

STATE OF ALABAMA)
)
JEFFERSON COUNTY)

PROPERTY ACQUISITION AND TRANSFER AGREEMENT

THIS PROPERTY ACQUISITION AND TRANSFER AGREEMENT (the “Agreement”) is made this ____ day of _____, 2017, by and between the **BIRMINGHAM LAND BANK AUTHORITY**, a public corporation under the laws of the State of Alabama (the “Authority”) and _____, (“Purchaser”):

W I T N E S S E T H:

WHEREAS, the Birmingham Land Bank Authority (the “Authority”) is a local land bank authority created and organized by the City pursuant to Act. No. 2013-249 of the Alabama Legislature (the “Act”) (Code of Alabama (1975) § 24-9-1 et seq.) and Resolution No. 928-14 of the Birmingham City Council to acquire tax delinquent properties in the City of Birmingham in order to foster the public purpose of rehabilitating land which is in a nonrevenue-generating, nontax-producing status to an effective utilization status in order to provide housing, new industry, new commercial and economic development, other productive uses, jobs for the citizens, and to assemble parcels of real property for redevelopment, stabilize property values, and remove blight; and

WHEREAS, the Authority adopted the following as its Mission Statement (“Mission”): The mission of the Birmingham Land Bank Authority is to serve the citizens of Birmingham by working collaboratively and transparently with community stakeholders and the City of Birmingham to steward vacant, abandoned, and tax delinquent properties and dispose of them to the best use as defined by the needs of the community to reduce community blight, stabilize neighborhoods, facilitate community, civic, and commercial redevelopment, and to increase community and overall City of Birmingham property values while returning such properties back to the tax rolls; and

WHEREAS, the Act permits the Birmingham Land Bank Authority to clear title to such properties as part of the process in acquiring tax-delinquent properties; and

WHEREAS, Purchaser has requested and the Authority agrees that the Authority will (i)

acquire a tax deed to certain property as described on the attached **Exhibit A** (“Property”), (ii) clear title to the Property by filing a quiet title action, and (iii) transfer title to the Property to the Purchaser following the conclusion of such quiet title action, all as provided in this Agreement; and

WHEREAS, Purchaser has provided a proposal for the maintenance and/or development of the Property, which proposal is attached hereto as **Exhibit B** (“Maintenance/Development Plan”); and

WHEREAS, the Authority has determined that Purchaser’s proposal for the maintenance and/or development of the Property as set forth in the Maintenance/Development Plan is consistent with the Authority’s Mission.

NOW, THEREFORE, in consideration of all the covenants, terms and conditions herein contained, the Authority and Purchaser hereby agree as follows:

1. PROPERTY. (a) In consideration of Purchaser’s agreement to pay the Purchase Price for the Property, as set forth in Section 2 below, and to maintain and/or develop the Property in accordance with the Maintenance/Development Plan, the Authority agrees to obtain a tax deed to the Property, following which the Authority will file a lawsuit in the Circuit Court for Jefferson County, Alabama, to quiet title to the Property and, following completion of the quiet title lawsuit, to sell the Property to Purchaser under the terms and conditions set forth in this Agreement. The Property shall be sold by the Authority to Purchaser on an “**AS IS, WHERE IS**” basis on the closing date, without any warranty or representation by the Authority concerning the condition of the Property, the suitability of the Property for any and all development activities and uses which Purchaser may conduct thereon, or any other matter with respect to the Property except as expressly set forth herein.

(b) Purchaser acknowledges that the prior owner(s) and other parties having an interest in the Property may have a right to redeem the Property from its tax delinquent status prior to completion of the quiet title action. In the event that the Property is redeemed, the Authority will notify Purchaser and will refund the Earnest Money to Purchaser, without interest, which Earnest Money Purchaser shall accept in full satisfaction of any and all claims under or related to this Agreement, whereupon this Agreement shall be terminated and canceled and the Authority shall be released from any and all liability or obligation to Purchaser in connection with this Agreement.

2A. PURCHASE PRICE. The purchase price for the Property shall be Three Thousand Five Hundred and No/100 Dollars (\$3,500.00), which is equal to the sum of estimated costs (“Project Cost”) to clear the title to the Property. The purchase price shall be payable as follows: Purchaser shall deposit with the Authority as earnest money the sum of Five Hundred and No/100 Dollars (\$500.00) (the “Earnest Money”) upon the execution of this Agreement. The Earnest Money will be applied to the purchase price at closing, and the balance of the purchase price shall be payable in cash or other immediately available funds at the closing. Purchaser agrees to assume all other costs associated with the conveyance of the Property as outlined in this Agreement.

