

**PURCHASE AND SALE AGREEMENT**

**between**

**NORTH ROYALTON LAND REUTILIZATION PROGRAM  
as Seller**

**and**

**QUINN DEVELOPMENT GROUP LLC  
as Purchaser**

**Cuyahoga County Permanent Parcel Number: 483-07-009 and 483-08-001**

**Street Address: W. 130<sup>th</sup> Street**

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**Offer Date: September 12, 2023**

## **PURCHASE AND SALE AGREEMENT**

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is made as of the Effective Date, as said term is hereinafter defined, by and between the City of North Royalton, a municipality of the County of Cuyahoga and State of Ohio, with its principal place of business located at 14600 State Road, North Royalton, Ohio 44133 (the "Seller") on behalf of North Royalton Land Reutilization Program and Quinn Development Group LLC (the "Purchaser"), at 20982 Fawnhaven Drive, North Royalton, Ohio 44133.

### **WITNESSETH:**

In consideration of and upon the terms and conditions herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **Article 1.** **DEFINITIONS**

Except as may otherwise be expressly provided herein, and in addition to the other terms which are defined hereinabove or in subsequent paragraphs of this Agreement, the following terms, whenever set forth in initial capitals in this Agreement, shall have the respective meanings set forth herein below:

**"Balance of the Purchase Price"** means the Purchase Price (a) less the Deposit (to the extent then held by Title Insurer), and (b) plus or minus the net sum of the prorations, allocations, charges, credits, withholdings and other adjustments as provided for in this Agreement.

**"Business Day"** means, collectively, any day other than a Saturday, Sunday or legal holiday in the State of Ohio.

**"Closing"** means the transfer of title to the Property to Purchaser and the related transactions required by the terms of this Agreement to occur contemporaneously therewith.

**"Closing Date"** means on or about December 23, 2023, as such date for Closing may be further extended pursuant to Sections 4.3, or some other date for Closing that is mutually agreed to in writing by the parties.

**"Closing Documents"** means the Seller Closing Documents and the Purchaser Closing Documents, without distinction between them.

**"Control"** (and the correlative terms "Controlled by", "Controlling" and "under common Control with") of a Person means the possession, direct or indirect, of the power to direct or cause the direction of the business and affairs of such Person, whether by contract, through ownership of any equity interest (stock, partnership, membership or otherwise) in any Person or otherwise.

**"Cutoff Date"** means 11:59 p.m. on the day preceding the Closing Date.

**"Damages"** means any and all actual losses, costs, claims, liabilities, damages, obligations, judgments, settlements, awards, offsets, fees and expenses (including, without limitation, reasonable attorneys' fees and expenses), fines, penalties, and charges.

**“Deed”** means the Quit Claim Deed that is attached hereto as Exhibit B.

**“Deposit”** shall mean the sum of Five Thousand Dollars (\$ 5,000) together with interest earned thereon, if any, and any additional amounts deposited with Title Insurer pursuant to and in accordance with the provisions of this Agreement.

**“Disapproval Notice”** means a written notice given by Purchaser identifying any title matter related to the Property which Purchaser disapproves pursuant to Section 4.3 hereof.

**“Due Diligence Period”** means the period of time from the Effective Date through and including sixty (60) days after the Effective Date, or as extended by mutual agreement of the parties.

**“Effective Date”** shall have the meaning set forth in Section 10.21 hereof.

**“Environmental Laws”** means all present and future federal, state and local laws, ordinances, regulations, standards, rules, policies and other governmental requirements, administrative rulings, court judgments and decrees, and all amendments thereto, relating to pollution or protection of human health, natural resources or the environment (including ambient air, surface water, ground water, land surface or subsurface strata) including, without limitation, such laws governing or regulating the use, generation, storage, removal, remediation, recovery, treatment, handling, transport, disposal, control, release, discharge of, or exposure to, Hazardous Materials. Environmental Laws include the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, *et seq.*, the Toxic Substances Control Act, 15 U.S.C. Section 2601, *et seq.*, the Clean Water Act, 33 U.S.C. Section 1251, *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, *et seq.*, the Clean Air Act, 42 U.S.C. Sections 7401-7661, *et seq.*, the Safe Drinking Water Act, 42 U.S.C. Section 300f, *et seq.*, the Occupational Safety and Health Act, 29 U.S.C. Chapter 15, *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251-1376, *et seq.*, the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Section 136, *et seq.*, the River and Harbors Appropriation Act, 33 U.S.C. Section 403, *et seq.*, the Oil Pollution Act of 1990, as amended, and the Emergency Planning and Community Right-to-Know Act, as amended, and their state and local analogs.

**“Filing Documents”** means the Deed.

**“FIRPTA Affidavit”** means the FIRPTA Affidavit that is attached hereto and made a part hereof as Exhibit D.

**“Governmental Authority”** means the government of the United States, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

**“Hazardous Materials”** means, but is not limited to, any substance, chemical, material or waste now or in the future defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic substance,” “toxic pollutant,” “contaminant” or “pollutant” (a) within the meaning of any Environmental Laws, or (b) the presence of which causes a nuisance or trespass of any kind; petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; radon; carcinogenic materials; explosives; flammable materials; infectious materials; corrosive materials; mutagenic materials; radioactive materials; polychlorinated biphenyls (PCBs) and

compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which on the Real Property is prohibited by any federal, state or local authority; any substance that is designated, classified or regulated pursuant to any Environmental Laws; and any medical products or devices, including those materials defined as “medical waste” or “biological waste” under relevant statutes or regulations pertaining to any Environmental Laws.

**“Land”** means, collectively, those certain plots, pieces or parcels of land legally described in Exhibit A hereto.

**“Laws”** means all applicable laws, ordinances, rules, regulations, codes, orders and requirements of any federal, state or local court or Governmental Authority.

**“Liens”** means any monetary liens and/or security interests that can be removed solely by the payment of a liquidated amount and that encumber any part of the Property, including but not limited to mortgages, deeds of trust, mechanics, materialmen’s, judicial, tax or governmental liens of any nature whatsoever relating to the Property.

**“Offer Date”** means September 12, 2023

**“Permitted Exceptions”** means, collectively, all matters approved or deemed approved by Purchaser pursuant to the provisions of Section 4.3 hereof.

**“Person”** means a natural person, a general or limited partnership, a corporation, a limited liability company, a trust, an unincorporated association, a government or any department or agency thereof, or any other juridical entity.

