case may be, of construction, demolition, and utility relocations or abandonment, contracts or commitments, necessary or appropriate for the commencement of

construction in accordance with the terms hereof. Notwithstanding the foregoing, to the contrary, in no event shall Developer have the obligation to prosecute the obtaining of any permit or approval if it determines that any such permit or application will not be issued or granted on terms that are acceptable to it provided, however, Developer expressly acknowledges that its right to terminate this Agreement and to receive a refund of the Deposit is limited to the circumstances set forth in Section 3, Section 6 and Section 20 below and otherwise as expressly set forth in this Agreement.

(iv) Developer shall partner with Teens with a Purpose or other organization approved by the Seller to administer art programs available to both residents of the Project and the broader community.

(v) Developer shall adopt and comply with an economic inclusion plan for the Project that supports the Seller's established contracting goals for certified Women Businesses (13.3% of total construction costs) and certified Minority Businesses (12% of total construction costs). Such plan must detail ways Developer can meet these contract goals and plans to elevate this priority and shall be submitted to the City of Norfolk Department of Housing and Community Development for review and approval, which approval shall not be unreasonably withheld, conditioned, or delayed. Woman and Minority Businesses shall be certified by the Virginia Department of Small Business and Supplier Diversity, or such other certifying authority approved in the City of Norfolk's Economic Inclusion Plan, a copy of which has been provided to Developer prior to execution of this Agreement.

(vi) Developer shall re-install the historical marker honoring Evelyn T. Butts at the corner of Brambleton Avenue and Church Street.

(vii) Developer shall work with the Norfolk Footprints: St. Paul's Story Project to incorporate their art selection(s) concepts at the Project.

(viii) Developer shall establish a property management training program with preference given to residents or former residents of Tidewater Gardens, Calvert Square, and Young Terrace.

20. Conditions.

(a) The obligation of Developer under this Agreement to purchase the Property from Seller is subject to the satisfaction of each of the following conditions (any of which may be waived in whole or in part by Developer in writing on or prior to the Closing Date):

(i) Title to the Property shall be good and marketable, and subject to no liens, encumbrances, leases, licenses, rights of occupancy, security interests, restrictions, rights-of-way, easements or encroachments (collectively "*Exceptions*") other than the Permitted Exceptions. Developer's title insurance company shall be prepared to issue, at its standard premium rates, a title insurance policy insuring the title to the Property, subject only to the Permitted Exceptions, in the amount of the Purchase Price.

(ii) Final Rezoning of the Property shall have been obtained.

(iii) Developer shall have received all governmental permits, licenses, and other approvals on terms satisfactory to Developer, in its sole discretion, including, but not limited to, site plan, subdivision plat, zoning, building permits, and environmental permits necessary for Developer's development of the Project for its Intended Use.

(iv) Developer shall have received approval of the Final Plans, as required by Section 8 hereof.

(v) As of the Closing Date, (A) Seller's representations and warranties shall be true and correct in all material respects, and (B) Seller shall have performed in all material respects all its other obligations under this Agreement to be performed on or before Closing.

(vi) No laws, statutes, ordinances, governmental orders, regulations, rules or requirements shall have been enacted, adopted, issued or otherwise promulgated by a governmental entity or agency that would prevent the use and development of the Property in accordance with this Agreement.

(vii) There shall be no material adverse change to the physical or environmental condition of the Property since the date of this Agreement, except if Seller demolishes any improvements of the Property prior to Closing.

(viii) Developer shall have obtained a Financing Commitment for the Project on terms satisfactory to Developer in its sole discretion.

(ix) An allocation of federal low income tax credits from Virginia Housing sufficient in an amount to make development of the Project feasible in Developer's reasonable determination shall have been allocated to the Developer for the Project.

In the event that any of the foregoing conditions to Closing have not been met or waived in writing by Developer on or before the Closing Date, Developer shall have the right to terminate this Agreement at any time thereafter by written notice to Seller. If the termination is because any of the condition(s) set forth in Sections 20(a)(i), 20(a)(v), 20(a)(vi), or 20(a)(vii) above are not satisfied, then upon Developer's demand the Seller shall instruct the Escrow Agent to return the entire Deposit, including any Additional Deposits, to Developer within ten (10) business days of the demand. If the termination is because the condition(s) set forth in Sections 20(a)(ii) provided Developer has diligently pursued Rezoning consistent with Developer's Proposal, 20(a)(iii) provided Developer has diligently pursued those permits and licenses, and 20(a)(iv) provided Developer has diligently pursued that approval, above are not satisfied, then upon Developer's demand, the Seller shall instruct the Escrow Agent to return the Initial Deposit (but not the Additional Deposits) to Developer within ten (10) business days of the demand. If (A) the termination is because the condition set forth in Sections 20(a)(viii) and 20(a)(ix) above is not satisfied and the termination occurs after the expiration of the Due Diligence Period, as extended in accordance with the terms hereof, and (B) Seller is not then in default under this Agreement, then the Seller shall retain the entire Deposit, including any Additional Deposits, as its sole and exclusive remedy for Developer's termination. In the event of such termination, thereafter, this Agreement shall be deemed terminated and neither party shall have any further

obligation to the other (except as otherwise expressly provided in this Agreement) and except for the breach of any covenant which causes a non-satisfaction of the condition giving rise to such termination.