2B. INCREASED PURCHASE PRICE. In the event the Project Cost is estimated by the Authority to exceed Three Thousand Five Hundred and No/100 Dollars, Purchaser will be given the option pay the estimated additional project Costs and the parties will amend the Agreement to include a new purchase price set equal to the revised estimate of the Project Costs. If the Authority, during the quiet title action process, determines it will be impossible to complete the quiet title action for any reason other than Purchaser’s default under this Agreement, including, but not limited to, the redemption of the Property, the Earnest Money shall be returned to Purchaser without interest, and Purchaser agrees that the return of the Earnest Money shall be its sole remedy, whereupon this Agreement shall be terminated and canceled and the Authority shall be released from any and all liability or obligation to Purchaser in connection with this Agreement.

3. CLOSING. The Authority will use good faith efforts to close the sale of the Property within thirty (30) days following the entry of a final order by Circuit Court for Jefferson County, Alabama, awarding title to the Property to the Authority and the expiration of any period of appeal of such order. The closing shall occur at a date, time and place as the Authority and Purchaser may mutually agree. At the closing, and upon payment in full of the balance of the purchase price and any closing costs for which Purchaser is responsible, the Authority shall deliver to Purchaser a statutory warranty deed which shall convey title to the Property free and clear of all liens and encumbrances, but subject to all existing restrictions, easements, encroachments, rights-of-way, ordinances, laws, regulations, charges, taxes and assessments.

As the Authority is exempt from ad valorem taxes, taxes and assessments will not be prorated at closing. Possession of the Property shall be given to Purchaser at closing.

Purchaser shall pay at closing all costs for recording the deed and any related transfer documents. Purchaser shall also pay any recording or transfer tax which may be due upon a sale of the Property. Purchaser shall be responsible for having the property assessed for taxes to Purchaser with the Jefferson County Tax Assessor.

4. TITLE MATTERS. Following the conclusion of the quiet title action and prior to closing, Purchaser shall obtain at its own cost and expense a title insurance commitment, and shall promptly provide the Authority with a copy of such commitment. Purchaser shall be responsible for the cost of the premium for any policy of title insurance desired by Purchaser.

5. SURVEY. Purchaser, at its expense, may obtain a survey of the Property. Purchaser shall provide a copy of any such survey it obtains to the Authority within seven (7) days of Purchaser's receipt thereof.

6. INSPECTION AND ENTRY. Upon its receipt of the tax deed to the Property, the Authority will provide written notice of such receipt of the tax deed to Purchaser. Purchaser shall have thirty (30) days following the date of such notice (the "Inspection Period") to enter upon the Property, upon the giving of reasonable notice to the Authority, for the purposes of surveying, testing, inspecting or investigating the Property; provided, however, that (i) the foregoing limited right to enter upon the Property shall not be construed or deemed to grant to Purchaser any right to use, possess or occupy the Property and (ii) Purchaser shall keep the Property free and clear of any liens arising from or relating to any such activities and shall indemnify and hold the Authority free and harmless for any loss, damage, claim, suits or expenses resulting from any such activities. The foregoing indemnification and agreement to hold the Authority harmless shall survive the closing or the earlier termination of this Agreement as expressly provided herein. In the event Purchaser objects to any matter disclosed in connection with such activities, Purchaser may elect to terminate this Agreement prior to the end of the Inspection Period by giving notice to the Authority, whereupon the Authority shall refund the Earnest Money to Purchaser without interest, which Earnest Money Purchaser shall accept in full satisfaction of any and all claims under or related to this Agreement.

7. ZONING. The Authority assumes no responsibility for the changing of the current zoning classification of the Property in any way or manner, and any change in zoning desired by Purchaser

shall be accomplished by Purchaser at its own cost and expense. Purchaser acknowledges and agrees that the Authority has made no warranty or representation concerning the likelihood of approval of any change in zoning desired by Purchaser.

8. OBLIGATION TO DEVELOP THE PROJECT. Subject to the mutual covenants and the other terms and conditions set forth herein, Purchaser hereby commits to maintain and/or develop the Property and to carry out its obligations and duties as set forth herein and in Maintenance/Development Plan, which shall survive the closing and shall be incorporated into the deed. Purchaser has represented to the Authority that it will use good faith efforts to obtain financial resources to maintain and/or develop the Property according to the Maintenance/Development Plan. Purchaser shall submit a budget and other information the Authority may request to satisfy the Authority of Purchaser's ability to maintain and/or develop the Property in accordance with the Maintenance/Development Plan.