**“Prohibited Activities or Conditions”** means any of the following:

- (a) the presence, use, generation, release, treatment, processing, storage (including storage in above-ground and underground storage tanks, except as previously disclosed by Seller to Purchaser in writing that any such tank complies with all requirements of Environmental Laws), handling or disposal of any Hazardous Materials on or under the Land or any other property owned by Seller that is adjacent to the Land without authorizations and/or permits required under Environmental Laws; or
- (b) any occurrence or condition on the Land, which occurrence or condition is or may be in violation of or noncompliance with Environmental Laws, or in violation of or noncompliance with the terms of any environmental permit; or
- (c) any activities on the Land that directly being contaminated with Hazardous Materials or which may cause such other property to be in violation of or noncompliance with Environmental Laws.

**“Property”** means the Real Property.

**“Purchase Price”** means Fifty-Eight Thousand Dollars (\$58,000.00).

**“Purchaser Closing Documents”** shall have the meaning set forth in Section 8.3 hereof.

**“Real Property”** means, collectively, the Vacant Land, located at W. 130<sup>th</sup> Street, North Royalton, Ohio 44133 Permanent Parcel Nos. 483-08-001 and 483-07-009.

**“Seller Closing Documents”** shall have the meaning set forth in Section 8.2 hereof.

**“Taxes”** shall have the meaning set forth in Section 7.1(a) hereof.

**“Title Commitment”** means, collectively, the ALTA Commitment for Title Insurance 2006 issued by Title Insurer relative to the Real Property.

**“Title Insurer”** means Revere Title Insurance Company.

**“Title Policy”** means an ALTA Owner’s Policy of Title Insurance 2006 issued by Title Insurer insuring Purchaser as owner of the Real Property in the amount of the Purchase Price, subject only to the Permitted Exceptions, together with such endorsements thereto as are (a) approved for use in the State of Ohio, (b) requested by Purchaser, and (c) agreed to by Title Insurer.

## **Article 2.** **AGREEMENT TO SELL**

**2.1 Agreement.** On and subject to the terms and conditions contained in this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, the Property IN AN AS IS PHYSICAL AND ENVIRONMENTAL CONDITION.

**2.2 Disclaimer.** PURCHASER ACKNOWLEDGES AND AGREES THAT PURCHASER HAS BEEN GIVEN THE OPPORTUNITY UNDER THIS AGREEMENT TO INSPECT AND INVESTIGATE THE PROPERTY AND PERFORM ALL DUE DILIGENCE OF THE PROPERTY THAT PURCHASER MAY DESIRE TO DO. THE CLOSING SHALL BE CONCLUSIVE EVIDENCE THAT PURCHASER HAS ACCEPTED AND APPROVED THE PROPERTY IN ALL RESPECTS; EXCEPT FOR THOSE REPRESENTATIONS AND WARRANTIES MADE BY SELLER CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE IN ARTICLE 5. AS A MATERIAL PART OF THE CONSIDERATION FOR THIS AGREEMENT, SELLER AND PURCHASER AGREE THAT, NOTWITHSTANDING ANYTHING TO THE CONTRARY, AND EXCEPT FOR SELLER’S REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE IN ARTICLE 5, THE PROPERTY IS CONVEYED, ASSIGNED AND TRANSFERRED BY SELLER TO PURCHASER “AS IS”, WITH ALL FAULTS AND DEFECTS, AND PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS, ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING, OR WITH RESPECT TO (A) THE NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY, OR THE PRESENCE OR ABSENCE OF ANY POLLUTANT, HAZARDOUS WASTE, GAS OR SUBSTANCE OR SOLID WASTE ON OR ABOUT THE

PROPERTY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER OR ITS AFFILIATES OR NOMINEES MAY INTEND TO CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATIONS WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY GOVERNMENTAL AUTHORITY OR BODY HAVING JURISDICTION INCLUDING, WITHOUT LIMITATION, ALL APPLICABLE BUILDING, ZONING, ENVIRONMENTAL, HEALTH OR SAFETY MATTERS AND OTHER LAWS INCLUDING THE AMERICANS WITH DISABILITIES ACT, AS AMENDED, AND REGULATIONS PROMULGATED THEREUNDER, (E) THE PRESENCE OR ABSENCE OF ANY HAZARDOUS OR TOXIC WASTE, SUBSTANCE OR MATERIAL OR POLLUTANTS OR CONTAMINANTS, INCLUDING WITHOUT LIMITATION, PETROLEUM, PETROLEUM-CONTAINING PRODUCTS, ASBESTOS OR ASBESTOS-CONTAINING MATERIALS (AS SUCH TERMS ARE DEFINED IN ANY FEDERAL, STATE OR MUNICIPAL LAW, ORDINANCE, CODE, RULE OR REGULATION), (F) THE HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, OR (G) ANY OTHER MATTER RELATED TO OR CONCERNING THE PROPERTY, THE VALUE THEREOF, THE STATE TITLE THERETO, AND/OR ANY HISTORIC OR OTHER TAX CREDITS RELATIVE THERETO. PURCHASER AND/OR ITS AFFILIATES AND NOMINEES SHALL NOT SEEK RECOURSE AGAINST SELLER ON ACCOUNT OF ANY LOSS, COST OR EXPENSE SUFFERED OR INCURRED BY PURCHASER AND/OR ITS AFFILIATES AND NOMINEES WITH REGARD TO ANY OF THE MATTERS DESCRIBED IN CLAUSES (A) THROUGH (G) ABOVE AND HEREBY ASSUMES THE RISK OF ANY ADVERSE MATTERS DESCRIBED IN CLAUSES (A) THROUGH (G) ABOVE. PURCHASER, FOR ITSELF AND ITS AFFILIATES AND NOMINEES, HEREBY ACKNOWLEDGES THAT THEY, HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, ARE RELYING SOLELY ON THEIR OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY OR ON BEHALF OF SELLER OR ITS OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, ATTORNEYS, CONSULTANTS OR REPRESENTATIVES (COLLECTIVELY, THE "SELLER PARTIES") OR ANY STATEMENT, REPRESENTATION OR OTHER ASSERTION MADE BY SELLER AND/OR THE SELLER PARTIES WITH RESPECT TO THE PROPERTY. FURTHER PURCHASER ACKNOWLEDGES THAT NO INDEPENDENT INVESTIGATION OR VERIFICATION HAS BEEN OR WILL BE MADE BY SELLER AND/OR THE SELLER PARTIES WITH RESPECT TO THE BUILDING INFORMATION OR ANY OTHER INFORMATION SUPPLIED BY OR ON BEHALF OF SELLER AND/OR THE SELLER PARTIES CONCERNING THE PROPERTY, AND SELLER MAKES NO REPRESENTATION OR WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION, IT BEING INTENDED BY THE PARTIES THAT PURCHASER SHALL VERIFY THE ACCURACY AND COMPLETENESS OF SUCH INFORMATION. PURCHASER, FOR PURCHASER AND PURCHASER'S SUCCESSORS AND ASSIGNS, HEREBY RELEASES SELLER FROM AND WAIVES ANY AND ALL CLAIMS AND LIABILITIES AGAINST SELLER FOR, RELATED TO, OR IN CONNECTION WITH, ANY ENVIRONMENTAL CONDITION AT THE PROPERTY (OR THE PRESENCE OF ANY MATTER OR SUBSTANCE RELATING TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY), INCLUDING, BUT NOT LIMITED TO, CLAIMS AND/OR LIABILITIES RELATING TO (IN ANY MANNER WHATSOEVER) ANY HAZARDOUS, TOXIC OR DANGEROUS MATERIALS OR SUBSTANCES LOCATED IN, AT, ABOUT OR UNDER THE PROPERTY, OR FOR ANY AND ALL CLAIMS OR CAUSES OF ACTION (ACTUAL OR THREATENED) BASED UPON, IN CONNECTION WITH OR ARISING OUT OF CERCLA (THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980, 42 U.S.C.