(b) The obligation of Seller under this Agreement to sell the Property to Developer is subject to the satisfaction of each of the following conditions (any of which may be waived in whole or in part by Seller in writing on or prior to the Closing Date):

(i) As of the Closing Date (A) all representations and warranties, made by Developer in this Agreement shall be true and correct in all material respects, and (B) Developer shall have performed in all material respects all of its other obligations to be performed on or before Closing.

(ii) No laws, statutes, ordinances, governmental orders, regulations, rules or requirements shall have been enacted, adopted, issued or otherwise promulgated by a governmental entity or agency other than the City that would prevent the use and development of the Property in accordance with this Agreement.

(iii) Developer will submit to City in accordance with the City's zoning regulations two (2) copies each of (A) the plan of development for the Project and (B) the application for the land disturbance permit and the building permit for the Project.

(iv) A Financing Commitment in accordance with the terms of this Agreement shall have been obtained.

(v) A certificate from the Virginia Board of Contractors or other evidence that may be commercially reasonable to satisfy the Seller that the General Contractor selected by Developer to construct the Project is a registered contractor in good standing with the Virginia Board of Contractors.

(vi) The applicable City department shall have approved the Final Plans in accordance with Section 8.

(vii) Seller shall have received a copy of Developer's executed construction contract and construction schedule.

(viii) Developer shall have adopted an economic inclusion plan in accordance with Section 19(b)(v) above.

(ix) Developer shall submit the healthy market concept to be included on the first floor of the Project.

(c) Notwithstanding anything contained in this Agreement to the contrary, in the event that any of the conditions of a party's obligation to close hereunder as set forth in Section 20(a) or Section 20(b) hereof are unsatisfied for any reason other than a Permitted Delay, the parties shall be entitled, but not obligated, upon notice delivered to the other party to this Agreement on or prior to the Closing Date, to receive one adjournment of thirty (30) days of the Closing to enable that party to satisfy or cause to be satisfied such conditions. If on the original

or any adjourned Closing Date any condition(s) of the obligation of a party to close hereunder shall remain unsatisfied and have not been waived by that party, then that party shall have the right to terminate this Agreement in the case of Developer pursuant to the last paragraph of subparagraph of Section 20(a) or in the case of Seller, the Seller may, by written notice to Developer, terminate this Agreement, in which event (except if the termination is because the condition in Section 20(b)(ii) or in Section 20(b)(vi) (provided Developer has diligently pursued that approval) is not satisfied), Seller shall retain the entire Deposit (except as set forth below) and this Agreement shall immediately terminate and neither party shall have any further rights hereunder or obligations to the other of any nature hereunder or by reason hereof, except that with respect to a failure to satisfy any condition of the Closing that results from a party's default under this Agreement, the provisions of this Agreement pertaining to such default, and to the parties' respective rights, remedies and obligations in connection with such default, shall be applicable in addition to, or (in the non-defaulting party's discretion) as an alternative to, the non-defaulting party's aforesaid right of termination. If the termination by Seller is because Section 20(b)(ii) or Section 20(b)(vi) is not satisfied, then the Seller shall instruct the Escrow Agent to return the Additional Deposits to Developer within ten (10) business days after the termination.

21. Closing. If all of the conditions to Closing as set forth in Section 20 above have been satisfied or waived in accordance therewith, closing ("**Closing**") shall be held in the Office of the Developer's closing agent/attorney, on or before the date which is sixty (60) days after the expiration of the Due Diligence Period, as extended in accordance herewith, or on the first business day thereafter if such date falls on a weekend or holiday (the "**Closing Date**"); provided, however, all documents requiring execution on behalf of the Seller may be executed prior to Closing and delivered by the Seller to the closing agent/attorney in escrow. The Closing Date and time shall be subject to change based on mutual written agreement of the parties; provided, however, that Developer shall have the right to accelerate the Closing Date upon ten (10) days' written notice to Seller.

(a) At the Closing, Seller, in addition to any other documents required to be delivered under the terms of this Agreement, shall deliver fully executed copies of the following:

(i) A special warranty deed (the "**Deed**") to the Property, duly executed and acknowledged by Seller conveying good, marketable fee simple title to the Property, free and clear of all liens and encumbrances, and subject to no Exceptions other than the Permitted Exceptions and in proper form for recording. The Deed shall describe the Property by reference to a duly recorded subdivision plat.

(ii) A standard owner's affidavit as customarily required by title companies pertaining to mechanic's liens and absence of tenants in occupancy of the Property.

(iii) A certificate to the effect that Seller's representations and warranties set forth in Section 18 of this Agreement are true and correct in all material respects as of the Closing Date or updating the warranties set forth in Section 18 of this Agreement to reflect the facts existing as of the Closing Date. If the certificate reflects facts that are material and adverse to Developer's acquisition and ownership of the Property for its Intended Use, then

Developer shall have the right to terminate this Agreement by written notice to Seller and the Deposit shall be released to Developer.