9. COMPLIANCE WITH LAWS; RESPONSIBILITY FOR TAXES AND OTHER CHARGES. Purchaser shall comply with land use regulations, codes and laws affecting the payment of taxes, leasing, acquisition, ownership, use, improvement and development of the Property, and nothing in this Agreement constitutes an exemption or grant of a variance from applicable codes and laws. Purchaser will be responsible for property, ad valorem, any other taxes, municipal liens, or fines following the closing.

10. IMPLEMENTATION OF THE MAINTENANCE/DEVELOPMENT PLAN. If the Maintenance/Development Plan involves the construction of permanent improvements, construction of those permanent improvements shall commence within three (3) months of the date of closing. If implementation of the Maintenance/Development Plan does not include permanent improvements, implementation of the Maintenance/Development Plan must begin within a reasonable practicable period of time, including any maintenance or development of fences or gardens. Implementation of the Maintenance/Development Plan, if it includes permanent improvements, shall be completed within twenty-four (24) months from the date construction is deemed to commence (the "Construction Deadline"), provided that such Construction Deadline may be extended for delays due to strikes, acts of God, enemy or terrorist action, civil commotion, fire, or other casualty.

In the event Purchaser fails to commence implementation of the Maintenance/Development

Plan within three (3) months of the date of closing, the Authority may, at its option, repurchase the Property and Purchaser shall re-convey and sell the Property to the Authority for the same price as paid by Purchaser under this Agreement. If Purchaser has commenced construction within such three (3) month period but does not complete the construction on or before the Construction Deadline, the parties shall have an additional thirty (30) days (the "Extension Period") within which either Purchaser shall complete construction or the parties shall agree to a new construction deadline. In the event Purchaser does not complete construction or the parties do not agree to a new construction deadline within such Extension Period, the Authority shall have the option to repurchase the Property for the same price as paid by Purchaser under this Agreement.

In the event the Authority exercises its option to repurchase the Property under this Paragraph 10, Purchaser shall re-convey the Property to the Authority free and clear of all mortgages, liens of any kind, encumbrances, leases, tenancies, security interests, covenants, conditions, restrictions, rights-of-way, easements, judgments or other matters affecting title except for such exceptions to title existing at the time the Property was conveyed to Purchaser by the Authority or such other title matters to which the Authority does not object. Prior to any such repurchase, the Authority shall have a reasonable period of time to examine, inspect and investigate the Property to determine, in the Authority's sole discretion, whether the Property is acceptable to the Authority for repurchase. In the event the Authority elects to repurchase the Property, Purchaser shall indemnify and hold the Authority harmless from and against any and all claims, liens and liabilities asserted against the Authority or the Property as a result of any act or omission by Purchaser during, or in connection with, Purchaser's ownership of the Property. The terms, requirements and conditions of this Paragraph 10 shall survive the closing, and the Authority's rights to repurchase the Property under this Paragraph 10 shall be set forth in the deed from the Authority to Purchaser.

11. OBLIGATION FOR ESTATE PLANNING. As a condition of closing and prior to closing, Purchaser shall provide to the Authority an affidavit certifying the existence of a will or trust listing the Property.

12. INDEMNITY. Purchaser shall indemnify and hold the Authority harmless from all liabilities and claims for damages and/or suits for or by reason of or arising from or in connection with the Project, including, but not limited to (i) any injury or injuries to any person or persons or

property of any kind whatsoever, including Purchaser, its agents or employees or third persons, from any cause or causes whatsoever, (ii) the Authority's execution of this Agreement, including the Authority's sale of the Property to Purchaser, or (iii) liabilities or claims occasioned by any activity carried on by Purchaser in connection with the Maintenance/Development Plan or this Agreement, and Purchaser hereby covenants and agrees to indemnify and save the Authority harmless from all liabilities, charges, expenses (including attorneys' fees) and costs on account of or by reason of any such injuries, liabilities, claims, suits or losses however occurring or damages growing out of same.

13. DEFAULT. If Purchaser fails to perform any condition or term of covenant of this Agreement, the Earnest Money shall be forfeited to the Authority, and the Authority may elect to terminate this Agreement or enforce the same in accordance with any existing statutory or common law rights or remedies in equity or law, including specific performance. If the Authority fails to perform any condition or term of covenant of this Agreement, the Earnest Money shall be returned to Purchaser, and Purchaser agrees that the return of the Earnest Money shall be its sole remedy, whereupon this Agreement shall be terminated and canceled and the Authority shall be released from any and all liability or obligation to Purchaser in connection with this Agreement.