§9601 ET SEQ., AS AMENDED BY THE SUPERFUND AMENDMENT AND REAUTHORIZATION ACT OF 1986, AND AS MAY BE FURTHER AMENDED FROM TIME TO TIME), THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976, 42 U.S.C. §6901 ET SEQ., OR ANY OTHER CLAIM OR CAUSE OF ACTION (INCLUDING ANY FEDERAL OR STATE BASED STATUTORY, REGULATORY OR COMMON LAW CAUSE OF ACTION) RELATED TO ENVIRONMENTAL MATTERS OR ENVIRONMENTAL LIABILITY WITH RESPECT TO OR AFFECTING THE PROPERTY.

PURCHASER, FOR ITSELF AND ITS AFFILIATES AND NOMINEES, HEREBY ACKNOWLEDGES THAT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS SECTION 2.2 ARE AN INTEGRAL PORTION OF THIS AGREEMENT AND THAT SELLER WOULD NOT AGREE TO ENTER INTO THIS AGREEMENT ON THE TERMS AND PROVISIONS CONTAINED HEREIN WITHOUT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS SECTION 2.2. THE TERMS AND PROVISIONS OF THIS SECTION 2.2 SHALL BE DEEMED TO HAVE BEEN INCORPORATED IN THE BODY OF, AND MADE A PART OF, ALL SELLER CLOSING DOCUMENTS AND ALL OTHER CLOSING DOCUMENTS ENTERED INTO PURSUANT TO OR IN CONNECTION WITH THIS AGREEMENT BY SELLER, PURCHASER, AND THEIR RESPECTIVE NOMINEES AND ASSIGNS, WHETHER OR NOT THIS AGREEMENT OR ANY PROVISIONS HEREOF ARE REFERENCED OR REFERRED TO IN ANY SUCH DOCUMENTS. THE PROVISIONS OF THIS SECTION 2.2 SHALL SURVIVE THE CLOSING AND ANY TERMINATION OF THIS AGREEMENT.

**2.3 Purchase Price.** The Purchase Price for the Property shall be payable as follows:

- (a) Within five (5) days from the Effective Date, Purchaser has heretofore deposited the Deposit with Title Insurer, shall serve as earnest money for this transaction.
- (b) Purchaser shall, on the Closing Date, deposit the Balance of the Purchase Price in immediately available federal funds for immediate credit into the escrow account established by Title Insurer for this transaction and distributed in accordance with a closing statement to be executed by the parties at Closing.

**2.4 Deposit.**

- (a) The Deposit shall be held by Title Insurer in escrow and shall be invested by Title Insurer in short-term obligations of the U. S. Treasury. The interest earned on the Deposit shall accrue to the benefit of the party to this Agreement entitled to receive the Deposit pursuant to the terms of this Agreement.
- (b) Once deposited with Title Insurer in escrow hereunder, the Deposit may not be withdrawn or disbursed from said escrow except pursuant to and in accordance with the provisions hereof.

**Article 3.**  
**PURCHASER'S DUE DILIGENCE**

**3.1 Purchaser's Due Diligence.** Purchaser shall be allowed to conduct the due diligence prior to purchasing the Real Property after the Effective Date to complete an examination of the Land to perform or to cause to be performed such tests, studies, reviews and examinations as may be deemed necessary or advisable by Purchaser, including, without limitation, title searches, surveys, engineering, environmental studies, Phase I or II investigations, geological tests, and/or soil test reports to be obtained by Purchaser at Purchaser's sole discretion and sole cost and expense. During the period between the Effective Date and Closing Date, Purchaser, its agents, contractors, and subcontractors shall have the right, at Purchaser's sole cost and expense, to enter upon the Property at all reasonable times for the purpose of inspecting, surveying, and making or causing to be inspected, surveyed, or made, engineering, soil and geological tests and such other test investigations and studies, including environmental investigations, as Purchaser in its sole business judgment may require. Purchaser shall have the right terminate this Agreement within the Due Diligence Period should it not be satisfied, in its sole and absolute discretion, for no reason or any reason at all, with its inspection of the Land.

**3.2 Responsibility of Purchaser.** Purchaser agrees to repair any damage to the Property caused by the entry of Purchaser or any of Purchaser's agents, employees, contractors and other representatives upon the Property, and Purchaser shall be responsible for any and all Damages solely and directly caused by Purchaser's due diligence, as permitted under this Section 3.2; provided, however, Purchaser is not liable for any losses, liens, claims, demands, liabilities, costs, damages, expenses, or judgments resulting from any unfavorable test result or the discovery of any undesirable existing condition on, in, under or about the Property, such exclusion 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 or unfavorable test result. For the avoidance of doubt, Purchaser's indemnification obligations herein will not arise if losses arise to Seller due to existing facts or conditions that were discovered in connection with the due diligence. The provisions of this Section 3.2 shall survive the Closing.

**3.3 Termination.** In the event that Purchaser elects to terminate this Agreement pursuant to and in accordance with the provisions of Section 3.1 hereof, Purchaser shall pay all fees, costs, and expenses of Title Insurer theretofore incurred in connection with the transaction contemplated hereby, which obligation shall survive the termination of this Agreement, Title Insurer shall promptly return the deposit (and all interest earned thereon) to Purchaser, and this Agreement (except those provisions hereof which expressly survive a termination of this Agreement) shall then terminate, and the parties hereto shall be released and relieved of and from all obligations to one another under this Agreement or otherwise with respect to the transactions contemplated hereby (except those obligations which expressly survive a termination of this Agreement).

## **ARTICLE 4** **TITLE AND SURVEY**

**4.1 Title and Survey.** Seller shall, as soon as possible from the Effective Date of the Agreement, upon written request from Purchaser, order and cause to be furnished to Purchaser, the Title Commitment issued through the Title Company, copies of the documents referenced to in the Title Commitment, and instruments referred to in the Title Commitment.

**4.2 Liens.** Seller shall remove at or before Closing all Liens that are not Permitted Exceptions and such obligation shall not be subject to the notice or other requirements of Section 4.3.



Notwithstanding the foregoing, Seller shall have the right to satisfy Liens from sale proceeds at Closing.

**4.3 Approval/Disapproval of Additional Title Exceptions.** Purchaser shall have the right to approve or disapprove (i) the Permitted Exceptions during the Due Diligence Period, and (ii) any and all exceptions to title that are not Permitted Exceptions and are (x) shown or referenced on the Survey and/or (y) are added to the Title Commitment as additional exceptions to coverage after the Offer Date but before the Closing Date (collectively, "additional title exceptions"), in the exercise of Purchaser's sole discretion, on or before ten (10) Business Days following receipt of notice of such additional title exceptions accompanied by copies of any document or instrument evidencing or referring to such additional title exceptions. If Purchaser disapproves any Permitted Exceptions during the Due Diligence Period, or any additional title exceptions, Purchaser shall deliver to Seller a Disapproval Notice. If Purchaser fails to give Seller such Disapproval Notice as to any of the Permitted Exceptions during the Due Diligence Period, and as to any additional title exceptions during said ten (10) Business Day period, Purchaser shall be deemed to have approved such Permitted Exceptions or such additional title exceptions (as the case may be).

With respect to any title exceptions referred to in any such Disapproval Notice (such title exceptions being collectively referred to as "Disapproved Title Matters"), Seller shall notify Purchaser in writing within ten (10) days after receipt of the Disapproval Notice whether Seller will cause all or any Disapproved Title Matters to be removed or cured at or prior to Closing, and Seller shall be deemed to have elected not to remove or cure all Disapproved Title Matters by Closing if Seller does not notify Purchaser to the contrary in writing within such ten (10) day period. If Seller elects or is deemed to have elected not to remove or cure all Disapproved Title Matters, Purchaser may elect, in its sole discretion, by giving written notice to Seller within five (5) days after receipt of Seller's designation of those Disapproved Title Matters, if any, that Seller will not cause to be removed or cured at or prior to Closing (or its deemed election relative thereto, as the case may be), either: (a) (subject to satisfaction of the other conditions to Closing) to close the purchase of the Property and take title to the Property subject to the Disapproved Title Matter(s) that Seller elects or is deemed to have elected not to remove or cure, without any reduction in the Purchase Price (in which event such Disapproved Title Matters shall be deemed to be Permitted Exceptions hereunder) or (b) to terminate this Agreement, in which event the provisions of Section 4.4 shall apply. If Purchaser does not give such written notice within said five-day period, it shall be deemed to have elected the option in clause (a) above. Seller shall have up to thirty (30) days following its said election to remove or cure any Disapproved Title Matters that it has elected to remove or cure, subject to extensions of such period as Seller may request and Purchaser, in its sole discretion, may elect to grant to Seller. The Closing Date shall be extended as necessary to permit the parties to exercise their respective rights and obligations under this Section 4.3.

If any Disapproved Title Matters that Seller has elected to remove or cure have not been removed or cured at or prior to Closing (as same may be extended pursuant to the provisions of Section 4.3 hereof), or provision for their removal or cure by Closing has not been made to Purchaser's satisfaction, Purchaser may elect, in its sole discretion: (a) (subject to satisfaction of the other conditions to Closing) to close the purchase of the Property and take title to the Property subject to any Disapproved Title Matters that have not been cured or removed at or before Closing, without any reduction in the Purchase Price (in which event such Disapproved Title Matters shall be deemed to be Permitted Exceptions hereunder), or (b) to terminate this Agreement, in which event the provisions of Section 4.4 shall apply.

**4.4 Termination.** In the event that Purchaser elects to terminate this Agreement pursuant to and in accordance with the provisions of Section 4.3 hereof, Seller shall pay all fees, costs, and expenses of Title Insurer theretofore incurred in connection with the transaction contemplated hereby, which obligation shall survive the termination of this Agreement, Title Insurer shall promptly return the deposit (and all interest earned thereon) to Purchaser, and this Agreement (except those provisions hereof which expressly survive a termination of this Agreement) shall then terminate, and the parties hereto shall be released and relieved of and from all obligations to one another under this Agreement or otherwise with respect to the transactions contemplated hereby (except those obligations which expressly survive a termination of this Agreement).

**ARTICLE 5**  
**REPRESENTATIONS, WARRANTIES AND AGREEMENTS OF SELLER AND**  
**PURCHASER**

In order to induce the other party to consummate the transactions contemplated by this Agreement, Seller and Purchaser represent and warrant, as applicable, that the following statements are true and correct, as of the date hereof and will also be such on the Closing Date:

**5.1 Purchaser's Representations and Warranties.**

- (a) **Applicable Laws/Ordinances.** All contracts with Seller, including this Agreement, are subject to the North Royalton Charter, and all applicable laws, ordinances, resolutions, regulations, rules and policies of the Seller.
- (b) **No Apparent Authority.** Purchaser recognizes and agrees that no public official or employee of Seller may be deemed to have apparent authority to bind Seller to any contractual obligations not properly authorized pursuant to Seller's Ordinance authorizing the sale of the Property.
- (c) **No Indemnity.** Purchaser acknowledges that as an Ohio political subdivision, Seller does not indemnify any person or entity, and agrees that no provision of this Agreement or any other contract or agreement between Purchaser and Seller may be interpreted to obligate Seller to indemnify or defend Purchaser or any other party.
- (d) **Payments.** Purchaser warrants and represents that it has not employed or retained any company, firm or person, other than a bonafide employee working for Purchaser or licensed real estate broker whose identity has heretofore been disclosed in writing to Seller, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Seller shall have the right to annul this Agreement without liability or in its discretion to recover, by offset or deduction from any amounts due and owing by Seller to Purchaser hereunder or otherwise, the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

- (e) Purchaser shall, within ninety (90) days or sooner from title transfer, consolidate the Properties for construction of a single-family home. Purchaser warrants and represents that it will complete construction of a single-family home on the consolidated parcel within two years from date the consolidation is approved (the "Completion Period"). Purchaser further agrees that if he fails to complete construction and obtain an occupancy permit by the expiration of the Completion Period, Purchaser shall pay liquidated damages of \$6,000 annually, prorated, to the City until construction is completed and an occupancy permit is issued. This provision shall survive closing and shall be enforceable against subsequent Purchasers. If construction has not started by the expiration of the Completion Period, then, at Purchaser's request, the property shall revert to the City Land Bank and the purchase price refunded to Purchaser less \$12,000 as the liquidated damages for Purchaser's failure to construct a residence during the Construction Period as agreed (the "Liquidated Damages"). The City may elect to receive the ongoing yearly Liquidated Damages of \$6,000, prorated, until construction is completed, which amount shall be deducted from any Liquidated Damages owed at the end of the Construction Period.
- (f) **Findings for Recovery**. Purchaser represents and warrants that it is not subject to an "unresolved" finding for recovery under Ohio Revised Code Section 9.24.

## **Article 6.**

### **CONDITIONS TO CLOSING**

**6.1 Conditions to Seller's Obligations.** The obligations of Seller under this Agreement are subject to Seller's sole satisfaction and judgment on or prior to the Closing Date of the conditions set forth in this Section 6.1. Each such condition is solely for the benefit of Seller and may be waived in whole or in part by Seller in its sole discretion by written notice to Purchaser:

- (a) Purchaser has performed and complied with all of its obligations under this Agreement that are to be performed or complied with by Purchaser prior to or on the Closing Date.
- (b) Neither Purchaser nor Seller, as the case may be, has terminated this Agreement pursuant to any right of termination set forth herein.
- (c) Purchaser has delivered the Purchaser Closing Documents and paid the Balance of the Purchase Price to Title Insurer, and Seller has received the Purchaser Closing Documents and full Purchase Price, less prorations, costs and expenses properly chargeable to Seller hereunder.
- (d) On or prior to the Closing Date: (i) Purchaser shall not have admitted in writing an inability to pay its debts as they mature, (ii) Purchaser shall not have made a general assignment for the benefit of creditors, (iii) Purchaser shall not have

been adjudicated bankrupt or insolvent, or had a petition for reorganization granted with respect to Purchaser, or (iv) Purchaser shall not have filed a voluntary petition seeking reorganization or an arrangement with creditors or taken advantage of any bankruptcy, reorganization, insolvency, readjustment or debt, dissolution or liquidation law or statute, or filed an answer admitting the material allegations of a petition filed against it in any proceeding under any of the foregoing laws unless the same shall have been dismissed, canceled or terminated prior to the Closing Date.

- (e) The Title Insurer shall be irrevocably bound to issue the Title Policy pursuant to and in strict accordance with the provisions of this Agreement.
- (f) The representations and warranties of Purchaser that are set forth in Section 5.1 hereof shall be true and correct at and as of the Closing Date as though such representations and warranties were made at and as of the Closing Date.

**6.2 Conditions to Purchaser's Obligations.** The obligations of Purchaser under this Agreement are subject to Purchaser's sole satisfaction and judgment on or prior to the Closing Date of the conditions set forth in this Section 6.2. Each such condition is solely for the benefit of Purchaser and may be waived in whole or in part by Purchaser in its sole discretion by written notice to Seller:

- (a) Seller has performed and complied with all of its obligations under this Agreement that are to be performed or complied with by Seller prior to or on the Closing Date.
- (b) Neither Purchaser nor Seller, as the case may be, has terminated this Agreement pursuant to any right of termination set forth herein.
- (c) Seller has delivered the Seller Closing Documents to Title Insurer, and Purchaser has received the Seller Closing Documents, including Ordinance authorizing the sale
- (d) On or prior to the Closing Date: (i) Seller shall not have applied for or consented to the appointment of a receiver, trustee or liquidator for itself or any of its assets unless the same shall have been discharged prior to the Closing Date, (ii) Seller shall not have admitted in writing an inability to pay its debts as they mature, (iii) Seller shall not have made a general assignment for the benefit of creditors, (iv) Seller shall not have been adjudicated bankrupt or insolvent, or had a petition for reorganization granted with respect to Seller, or (v) Seller shall not have filed a voluntary petition seeking reorganization or an arrangement with creditors or taken advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or filed an answer admitting the material allegations of a petition filed against it in any proceedings under law, or had any petition filed against it in any proceeding under any of the foregoing laws unless the same shall have been dismissed, canceled or terminated prior to the Closing Date.

- (e) The Title Insurer shall be irrevocably bound to issue the Title Policy pursuant to and in strict accordance with the provisions of this Agreement.
- (f) That title to the Property can be conveyed by Purchaser free and clear of all liens and encumbrances other than Permitted Exceptions.
- (g) That the legal description for the Property receives approval from the appropriate government entities and meets Purchaser's satisfaction.
- (h) That Purchase has obtained within the due diligence period any additional tests or approvals that Purchaser deems necessary that are not specifically delineated herein, and that the results of such tests and approvals are, in Purchaser's sole opinion, satisfactory.
- (i) That Purchaser has access to the Property for soil test site studies, location surveys, sewer, and all utilities availability.
- (j) That the environmental studies, environmental investigations, Phase I or II investigations, geological tests, and/or soil test reports to be obtained and conducted by the Purchaser at Purchaser's sole discretion and sole cost and expense with respect to the Property are, in Purchaser's sole opinion, satisfactory.

**6.3 Failure of Conditions - Deposit.** If any of the conditions to Seller's obligations under Sections 6.1 (but only if the Title Insurer will not issue the Title Policy because of the acts or omissions of Seller, or if Seller, through no fault of Purchaser, is otherwise unable to convey the Property subject only to the Permitted Exceptions), or any conditions to Purchaser's obligations under Sections 6.2 (but only if the Title Insurer will not issue the Title Policy because of the acts or omissions of Seller, or if Seller through no fault of Purchaser, is otherwise unable to convey the Property subject only to the Permitted Exceptions) are not satisfied or waived by the applicable party entitled to the benefit of such conditions as specified herein on or prior to the Closing Date, then the Deposit shall be promptly returned to Purchaser and this Agreement shall thereupon be null and void and of no further force or effect, and the parties hereto shall be released and relieved of and from all liability and obligations to one another under this Agreement, except those provisions which expressly survive a termination of this Agreement.

## **Article 7.**

### **APPORTIONMENTS AND PAYMENTS**

**7.1 Prorations.** The following items pertaining to the Property shall be prorated or credited by the Parties as of the Cutoff Date, and appropriate adjustments made to the Purchase Price on the Closing Date or at the times and in the manner set forth below:

- (a) **Taxes.** All taxes and assessments, both general and special (collectively, "**Taxes**"), for the 2023 ad valorem real estate tax fiscal year (payable in 2024) to the Cutoff Date and all prior years, if any, shall be the sole responsibility of Seller, and all such taxes and assessments for the period thereafter shall be the sole responsibility of Purchaser. Taxes shall be prorated based on the latest

available tax duplicate of the Cuyahoga County Auditor and credited to Purchaser at Closing.

**7.2 Calculation.** All prorations shall be based upon the actual number of days in the applicable period (i.e., calendar year or calendar month), and the actual number of days elapsed in each such period.

**7.3 Intent.** The purpose and intent of the provisions on apportionment and proration set forth in this Article 7 is that Seller shall bear all expenses of ownership and operation of the Property, and shall receive all revenue therefrom, accruing through the Cutoff Date, and Purchaser shall bear all such expenses, and receive all such revenue, accruing thereafter, on and subject to the provisions hereof.

## **Article 8.** **CLOSING**

**8.1 Closing.** Provided all conditions set forth in Sections 6.1 and 6.2 hereof have been either satisfied or waived, the Closing shall take place on the Closing Date at the office of the Title Insurer in Independence, Ohio, or such other date or place as the parties shall agree; provided, however, that either party shall have the right to close by depositing its Closing Documents and funds due from it in escrow with the Title Insurer, and in such case it shall not be required to attend the Closing.

**8.2 Seller Closing Documents.** On or before the Closing Date, or, if a deadline is specified below, by such deadline, Seller shall deliver, directly to Purchaser or to Title Insurer, as is specified in Section 8.4 hereof, the number of executed original counterparts specified below of each of the following documents with respect to the Property (collectively, the "Seller Closing Documents"):¹

- (a) One (1) counterpart of the Deed.
- (b) One (1) counterpart of the FIRPTA Affidavit.
- (c) Any appropriate governmental resolutions/ordinances authorizing the transaction contemplated by this Agreement.
- (d) Such other documents, instruments or agreements as Seller may reasonably be required to execute and/or deliver on or prior to Closing pursuant to any provision of this Agreement, the Laws, or as may reasonably be required by the Title Insurer.

**8.3 Purchaser Closing Documents.** On or before the Closing Date, or, if a deadline is specified below, by such deadline, Purchaser shall deliver, directly to Seller or to Title Insurer, as is specified in Section 8.4 hereof, the number of executed original counterparts specified below of each of the following documents with respect to the Property (collectively, the "Purchaser Closing Documents"):²

- (a) Such other documents, instruments or agreements as Purchaser may reasonably be required to execute and/or deliver on or prior to Closing pursuant to any

provision of this Agreement, by Laws, or as may be reasonably required by Title Insurer.

**8.4 Occurrence of Closing.** Seller shall deposit with Title Insurer the Deed, and Seller and Purchaser shall deposit jointly with Title Insurer counterpart executed copies of the other Closing Documents. The Filing Documents shall be filed and recorded by Title Insurer in the official land records of Cuyahoga County, Ohio serially with no intervening documents or instrument between them, and prior in time and in right to any mortgage liens or other encumbrances created by, for the benefit of, or at the direction of, Purchaser or its Affiliates. The foregoing order of recording shall be strictly adhered to. The Closing shall be deemed to have occurred upon the completion of the following:

- (a) Delivery of the Filing Documents to Title Insurer;
- (b) Delivery of the other Seller Closing Documents to Purchaser and of the other Purchaser Closing Documents to Seller; or the written acknowledgment of Title Insurer that it holds all such documents and the unconditional and irrevocable written commitment of Title Insurer to effect such delivery on the Closing Date;
- (c) Seller's receipt of the full Purchase Price, less prorations, costs and expenses properly chargeable to Seller hereunder; and
- (d) Issuance of the Title Policy to Purchaser in strict accordance with the provisions of this Agreement or the irrevocable commitment of Title Insurer to so issue the Title Policy.

**8.5 Closing Costs.** Costs of the transactions contemplated hereby shall be paid in accordance with the following provisions:

- (a) Title Insurer shall charge to Seller and pay out of the Purchase Price: (i) the costs of examination of title and issuance of the Title Commitment (ii) the cost of the conveyance fees and/or transfer taxes required by law to be paid at the time of filing the Deed, (iii) the costs of satisfying any taxes, assessments, liens or encumbrances required to be discharged in accordance with the terms hereof, together with the costs of recording the cancellation thereof and any costs incidental thereto, (iv) any amounts due Purchaser by reason of prorations, (v) one-half (1/2) of the escrow fee.
- (b) The Title Insurer shall charge to Purchaser and pay out of the purchase price: (i) the cost of the Survey (ii) the cost of the Title Policy, (iii) the costs incident to filing the Filing Documents and any mortgage(s) placed upon the Property, (iv) any other costs incident to obtaining any Purchaser financing, (v) the amount of any prorations due Seller hereunder, (vi) the cost of all physical and environmental inspections ordered by Purchaser (if not paid outside of closing), (vii) one-half (1/2) of the escrow fee, and (viii) the cost of all title insurance endorsements required hereby, by Purchaser, and by Purchaser's lender.

- (c) Each party shall be responsible for all other costs, expenses and fees that it incurs in negotiating and performing its obligations under this Agreement.

## **Article 9.**

### **DEFAULT**

**9.1 Seller's Default.** In addition to the rights and remedies set forth in Section 10.6 hereof, if Seller shall fail to observe or perform any of its obligations hereunder, and if such failure is not cured within 10 days after written notice to Seller specifying such failure, or if Seller shall be in breach of or default, Purchaser shall have the right to elect either to (a) waive such failure or default and proceed to Closing without any reduction or abatement of the Purchase Price, except as to Liens of an ascertainable amount required to be removed pursuant to Article 4 hereof, and without any claim against Seller with respect to such failure, or (b) terminate this Agreement, in which event the Deposit shall be promptly paid to Purchaser.

**9.2 Purchaser's Default.** In addition to the rights and remedies set forth in Section 10.6 hereof, if Purchaser shall fail to observe or perform any of its obligations hereunder including, without limitation, Purchaser's failure to close due to insufficient funds, and if such failure is not cured within ten (10) days after written notice to Purchaser specifying such failure, or if Purchaser shall be in breach of or default Seller shall have the right to elect to either (a) waive such failure or default and proceed to Closing notwithstanding such default by Purchaser, or (b) terminate this Agreement, in which event the Deposit shall be promptly paid to Seller as full and complete liquidated damages (and not as a penalty or forfeiture) in lieu of any and all other legal and equitable rights and remedies that Seller may have hereunder or at law or in equity, and neither party shall thereupon have any claims against or liability to the other hereunder or otherwise.

### **9.3 Closing is a Waiver.**

- (a) In the event that Closing actually occurs, then the occurrence of such Closing shall be deemed a complete waiver by Purchaser of all of its rights to make any claim for Seller's failure to perform any of its obligations under this Agreement that are required to be performed prior to or on the Closing Date.
- (b) In the event that Closing actually occurs, then the occurrence of such Closing shall be deemed a complete waiver by Seller of all of its rights to make any claim for Purchaser's failure to perform any of its obligations under this Agreement that are required to be performed prior to or on the Closing.

**9.4 Additional Remedies.** Notwithstanding anything to the contrary, Seller and Purchaser shall always have and retain all rights and remedies at law, in equity, including, without limitation, the right of specific performance, and otherwise (other than rescission) to enforce the other party's obligations under this Agreement and all of such rights and remedies shall be in addition to, and not in lieu of, the rights and remedies set forth in Sections 10.1 and 10.2.

## **ESCROW INSTRUCTIONS**



**9.5 Escrow Instructions.** By executing this Agreement, Seller, Purchaser and Title Insurer agree as follows:

- (a) If any disagreement or dispute shall arise between the parties hereto and/or any other persons resulting in adverse claims and demands being made for the Deposit, whether or not litigation has been instituted, then and in any such event, Title Insurer shall refuse to comply with any claims or demands on it and continue to hold the Deposit until Title Insurer receives either (i) a written notice signed by both Seller and Purchaser directing the disbursement of the Deposit, or (ii) a final order of a court of competent jurisdiction, entered in a proceeding in which Seller, Purchaser and Title Insurer are named as parties, directing the disbursement of the Deposit, and in either of which events, Title Insurer shall then disburse the Deposit in accordance with said direction. Title Insurer shall not be or become liable in any way or to any person for its refusal to comply with any such claims or demands until and unless it has received a direction of the nature described in either clause (i) or clause (ii) above, and upon Title Insurer's compliance with a direction of the nature described in either clause (i) or clause (ii) above, Title Insurer shall be released of and from all liability hereunder except for any previous actions or omissions taken or suffered by Title Insurer in bad faith, in willful disregard of its obligations under this Agreement, or involving gross negligence on the part of Title Insurer.
- (b) Anything to the contrary notwithstanding, Title Insurer, on notice to Seller and Purchaser (i) may take such affirmative steps as it may, at its option, elect in order to terminate its duties as escrow agent hereunder including, but not limited to, the deposit of the Deposit with a court of competent jurisdiction and the commencement of an action for interpleader, the costs thereof to be borne by Seller or Purchaser, as the court may direct, or (ii) in the event litigation between Seller and Purchaser over entitlement to the Deposit has commenced, may deposit the Deposit with the clerk of the court in which said litigation is pending. Upon the taking by Title Insurer of either of the actions described in clause (i) or clause (ii) above, Title Insurer shall be released of and from all liability hereunder except for any previous actions or omissions taken or suffered by Title Insurer in bad faith, in willful disregard of its obligations under this Agreement, or involving gross negligence on the part of Title Insurer.
- (c) Seller and Purchaser acknowledge that Title Insurer is acting solely as a stakeholder at their request and for their convenience, that Title Insurer shall not be deemed to be the agent of either of the parties, and that Title Insurer shall not be liable to Seller or Purchaser for any act or omission on its part unless taken or suffered in bad faith, in willful disregard of its obligations under this Agreement, or involving gross negligence. Seller and Purchaser jointly and severally agree to be responsible for all costs, claims and expenses, including reasonable attorneys' fees, incurred by Title Insurer in connection with the performance of Title Insurer's duties hereunder, except with respect to actions or omissions taken or suffered by Title Insurer in bad faith, in willful

disregard of its obligations of this Agreement, or involving gross negligence on the part of Title Insurer.

- (d) A signed copy of this Agreement shall serve as escrow instructions to Title Insurer, together with any additional instructions hereafter furnished by Seller and Purchaser, to the extent not inconsistent herewith.
- (e) The validity and enforceability of this Agreement or and of any amendment hereto as between Purchaser and Seller shall not be affected by whether or not Title Insurer shall have executed this Agreement or any such amendment.

## **Article 10.** **MISCELLANEOUS**

**10.1 Exhibits.** All Exhibits that are referred to herein and are attached hereto are made a part hereof.

**10.2 No Third Party Beneficiary.** 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 under any statutes, laws, codes, ordinances, rules, regulations, orders, decrees or otherwise.

**10.3 Extension of Performance.** Whenever under the terms of this Agreement the time for performance of a covenant or condition falls upon a day that is not a Business Day, such time for performance shall be extended to the next Business Day. Otherwise, unless a provision of this Agreement specifically refers to Business Days, all references in this Agreement to days shall mean calendar days.

**10.4 Time of Performance.** Time of performance is of the essence of each and every term, provision, and condition contained in this Agreement.

**10.5 Successors and Assigns.** All terms, covenants, conditions and provisions of this Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, devisees, executors, administrators, legal representatives, and permitted successors in interest and assigns.

### **10.6 Waiver.**

- (a) One or more waivers of any term, covenant or condition of this Agreement by any party shall not be construed as a waiver of any subsequent breach of the same or any other term, covenant or condition; nor shall any delay or omission by any party in seeking a remedy for any breach of this Agreement, or in exercising any right accruing to such party by reason of any such breach, be deemed a waiver by such party of its rights or remedies with respect to such breach.
- (b) A party's consent to or approval of any act or omission by any other party which requires such consent or approval shall not be deemed to waive or render

unnecessary the requirement for such consent or approval with respect to any subsequent similar act or omission.

- (c) The failure of any party to insist upon the strict performance of any provision of this Agreement, or the failure of any party to exercise any right, option or remedy hereby reserved or granted, shall not be construed as a waiver for the future of any such provision, right, option or remedy, or as a waiver of any subsequent breach thereof, or as an alteration or modification of this Agreement.
- (d) No provision of this Agreement shall be deemed to have been waived unless such waiver shall be in writing, signed by the party against whom such waiver is sought to be enforced.
- (e) The receipt by any party of any amount of money or other property with knowledge of a breach of any provision of this Agreement shall not be deemed a waiver of such breach. No payment to or receipt by any party of a lesser amount than may be due it hereunder shall be deemed to be other than on account of the earliest amount then unpaid, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment by a party to another party be deemed an accord and satisfaction, and any party may strike or disregard any such endorsement or statement and accept such check or payment without prejudice to such party's right to recover the balance of any amounts due, and such party may thereafter pursue any other right or remedy provided under this Agreement or at law or in equity.

**10.7 Agreement Not to be Recorded.** Seller and Purchaser agree that neither party will file this Agreement for record in the official real estate records of the county in which the Real Property is located.

**10.8 Governing Law/Jurisdiction.** This Agreement shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of Ohio. The parties agree that the state and federal courts sitting in Ohio will have exclusive jurisdiction over any claim arising out of this Agreement, and each party consents to the exclusive jurisdiction of such courts. Purchaser hereby agrees not to challenge this Governing Law and Jurisdiction provision, and further agrees not to attempt to remove any legal action outside of Cuyahoga County for any reason.

**10.9 Entire Agreement.** This Agreement, including any exhibits hereto, contains the entire understanding among the parties and their agents with respect to the subject matter hereof, and supersedes any prior understandings or agreements between them with respect to said subject matter. There are no duties, obligations, terms, covenants, conditions, representations, warranties, promises, arrangements or understandings, oral or written, between or among the parties and their agents relating to the subject matter of this Agreement which are not fully expressed herein, all prior terms, covenants, conditions, representations, warranties, promises, arrangements and understandings being merged herein and extinguished.

**10.10 Notices.** Every notice, demand, consent, request, approval, report, offer, acceptance, certificate, or other communication which may be, or is required to be, given or delivered under or

with respect to this Agreement shall be in writing and sent postage prepaid by United States registered or certified mail, return receipt requested, and directed to the other party at its address set forth below, or at such other address within the continental United States as any party may hereafter designate by similar notice to the other:

To Seller: The City of North Royalton  
14600 State Road  
North Royalton, Ohio 44133  
Attn: Mayor Antoskiewicz

With a copy to: The City of North Royalton  
14600 State Road  
North Royalton, Ohio 44133  
Attn: Law director Kelly

To Purchaser: Quinn Development Group LLC  
20982 Fawnhaven Drive  
North Royalton, Ohio 44133

Notices shall be deemed to have been given on the date shown on the return receipt; provided that if delivery is refused, such notice shall be deemed given and served on the date delivery is first attempted. Any party may give any other party written notice hereunder by any means other than United States registered or certified mail which is reasonably calculated to reach the other party, including but not limited to personal delivery, facsimile, and/or reputable national overnight courier, provided that any such notice shall be deemed to have been given and shall be effective only when actually received by the addressee, proof of which shall be furnished by the party sending such notice.

**10.12 Paragraph Headings; Gender and Number.** The headings inserted at the beginning of each paragraph are for convenience of reference only and shall not limit or otherwise affect or be used in the construction of any of the terms or provisions hereof. The use of any one gender shall include all others. The plural number shall include the singular, and the singular number the plural, wherever the context so admits.

**10.13 Herein/Including.** The terms “herein,” “hereof,” “hereunder” or words of similar import shall be deemed to refer to this Agreement in its entirety unless otherwise specifically stated. Whenever the word “including,” “includes” or any variation thereof is used herein, such term shall be construed as a term of illustration and not a term of limitation. For example, the term “including” shall be deemed to mean “including, without limitation”, and the term “includes” shall be deemed to mean “includes, without limitation”.

**10.14 Amendment.** This Agreement may be amended, modified and supplemented only by written instrument executed by Seller and Purchaser.

**10.15 Counterparts.** This Agreement may be executed in multiple counterparts, each of which, when so executed, shall be deemed an original, and all of which shall together constitute one and that same document, and shall be binding on the signatories; and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart. Delivery of an executed counterpart of a signature page of this Agreement (and each amendment, modification

and waiver in respect of it) by facsimile or other electronic transmission, including email, shall be as effective as delivery of a manually executed original counterpart of each such instrument.

**10.16 Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other party, and any purported assignment without such consent shall be of no force or effect.

**10.17 Interest.** All amounts payable by Purchaser to Seller under this Agreement that are not paid when due shall bear interest at the rate of twelve percent (12%) per annum, or such lower rate of interest as may be the highest rate of interest that may lawfully be charged hereunder at the time in question.

**10.18 Partial Invalidity.** If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be held void or invalid or unenforceable, then the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held void or invalid or unenforceable shall not be affected thereby, and each and every other provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**10.19 Preparation of Agreement.** This Agreement shall not be construed more strongly against either party regardless of who is responsible for its preparation, each having contributed substantially and materially to the preparation hereof.

**10.20 Authority.** Each signatory hereto certifies that he or she is duly authorized and empowered to sign and deliver this Agreement, and any amendment thereto within the purview of the authorizing legislation, on behalf of all entities named below on whose behalf he or she has so acted.

**10.21 Effectiveness.** This Agreement is forwarded to Purchaser for its approval and execution, and after Purchaser has executed and delivered this Agreement to Seller, this Agreement shall become binding on Seller and effective only upon the date that the last of each of the following has occurred (the "Effective Date"): (a) this Agreement, signed by Purchaser (b) this Agreement is certified by Seller's Fiscal Officer, (c) this Agreement is executed by Seller, and duly approved by City of North Royalton City Council and an original counterpart thereof is delivered to each of Purchaser and Title Insurer, and (d) Purchaser has delivered the Deposit to Title Insurer.

**10.22 Receipt.** Attached hereto and made a part hereof is that certain Receipt by Title Insurer.

**10.23 Exhibits and Schedules.** The following exhibits and schedules are attached hereto and incorporated herein:

- A. Legal description
- B. Deed
- C. FIRPTA Affidavit

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

**THE CITY OF NORTH ROYALTON on  
behalf of NORTH ROYALTON LAND  
REUTILIZATION PROGRAM**

By: \_\_\_\_\_  
Larry Antoskiewicz, Mayor

**Quinn Development Group LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Law Director

## **R E C E I P T**

Receipt of an executed counterpart of the foregoing Agreement and the Deposit are hereby acknowledged, and the undersigned agrees to act as Title Insurer in accordance with the provisions thereof.

### **REVERE TITLE INSURANCE COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION**

[to be provided by Seller]



EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

CITY OF NORTH ROYALTON, CUYAHOGA COUNTY, OHIO

By: \_\_\_\_\_  
Larry Antoskiewicz, Mayor

State of Ohio            )  
Cuyahoga County       ) ss:

The foregoing Instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by Larry Antoskiewicz, Mayor of the City of North Royalton, Cuyahoga County, Ohio, a Municipal Corporation, on behalf of the City.

\_\_\_\_\_  
Notary Public

This Instrument Prepared By:

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



**EXHIBIT D**  
**FIRPTA CERTIFICATE**

**FIRPTA STATEMENT**

**CERTIFICATION OF NON-FOREIGN STATUS**

Section 1445 of the Internal Revenue Code of 1986 provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person or entity. To inform Quinn Development Group LLC that withholding of tax is not required upon the disposition of a U.S. real property interest by the City of North Royalton, a municipality of the County of Cuyahoga and State of Ohio ("Seller"), Seller hereby certifies the following:

1. Seller is not a non-resident alien, foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations) for purposes of U.S. income taxation.
2. Seller is not a disregarded entity as defined in §1.1445 – 2(b)(2)(iii) of the Income Tax Regulations.
3. Seller's U.S. taxpayer ID number is: \_\_\_\_\_.
4. Seller's address is: 14600 State Road, North Royalton, Ohio 44133.

I understand that this Certification may be disclosed to the Internal Revenue Service by the Purchaser and that any false statement I have made here could be punished by fine, imprisonment, or both.

Under penalties of perjury I hereby declare that I have examined this Certification and to the best of my knowledge and belief it is true, correct, and complete.

[SIGNATURE PAGE FOLLOWS]

Date: \_\_\_\_\_, 2023

**SELLER:**

City of North Royalton

By: \_\_\_\_\_

Its: \_\_\_\_\_