(iv) A settlement statement in a form that is mutually acceptable to both Developer and Seller (the “**Settlement Statement**”).

(v) Seller shall deliver to the Developer any other documents or instruments required hereunder or reasonably requested by Developer, Developer’s Title Company or Developer’s Lender in order to consummate the transactions contemplated herein provided such instruments do not result in an amendment to the terms of this Agreement.

(b) At Closing, Developer, in addition to any other documents required to be delivered under the terms of this Agreement, shall deliver the following:

(i) A counterpart signed copy of the Settlement Statement.

(ii) The Purchase Price minus the Deposit by wire transfer less the Demolition Credit, if applicable.

(iii) Evidence reasonably satisfactory to the Seller that Developer is duly formed and validly existing, and is qualified to do business in the Commonwealth of Virginia and the City of Norfolk.

(iv) A written opinion of counsel of Developer, in form commercially reasonably satisfactory to the Seller (assuming that all signatures are genuine, and further assuming that all documents presented to such counsel as copies conform with the originals) and subject to other customary assumptions and qualifications, stating (1) that Developer is duly formed and validly existing under the laws of the Commonwealth of Virginia; (2) that Developer has the power to enter into the transactions contemplated by this Agreement (including, without limitation, entry into this Agreement); (3) that all actions by Developer required to be authorized in the transaction contemplated by this Agreement have been duly authorized; and (4) that this Agreement and all documents required to effectuate the transactions contemplated hereby which are to be executed by Developer (including, without limitation, all agreements and instruments to be executed by Developer at the Closing) have been duly executed and delivered by Developer, and constitute binding obligations of Developer but excluding any enforceability opinion.

(v) Resolutions of the Developer authorizing Developer to consummate the transactions contemplated herein, such resolutions to be in form and substance reasonably satisfactory to the Seller.

(vi) Any other document or instrument required hereunder or reasonably requested by the Seller in order to consummate the transactions contemplated herein consistent with the terms of this Agreement, which document or instrument will be in form and substance reasonably acceptable to the Developer and the Seller and provided any such document or instrument does not result in an amendment to terms of this Agreement.

(c) Utilities, including, without limitation, water, sewer, and stormwater charges shall be prorated as of the Closing Date.

(d) Seller is exempt from grantor's tax in connection with the recordation of the Deed. Developer shall pay all other recordation costs, including state and local recordation taxes in connection with the recordation of the Deed and any subdivision plat. Each party shall pay its respective attorneys' fees.

22. Possession. Possession of the Property shall be delivered to Developer as of the Closing Date, free and clear of all leases, tenancies, and rights of occupancy.

23. Default. The occurrence of any of the following shall be an "Event of Default" by Developer under this Agreement:

(a) The filing by Developer of a voluntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtors' rights.

(b) The consent by Developer to an involuntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtor's rights.

(c) The entering of an order for relief against Developer or the appointment of receiver, trustee, or custodian for all or a substantial part of the property or assets of Purchaser in any involuntary proceeding, and the continuation of such order, judgment, or decree unstayed for any period of thirty (30) consecutive days.

(d) (i) Failure to commence construction of the Project on or prior to the Construction Commencement Deadline (other than, because of a Permitted Delay) unless Developer cures such failure within thirty (30) days after written notice to Developer or (ii) once construction commences, Developer ceases construction for ninety (90) consecutive days (other than because of a Permitted Delay) except if Developer makes reasonable effort to recommence construction then such ninety (90) day period shall be extended to one hundred twenty (120) days unless Developer recommences such construction within thirty (30) days after written notice thereof to Developer or (iii) failure of the Project to be Completed by the Construction Completion Deadline (other than because of a Permitted Delay).

(e) The failure of Developer to perform or to observe any covenant, obligation, condition or requirement of this Agreement (other than Section 16) not specifically named as a default in this Section 23, and the continuation of such failure for thirty (30) days after written notice from Seller specifying the nature and extent of any such failure, or, if such default cannot reasonably be cured within such thirty (30)-day period, the failure either (i) to commence to cure such default within such thirty (30)-day period and to diligently continue to pursue such effort to cure to completion, or (ii) to cure such default within a reasonable time after the expiration of the first thirty (30)-day period, in no event to exceed ninety (90) days after the written notice of default.

24. Remedies; Right of Repurchase. Upon the occurrence and continuance of any Event of Default, Seller may elect to terminate this Agreement by giving written notice of such termination to Developer, and this Agreement shall terminate as of the date specified in such notice (which date shall be on or after the date of the notice of termination). In the event that termination pursuant to this Section 24 occurs after Closing, Seller may exercise its right to repurchase the Property in accordance with the terms and conditions set forth below. In addition

to the remedies set forth herein, a non-defaulting party shall have available to it all other rights and remedies provided in this Agreement, at law, and in equity. Remedies under this Agreement shall be cumulative and not restrictive of other remedies.

Notwithstanding the foregoing to the contrary, if an Event of Default occurs prior to the Closing, Seller's sole and exclusive remedy shall be to terminate this Agreement and retain the Deposit as liquidated damages provided this limitation shall not be deemed to extinguish or limit any obligations of Developer to indemnify, defend, and hold the City harmless which are expressly set forth in this Agreement.

In the event that termination under this Section 24 occurs after Closing, in addition to its other remedies, Seller may elect to reenter and take back title to the Property, in which event Developer shall immediately execute a deed re-conveying the Property as well as all improvements thereon to the Seller, subject to any Mortgage and any tenant leases already in place for premises at the Project and provided the Seller pays for the Property in accordance with the provisions of this Section 24. Seller agrees to execute and deliver to Developer's lender an agreement confirming the subordination of Seller's reverter rights to any Mortgage or deed of trust securing such lender in form and substance reasonably satisfactory to Seller.

In the event the termination is because of a default under Section 23(d)(i), the reconveyance of title of the Property to the Seller shall be subject to the Seller paying at the time of such reconveyance the Purchase Price actually paid to Seller prior to such reconveyance minus the Deposit. In the event the termination is because of a default under Section 23(d)(ii), the reconveyance of title of the Property and all improvements thereon to the Seller shall be subject to the Seller paying, at the time of such conveyance, the Reverter Payment, as hereinafter defined. The "Reverter Payment" shall be (a) the sum of the Purchase Price actually paid to the Seller prior to such reconveyance less the Deposit and (b) an amount equal to ninety-five percent (95%) of the Fair Market Value, as hereinafter defined, as of the date of such notice of termination of all improvements constructed on the Property as of the termination date less the outstanding principal balance (and all accrued but unpaid interest thereon) under the Mortgage through the date of such reconveyance. For purposes of this Section 25, "Fair Market Value" shall have the meaning set forth in Exhibit E attached hereto and made a part hereof.

In the event that the Seller has the right to terminate this Contract as provided in this Section 24 or to repurchase the Property but does not exercise its right to terminate or repurchase the Property, then in such event, Developer shall pay liquidated damages for each day of delay between the Construction Completion Deadline and the date the improvements on the Property are Substantially Completed. The amount of the liquidated damages per day for such delay shall be the difference between the real estate taxes that would be payable if the improvements on the Property that were to be completed as part of the Project had been Substantially Completed on the Construction Completion Deadline and the actual real estate taxes that are assessed for the improvements on the Property for the days between the Construction Completion Deadline and the date the improvements on the Property are Substantially Completed. Developer agrees this provision is a valid and enforceable liquidated damages provision and the City of Norfolk Real Estate Assessor's assessment of the amount owed shall be accepted by Developer as the proper amount.

Notwithstanding the foregoing to the contrary, Seller agrees that its right to purchase the Property shall not be applicable to any buildings and the land on which the Property is located which have been conveyed by Developer to an unaffiliated third party.

25. Condemnation. If before the Closing all or any portion of the Property is taken under the power of eminent domain or is transferred in lieu of such taking and such taking or transfer materially interferes with Developer's contemplated development of the Property, Developer may, at its option, (i) terminate this Agreement by notice to the Seller within thirty (30) days after Developer is notified of such taking or transfer, in which case return of the Additional Deposit shall be the sole and exclusive remedy or (ii) proceed to Closing.

26. Risk of Loss and Insurance. After Closing, the Developer shall bear the risk of loss on the Property and all improvements thereon, including the Project. Prior to Closing, Seller shall bear the risk of loss of the Property and any existing improvements. Except as otherwise provided in Section **Error! Reference source not found.**, any improvements on the Property are to be demolished by Developer after Closing. Accordingly, any damage or destruction of all or any part of improvements on the Property prior to Closing in no way obligates the Seller to rebuild the improvements.

27. Assignment. Developer's rights under this Agreement may not be assigned or otherwise transferred without the express written consent of the Seller, which consent shall not be unreasonably withheld or delayed; provided, however, Developer may assign this Agreement to an Affiliate (as defined below) of Developer. For purposes of this Section 27, "*Affiliate*" means any legal entity, which controls, is controlled by, or is under common control with the Developer. A permitted assignment shall not relieve the Developer from its obligations under this Agreement. Any purported assignment of this Agreement or of any right, title or interest hereunder not complying with this Section 27 shall be void and of no force or effect.

28. Notices. All notices or other communications required or desired to be given with respect to this Agreement shall be in writing and shall be delivered by hand or by courier service, or sent by registered or certified mail, return receipt requested, bearing adequate postage and properly addressed as provided below. Each notice given by mail shall be deemed to be given by the sender when received or refused by the party intended to receive such notice; each notice delivered by hand or by courier service shall be deemed to have been given and received when actually received by the party intended to receive such notice or when such Party refuses to accept delivery of such notice. Upon a change of address by either party, such party shall give written notice of such change to the other party in accordance with the foregoing. Inability to deliver because of changed address or status of which no notice was given shall be deemed to be receipt of the notice sent, effective as of the date such notice would otherwise have been received.

Seller: City Manager
 City of Norfolk
 810 Union Street
 1101 City Hall Building
 Norfolk, VA 23510

With a copy to: City Attorney
City of Norfolk
810 Union Street
900 City Hall Building
Norfolk, VA 23510

And with a copy to: Director, Department of Housing and Community Development
City of Norfolk
501-A Boush Street
Norfolk, VA 23510

Developer: TRG Community Development, LLC
c/o JDF, LLC
777 West Putnam Avenue
Greenwich, CT 06830
Attn: Joanne D. Flanagan, Esq.

With a copy to: TRG Community Development, LLC
55 East Monroe Street, Suite 3800
Chicago, IL 60603
Attn: Andre Blakley

Addresses may be changed by notice given pursuant to this provision.

29. Governing Law; Venue. This Agreement shall be governed by, construed and enforced under the laws of the Commonwealth of Virginia. In the event of a dispute between the parties with respect to the subject matter of this Agreement, venue shall be in the state courts in the City of Norfolk.

30. Entire Agreement. This Agreement sets forth the entire agreement and understanding between the parties with respect to the contemplated transactions and supersedes all prior agreements, arrangements and understandings.

31. Confidentiality. Any representations or warranties of the Seller with respect to confidentiality and nondisclosure of Developer's Confidential Information, as defined herein, are subject to disclosures required by a court of competent jurisdiction and/or applicable laws, including, without limitation, the Virginia Freedom of Information Act

32. Non-Waiver. Failure of any party at any time or times to require performance of any provisions hereof shall in no manner affect the right to enforce the provision at a later time. No waiver by either party of any condition, or the breach of any term, covenant, representation or warranty contained in this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed a further or continuing waiver of any condition or covenant, representation or warranty of this Agreement.

33. Amendment; Modification. No amendment, modification or alteration of the terms of this Agreement shall be binding unless in writing, dated subsequent to the date hereon and duly executed by the parties hereto.

34. Relationship of Parties. This Agreement is not to be construed to create a partnership or joint venture between the parties.

35. Negotiated Document. The parties acknowledge that the provisions and language of this Agreement have been negotiated and agree that no provision of this Agreement shall be construed against any party by reason of such party having drafted such provision of this Agreement.

36. Headings. The captions and section headings are for convenience only and shall not be used in construing or enforcing any of the provisions of this Agreement.

37. Execution. This Agreement is executed under seal.

38. Survival. All covenants, representations and warranties made by the Seller or Developer shall survive the Closing and any investigation at any time by or on behalf of the Seller or Developer.

39. Time is of the Essence. Time is of the essence in the performance of the parties' respective obligations set forth in this Agreement.

40. Successors; Assigns. This Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their respective successors and permitted assigns.

41. Severability. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision was not contained herein.

42. Low and Moderate Income and Resident Job Opportunities. Developer shall make commercially reasonable efforts to include provisions in the construction contracts for development of the Property (i) subject to applicable law, requiring the contractor to see that jobs at the Property are made available to Norfolk residents and to low and moderate income persons and (ii) prohibiting any contractor or any commercial tenant of the Property from discriminating on the basis of race, color, religion, sex, sexual orientation, gender identity, age, disability, genetic information, marital status, political affiliation, whistleblower activity, parental status, military service, or any other characteristic protected by federal or state law. Developer will cooperate with the Seller in alerting the contractors and tenants to any training programs or other job opportunity sponsored by the Seller and will encourage participation in such programs.

43. Brokers. Seller and Developer each represent and warrant that no broker to whom a commission, fee or other compensation is payable is or has been involved in or brought about the transactions contemplated by this Agreement. To the extent permitted by applicable law, Developer and Seller shall each indemnify, defend, and hold the others harmless from any and all claims, obligations, liabilities, costs or expense (including reasonable attorneys' fees) incurred as

a result of any claim for brokerage commissions, fees or other compensation by any person or entity who alleges having acted or dealt with the indemnifying party in connection with the Property or the transactions contemplated by this Agreement. The parties' obligations under this Section 43 shall survive the Closing and any termination of this Agreement. Ramon W. Breeden, Jr., a principal of Developer, is a licensed real estate broker.

44. Counterparts; Facsimile. This Agreement may be executed in one or more counterparts and each such counterpart shall be deemed to be an original. All counterparts so executed shall constitute one instrument and shall be binding on all of the parties to this Agreement notwithstanding that all of the parties are not signatories to the same counterpart. Facsimile copies and photocopies of this Agreement signed by the parties shall be binding and enforceable as if the same were an executed original.

45. Recording. This Agreement or a mutually agreeable memorandum hereof may be recorded at the option of either party.

46. Attorneys' Fees. The prevailing party in any litigation relating to this Agreement shall be entitled to recover reasonable attorney's fees and costs from the losing party including such fees and costs related to any appeal.

47. Seal. This Agreement is executed under seal.

48. Calculation of Time Periods. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday under the laws of the State in which the Property is located, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. The final day of any such period shall be deemed to end at 5:00 p.m., Eastern time.

49. Third Party Beneficiary. No provision of this Agreement is intended to be for the benefit of or enforceable by any third party.

[Remainder of page intentionally left blank.]

[First Signature Page to Purchase and Development Agreement - City of Norfolk /TRG
Community Development, LLC]

WITNESS the following signatures and seals:

SELLER:

CITY OF NORFOLK

By: _____
Name: Dr. Larry H. Filer II
Title: City Manager

ATTEST:

City Clerk

Contents Approved:

Director, Department of Housing and
Community Development

Approved as to Form and Correctness:

Deputy City Attorney

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

Sworn to and subscribed before me, a Notary Public in and for the City and State aforesaid, by Larry H. Filer II, City Manager of the City of Norfolk, and Richard A. Bull, Clerk of the City of Norfolk, this _____ day of _____, 2022.

Notary Public

My Commission Expires: _____

Registration No.: _____

[Signature pages continued on next page.]

[Continuation of Signature Pages to Purchase and Development Agreement - City of Norfolk / TRG Community Development, LLC]

DEVELOPER:

TRG COMMUNITY DEVELOPMENT, LLC

By: _____

Name: Andre Blakely

Title: President

STATE OF _____

CITY/COUNTY OF _____, to-wit:

I, _____, a Notary Public in and for the State and City/County aforesaid, whose commission expires on the ____ day of _____, _____, do hereby certify that Andre Blakely, President of TRG Community Development, LLC, whose name is signed as such to the foregoing writing bearing date of the ____ day of _____, 2022, has acknowledged the same before me in my City and State.

Given under my hand this ____ day of _____, 2022.

Notary Public

Notary ID: _____

EXHIBIT A
Property



EXHIBIT B
Developer's Proposal

[attached]

October 28, 2021

Via Electronic Mail

Sean Washington
Secretary/Treasurer
Economic Development Authority of the City of Norfolk
999 Waterside Drive, Suite 2430
Norfolk, Virginia 23510
Email: sean.washington@norfolk.gov

Dr. Larry H. Filer II
City Manager
City of Norfolk
810 Union Street, Suite 1101
Norfolk, Virginia 23510
Email: citymanager@norfolk.gov

RE: Letter of Intent: TRG Community Development, LLC (as “**Buyer**”) for the sale of that certain parcel of land located at 645 Church Street, Norfolk, Virginia 23510 (the “**Property**”).

Dear Mr. Washington and Dr. Filer:

This letter shall serve as our proposal of terms and conditions that the Buyer will consider to enter into a Purchase and Development Agreement (“**Agreement**”) for the Property noted above. This Letter of Intent (“**LOI**”) is intended to offer the basic terms for the negotiation of the Agreement and is to be considered non-binding to either party. It in no manner obligates either party in any way whatsoever, and neither party will be bound until a mutually agreed upon Agreement has been reached and fully executed. We understand that the Property is currently owned by the Economic Development Authority of the City of Norfolk (the “**EDA**”) and that the Property will soon be transferred to the City of Norfolk (the “**City**”). As such, we are sending our proposal to both the EDA and the City. Further, we understand that the Agreement cannot be executed by the City, as the seller, until it has been approved by the City Council of the City of Norfolk.

Purchase Price: Four Hundred Seventeen Thousand and Eight Hundred Thirty-Five Dollars (\$417,835)

Purchase and Sale

Agreement: The parties hereto hereby agree that within thirty (30) days after the acceptance date of this LOI, (i) an initial draft of the Agreement shall be delivered by the City to the Buyer, and (ii) the parties shall negotiate in good faith to come to an acceptable draft of the Agreement within thirty (30) days thereafter (“**PSA**”).

Negotiation Period”). Once the parties have agreed upon the draft Agreement, the City shall schedule the matter for a public hearing and a vote by the City Council of the City of Norfolk. If approved, under Virginia law, the ordinance approving the Agreement will be effective thirty (30) days thereafter.

**Proposed
Development:**

The Buyer intends to construct a multifamily housing development on the Property (the “**Development**”) comprised of 85 newly constructed rental units that will serve families with incomes ranging from 30% AMI to 80% AMI with six (6) of the units being reserved for the homeless or formerly homeless families. The Development will include a business center, clubroom/lounge, permanent fixtures of art, fitness center, playground, outdoor grilling area, dog park, allocated space for virtual medical care, community garden, and art programs available to both residents of the Development and the broader community. The Development is intended to be financed, in part, through low-income housing tax credits (“**LIHTCs**”) and other State funding sources.

**Financing
Contingency:**

Buyer’s obligation to consummate the purchase of the Property shall be contingent upon Buyer’s being awarded non-competitive 4% Low Income Housing Tax Credits and State Funding from the Department of Housing and Community Development (“**DHCD**”) for the Development.

Exclusivity:

Exclusivity shall remain in place between the Buyer and the EDA in accordance with the Amended and Restated Exclusive Negotiating Rights Agreement by and between The Economic Development Authority of The City of Norfolk and TRG Community Development, LLC and dated June 2021. Recognizing that the City is not a party to the Amended and Restated Exclusive Negotiating Rights Agreement, the City Manager shall instruct City staff not to engage in any negotiations with any party other than the Buyer for the purchase, lease, or development of the Property for a period of 120 days from the date of this letter.

Confidentiality:

It is understood that Confidential information shall be created and shared amongst the parties. Confidential information (“**Confidential Information**”) shall mean any information, technical data, records, books of accounts, documents, agreements, licenses, contracts, proformas, models, operating history, assets or operations, architectural and engineering, management agreements, or any other information, without limitation, related to the contemplated redevelopment of the Property, provided by or created by the parties on or after the date hereof to each other, directly or indirectly, in writing, orally or through the inspection of assets or records. No Confidential Information shall be shared with any third parties, except as required by law, including without limitation, the Freedom of Information Act, and except that the parties

may disclose such Confidential Information as reasonably required to their attorneys, accountants, agents, insurance companies, lenders, equity investors, governmental entities, courts and other parties as is necessary in furtherance of this contemplated transaction provided that such third parties are bound by this same covenant to maintain and protect Confidential Information. The provisions of this paragraph shall survive the Closing or any termination of this LOI for a period of eighteen (18) months.

Please review our proposal of terms, have it signed and dated below and return an original to my attention.

Sincerely,

TRG Community Development, LLC.

By: Andre Blakley
Name: Andre Blakley
Title: President

AGREED AND ACCEPTED
THIS 29 DAY OF OCTOBER, 2021:

Economic Development Authority of the City of Norfolk

By: [Signature]
Name: Sean Washington
Title: Secretary - Treasurer

And by:

City of Norfolk

By: _____
Name: Dr Larry H. Filer II
Title: City Manager

Attest:

Clerk

Approved as to Form and Correctness:



Deputy City Attorney

EXHIBIT C
Restrictive Covenants

Use of the Property to be conveyed is expressly subject to the following covenants, restrictions, limitations and conditions, which are to be imposed as covenants running with and binding upon the aforesaid Property and Project for forty (40) years commencing on the date of this Agreement:

(a) The Evelyn T. Butts historical marker that is to be re-installed at the corner of Brambleton Avenue and Church Street shall be maintained in good repair and condition so as to preserve the attractive appearance and physical integrity of the marker.

(b) Any land area within the Property not occupied by structures, hard surfacing, or vehicular driveways shall be kept planted with grass, trees and plants or shrubbery or in such other manner as may be permitted by the City of Norfolk's laws and regulations and shall be maintained in a commercially reasonable condition and neat appearance. In the event of a default by Developer, its successors or assigns, in the planting or maintenance obligations set forth in this paragraph, which default continues for a period of thirty (30) days after receipt by Developer, its successors or assigns, as the case may be, of written notice thereof from the Seller, the required planting and maintenance work may be completed by the Seller (except the Seller shall not take any action to satisfy the alleged default by the Developer, or its successors or assigns, if the Developer, or its successors or assigns, i) files suit within the thirty day time frame ("stay" until a court of competent jurisdiction issues a ruling and all applicable appeals have been decided or the time to appeal has expired or the case has been dismissed by the Developer or its successors or assigns, as the case may be) or ii) notifies the Seller within the thirty day time frame that it disputes the Seller's decision in which case the parties shall negotiate in good faith on a resolution during the next thirty days after the expiration of the notice time to the Developer, or its successors or assigns, as the case may be, as indicated above) at the sole cost and expense of Developer, its successors and assigns, as the case may be, from time to time and in keeping with this covenant, and Developer, its successors or assigns, as the case may be, shall reimburse Seller for the commercially reasonable costs thereof within thirty (30) days after receipt of an invoice therefor.

(c) Developer agrees, on its own behalf and on behalf of its successors and assigns, that any improvements on the Property will be maintained by Developer, or its successors or assigns in a commercially reasonable manner, condition and with a neat and well maintained appearance. Necessary repairs, maintenance and upkeep of the improvements will be performed so as to preserve the attractive appearance, physical integrity, and the sanitary and safe condition of the buildings and other improvements on the Property. In the event of a default by Developer, its successors or assigns, in the repair, maintenance or upkeep obligations set forth in this paragraph, which default continues for a period of thirty (30) days after receipt of written notice thereof by Developer, its successors or assigns, as the case may be, the required repairs, maintenance and upkeep may be completed by the Seller (except the Seller shall not take any

action to satisfy the alleged default by the Developer, or its successors or assigns, if the Developer, or its successors or assigns i) files suit within the thirty day time frame (“stay” until a court of competent jurisdiction issues a ruling and all applicable appeals have been decided or the time to appeal has expired or the case has been dismissed by the Developer, its successors or assigns, as the case may be) or ii) notifies the Seller within the thirty day time frame that it disputes the Seller’s decision in which case the parties shall negotiate in good faith on a resolution during the next thirty days after the expiration of the notice time to the Developer, its successors or assigns, as the case may be, as indicated above) at the sole cost and expense of Developer, its successors and assigns, as the case may be, from time to time and in keeping with this covenant, and Developer or its successor or assigns, as the case may be, shall reimburse Seller for the commercially reasonable costs thereof within thirty (30) days after receipt of an invoice therefor.

(d) Any service area, service facility or mechanical equipment located on the side of the Project site which is adjacent to a public right-of-way shall be enclosed or adequately screened by landscaping or other materials otherwise consistent with the design of the Project.

(e) All trash and recyclable collection receptacles shall be kept inside buildings or within enclosures constructed of the same or similar architectural materials and details as the dwelling units.

(f) Gas, electric and other utility services within the Project shall be underground. No utility line or connection to any utility line at or above ground level shall be permitted within the boundary of the Property or in the public right-of-way immediately abutting the Property.

(g) The Project shall include no fewer than twenty-one (21) project-based voucher units. The project-based voucher units shall be included for so long as is required by the award of such vouchers by the Norfolk Redevelopment and Housing Authority.

The foregoing restrictions, limitations and conditions shall only be enforceable against the owner, at the time of violation, of the portion of the Property to which any violation relates.

EXHIBIT D
Environmental Definitions

Hazardous Materials. “***Hazardous Materials***” shall mean any substance which is or contains (i) any “hazardous substance” as now or hereafter defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §9601 et seq.) (“***CERCLA***”) or any regulations promulgated under or pursuant to CERCLA; (ii) any “hazardous waste” as now or hereafter defined in the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.) (“***RCRA***”) or regulations promulgated under or pursuant to RCRA; (iii) any substance regulated by the Toxic Substances Control Act (15 U.S.C. §2601 et seq.); (iv) gasoline, diesel fuel, or other petroleum hydrocarbons; (v) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (vi) polychlorinated biphenyls; (vii) radon gas; and (viii) any additional substances or materials which are classified or considered to be hazardous or toxic under Environmental Requirements (as hereinafter defined) or the common law, or any other applicable laws relating to the Property. Hazardous Materials shall include, without limitation, any substance, the presence of which on the Property (A) requires reporting, investigation or remediation under Environmental Requirements; (B) causes or threatens to cause a nuisance on the Property or adjacent property or poses or threatens to pose a hazard to the health or safety of persons on the Property or adjacent property; or (C) which, if it emanated or migrated from the Property, could constitute a trespass.

Environmental Requirements. “***Environmental Requirements***” shall mean all laws, ordinances, statutes, codes, rules, regulations, agreements, judgments, orders, and decrees, enacted, promulgated, or amended, of the United States, the states, the counties, the cities, or any other political subdivisions in which the Property is located, and any other political subdivision, agency or instrumentality exercising jurisdiction over the owner of the Property, the Property, or the use of the Property, relating to pollution, the protection or regulation of human health, natural resources, or the environment, or the emission, discharge, release or threatened release of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or waste or Hazardous Materials into the environment (including, without limitation, ambient air, surface water, ground water or land or soil).

EXHIBIT E

Fair Market Value

The “*Fair Market Value*” shall mean the fair market value of the Property and improvements constructed for the Project (excluding any portions that have been sold to unrelated third parties) as of the date of such termination as determined by mutual agreement reached within twenty (20) days of the date of notice of termination by the Seller, or, in the absence of such agreement, by appraisal as follows. If the parties are unable to reach agreement on the Fair Market Value within such twenty (20) day period, then within ten (10) days thereafter Developer shall name one appraiser and the Seller shall name a second appraiser. The appraisers so chosen will meet within ten (10) days after the second appraiser is appointed and if, within thirty (30) days after the second appraiser is appointed, the two appraisers are not able to agree upon the Fair Market Value, they shall appoint a third appraiser. In the event the two appraisers are unable to agree upon such appointment within ten (10) days after the aforesaid time, then either Party may, as promptly as possible thereafter, request the American Arbitration Association to appoint a third appraiser. The decision of the appraisers so chosen shall be given within a period of thirty (30) days after the appointment of such third appraiser. The decision in which any two appraisers so appointed and acting hereunder concur shall in all cases be binding and conclusive upon the parties. Each Party shall pay the fees and expenses of the original appraiser appointed by such Party and the expenses of the third appraiser, if any, shall be borne equally by the parties. Any appraiser, no matter by whom designated, shall be a member in good standing, with the “MAI” designation, of the Appraisal Institute with at least ten (10) years’ experience as a real estate appraiser in the Hampton Roads, Virginia area. Notwithstanding anything to the contrary in this Agreement, the Seller’s right to take back the Property is and shall be subject and subordinate to the rights of Developer’s lender and the lien of any Mortgage or regulatory agreement held by any lender for the financing of the Project and subject to tenant leases and/or contracts for the purchase of dwelling units already in place for premises at the Project on the date of the notice, with copies of such leases and/or purchase contracts to be provided to the Seller at the time of re-conveyance of the Property to the Seller.