14. EXTENSIONS. If Purchaser determines that it cannot completely perform all of Purchaser's obligations within the time frame specified in this Agreement, Purchaser may request an extension in writing from the Authority. Extensions may be granted at the sole discretion of the Authority.

15. PURCHASER'S REPRESENTATIONS. Purchaser hereby represents that:

- a. Purchaser has not failed to perform in prior transactions with the Authority;
- b. Purchaser has not owned properties that became delinquent in ad valorem tax payments and remained delinquent in ad valorem tax payments during their ownership;
- c. Purchaser has not been barred from transactions with local government entities;
- d. Purchaser has sufficient experience and capacity to perform property maintenance;
- e. Purchaser does not own properties that have any unremediated citation for violation of state and local codes and ordinances;
- f. Neither Purchaser nor any or family members of Purchaser have used the Property as his or

her personal residence (except as a tenant) at any time during the twelve (12) months immediately preceding date of this Agreement.

- g. Neither Purchaser nor any or family members of Purchaser owned the Property during a period of time when the Property became delinquent in ad valorem tax payments.
- h. Purchaser has the full right, capacity, power and authority to enter into, and stands ready to perform, this Agreement and the transactions contemplated hereby.

16. REAL ESTATE COMMISSION. Purchaser represents that no real estate commission or brokerage fee shall be due or paid as a result of the sale of the Property, and shall indemnify and hold the Authority harmless from and against any and all claims, liabilities, suits, damages, causes of action, judgments, verdicts, expenses or costs arising from any claim against the Authority by any broker, agent, salesman, or representative for any fees or commissions claimed by or through Purchaser.

17. GOVERNING LAW. This Agreement shall be governed by and performed in accordance with the laws of the State of Alabama.

18. NOTICES. All notices that may at any time be required to be given hereunder shall be deemed to have been properly given if sent by registered or certified mail, postage prepaid, or by personal delivery, and addressed, if sent to Purchaser, as follows:

Birmingham, Alabama 35____
Attention: _____

or, to the Authority as follows:

Birmingham Land Bank Authority
710 North 20th Street
10th Floor - City Hall
Birmingham, Alabama 35203
Attn: Phil Amthor

with copy to:

City of Birmingham Law Department
Room 600, City Hall
710 North 20th Street

Birmingham, Alabama 35203
Attention: James C. Stanley

19. **CAPTIONS.** The captions of paragraphs in this Agreement are used for convenience only and they in no way define, limit or prescribe the scope or intent of this Agreement or any provisions hereof.

20. **BINDING EFFECT.** This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Authority and Purchaser, respectively.

21. **ASSIGNMENT.** This Agreement shall not be assigned or transferred in any way by Purchaser unless the Authority expressly consents to such assignment or transfer in writing.

22. **RELATIONSHIP; NO THIRD-PARTY BENEFICIARY.** The Authority and Purchaser agree that nothing contained in this Agreement nor any act of Purchaser or of the Authority shall be deemed or construed by either of the parties hereto or by third persons to create any relationship of principal and agent, or of a limited or a general partnership, or of a joint venture, or of any association or relationship between the Authority and Purchaser other than as set forth herein. Neither the Authority nor Purchaser shall have the right to make any representations for or on behalf of the other. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third-party beneficiary or otherwise.

23. **TIME OF ESSENCE.** Time is expressly declared to be of the essence in the performance of this Agreement.

24. **ENTIRE AGREEMENT; AMENDMENT.** This Agreement constitutes the entire agreement and understanding between the Authority and Purchaser with respect to the Property and all understandings and agreements heretofore existing are superseded by this Agreement. There are no oral agreements, warranties or representations collateral to or affecting the Property except as may be expressly set forth in this Agreement. No change or alteration to this Agreement shall be binding upon the Authority or Purchaser unless it is in writing and is signed by both the Authority and Purchaser.

[SIGNATURES ARE ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereof have caused this Agreement to be executed and sealed, in duplicate originals, by their duly authorized officers as of the day and year first above written.

ATTEST:

BIRMINGHAM LAND BANK AUTHORITY

By: _____
Secretary

By: _____
Chair

PURCHASER

Exhibit A

Tax parcel identification number:

Name of the owner who last assessed the property for taxes:

Year of the tax sale:

Legal Description:

Address: