

## CONTRACT TO PURCHASE

This **CONTRACT TO PURCHASE** is entered into this \_\_\_\_ day of \_\_\_\_\_, 201\_\_ by and between the Albany County Land Bank Corporation, a New York not-for-profit corporation having an office for the transaction of business at 69 State Street, Albany, New York 12207 ("Seller") and \_\_\_\_\_, with an address of \_\_\_\_\_, \_\_\_\_\_ ("Buyer").

In consideration of the mutual covenants and promises hereinafter set forth, Buyer and Seller mutually covenant and agree as follows:

1. **PROPERTY.** Buyer agrees to buy and Seller agrees to sell that certain parcel of real property situate in the County of Albany, State of New York, more commonly known as **Property Address, Albany, New York Zip Code**, together with all improvements thereon and fixtures and articles of personal property now attached or appurtenant to the property and owned by Seller, together with all easements and rights-of-way, if any, benefitting or appurtenant thereto, and all right, title and interest of Seller in and to any land lying in the bed of any highway, street, road or avenue, opened or proposed, in front of or abutting or adjoining said real property (all of the foregoing real property, easements, rights-of-way, and right, title and interest are referred to herein together as the "Property").

In the event any personal property should be included, such shall be limited to whatever personal property is located at the Property and shall be transferred by Seller to Buyer by a quitclaim bill of sale and be subject to the "As Is" provision set forth below. In addition, Buyer shall be solely responsible for and shall hold Seller harmless as to the filing of any sales tax return and the payment of any sales tax in regard to such personal property. The terms of this provision shall survive Closing.

2. **PURCHASE PRICE.**

The Purchase Price for the Property shall be \$ **amount** plus closing costs payable as follows:

a) Cash Balance: \$ **amount** plus closing costs payable in certified funds at Closing.

3. **INSPECTIONS AND TESTS.** Buyer, at Buyer's sole cost and expense, may enter on the Property and make or cause to be made any inspections, tests or other desired evaluation of the Property ("Tests"), subject to the following:

a) Buyer shall give Seller at least 2 business day's written notice prior to initiating any such Tests; and

- b) No Tests shall be initiated or conducted without the Seller approving the type, method, date and time of any Tests; and
- c) All such Tests shall be completed within 10 days of the acceptance of this Contract by Seller.

Buyer agrees that any damage caused by Buyer, its agents or employees in the course of such entry shall be promptly repaired by Buyer at no cost whatever to Seller. Buyer shall indemnify and hold Seller harmless against any and all losses, expenses, claims or damages (including reasonable attorney's fees) caused by or resulting from Buyer's entry upon the Property, including, without limitation, claims for personal injury and damage to the Property.

In the event the results of such Tests are unsatisfactory to Buyer, then Buyer may, at Buyer's sole option, deem this Contract null and void and the Deposit shall be returned to Buyer. Buyer shall have 15 days from the date of acceptance of this Contract by Seller to deliver written notice, together with a copy of each such Test, to Seller of Buyer's election to so deem this Contract null and void. In the event Buyer shall not deliver such written notice, then Buyer shall be deemed to have waived any and all rights Buyer may have pursuant to this paragraph.

4. **ABSTRACTS, TAX SEARCHES AND SURVEY.** Seller is not responsible for and shall not deliver to Buyer an abstract of title, real property tax search or survey for the Property. Any abstract of title, property tax search, survey or other due diligence related to the Property shall be obtained by and at the sole cost and expense of the Buyer.

5. **TITLE AND DEED.** Buyer acknowledges that Seller obtained title to the Property following a municipal tax foreclosure proceeding and, as such, Seller makes no representations or warranties as to title to the Property other than Seller has not done or suffered anything whereby the Property has been encumbered in any way whatever.

Buyer shall have a period of 20 days from the date of acceptance of this Contract by Seller to examine and accept or reject title to the Property and deliver written notice to Seller of Buyer's election to reject title and deem this Contract null and void. In the event Buyer shall not deliver such written notice, then such failure shall be deemed an acceptance of title. At Closing, Seller shall transfer title to the Property to the Buyer by a Quit Claim Deed with a covenant against grantor's acts.

(a) Deed Restrictions. Buyer acknowledges that the Seller as required by law and/ or contract may transfer the property to certain deed restrictions if applicable. Properties transferred that shall serve residents with incomes of 120% AMI or below shall have a deed restriction, restricting the property to that use for a period of five years from the date of occupancy.

Properties that require a development/rehabilitation plan shall require the purchaser to execute and deliver to the Land Bank, a Development Enforcement Note and Mortgage that shall remain in effect until the completion of the development.

The Land Bank reserves the right to place a right of reversion in any deed transferring property to the Buyer.

(b) Buyer may not sell or transfer all of the Property or any interest in the Property during a Term of five years from the date of closing without the prior written consent of the Land Bank. The prior written consent to any particular sale or transfer will in no way operate as a consent to any future sales or transfers occurring after such consent is given. Any potential purchase/sale proposal within the five year period must be submitted pursuant to the Land Banks Purchase Application procedure.

Any transfer of a majority of the stock or membership interests of Buyer (or the transfer of more than 50 percent in interest of Buyer if Buyer is a partnership) whether in one or a series of transactions, and any merger or consolidation of Buyer with any other entity, shall be deemed to be a sale or transfer hereunder. Consent to such a transfer during the Term shall, however, not be unreasonably withheld as long as Buyer (i) retains an ownership interest in the Property or in any business entity to which the Property shall be transferred, and (ii) retains control of, and responsibility for, implementing any Development Plan.

6. **IMPROVEMENT OF PROPERTY.** Buyer has agreed to improve, develop and use the Property as specified in a certain Property Purchase Application submitted by the Buyer to the Seller dated \_\_\_\_\_ attached hereto and made a part hereof as Exhibit A (the "Application"). Seller's obligations under this Contract are subject to Buyer executing and delivering a Development Enforcement Note and Mortgage in form acceptable to Seller, in its sole but reasonable discretion, to ensure Buyer fulfills its development and use commitments to the Seller pursuant to the Application.

7. **AS IS.** The Buyer acknowledges and agrees that the Buyer is purchasing the Property, any personal property and any and all improvements, buildings, fixtures and fittings belonging to or used in the operation of the Property and owned by Seller, AS IS, WITH NO WARRANTIES OR REPRESENTATIONS WHATSOEVER, WHETHER SUCH ARE EXPRESS OR OTHERWISE IMPLIED, OR OTHERWISE AS TO THE CONDITION, SUITABILITY OF USE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY OR ANY PORTION OF SUCH. The terms of this provision shall survive Closing.

8. **NEW YORK PROPERTY CONDITION DISCLOSURE ACT.** Seller is exempt from the New York Property Condition Disclosure Act (the "Act").

9. **ELECTRICAL SERVICE SURCHARGE DISCLOSURE.** If a residential dwelling is the subject of this Contract, Seller and Buyer agree that Seller cannot warrant and represent to Buyer that the Property does have utility electric service available to it, and is not subject to an electrical and/or gas utility surcharge. The terms of this provision shall survive Closing.
10. **LEAD BASED PAINT CONTINGENCY.** If a residential dwelling is the subject of this Contract and the residential dwelling was constructed prior to 1978, Buyer and Seller must complete, sign and attach a Lead Based Paint Contingency Addendum and Disclosure Form.
11. **CLOSING.** The Closing shall be held at the office of the attorney for Seller, or as otherwise agreed, on or before **DATE**, time being of the essence.
12. **ADJUSTMENTS.** Prepaid or unpaid charges such as real property taxes, water rates and charges, rents, fuel oil and sewer taxes and rents shall NOT be apportioned as of the date of Closing, with Purchaser being responsible for the apportioned costs attributable to the time period prior to Closing, if any, such as water and sewer rates. Buyer acknowledges that Seller is an exempt entity and pays no real property tax (other than special assessments and special ad valorem levies) and in accordance with Section 520 of the New York Real Property Tax Law the Property may become immediately subject to real property tax upon Closing.
13. **INSPECTION PRIOR TO CLOSING.** Buyer shall have the right of reasonable inspection of the Property immediately prior to Closing in order to verify that the condition of the Property is in substantially the same condition as it was in as of the date of this Contract, absent ordinary wear and tear.
14. **POSSESSION.** Sole and exclusive possession of the Property shall be delivered by Seller to Buyer at Closing.
15. **RECORDING EXPENSES.** Buyer shall pay at Closing all costs for recording the deed and any related transfer documents including the Real Property Transfer Report (RP-5217) and the Transfer Tax Return (TP-584). Buyer shall also pay any New York State transfer tax which may be due upon a sale of the Property. Buyer shall be provided a closing sheet with the total amount due prior to closing.
16. **ASSIGNMENT.** This Contract may not be assigned by Buyer without Seller's written consent. Buyer shall remain fully liable to Seller for the performance of this Contract, regardless of any such assignment.

17. **SUBSEQUENT SALE.** This property may not be sold or otherwise transferred to another owner for a period of five (5) years without the express written consent of the Land Bank. All potential Buyers of this property subsequent to this sale shall be required to submit a purchase application to the Land Bank seeking the approval of the Land Bank to purchase the property from Buyer.

18. **RISK OF LOSS.** The risk of loss or damage to the Property by fire or other causes until Closing shall remain with Seller.

19. **BROKER.** Seller and Buyer represent that neither has dealt with any broker in connection with this Contract other than \_\_\_\_\_ . Seller shall be responsible for the payment of any real estate commission which may be due in accordance with a separate agreement with such broker. No realtor or broker commission shall be due and owing by Seller until Closing and passing of title by delivery of a deed by Seller to Buyer. This provision shall control regardless of the statements set forth in any Disclosure/Authorization Addendum executed in connection with this Contract.

20. **DEFAULT.** In the event Buyer defaults in its obligations under this Contract and fails to close and pay the Purchase Price, then the Deposit, together with accrued interest thereon, if any, shall be retained by the Seller and applied against Seller's damages for such default and Seller shall retain and be able to pursue all other equitable and legal remedies it may have as the result of Buyer's default hereunder. In the event Seller defaults in its obligations under this Contract and fails to close and deliver the Deed, Buyer may, at its option and as its sole and exclusive remedy, pursue either of the following remedies: (a) sue Seller for specific performance; or (b) terminate this Contract and obtain a return of the Deposit.

21. **MISCELLANEOUS.**

- a) This Contract shall be interpreted and enforced in accordance with the laws of the State of New York.
- b) Section heading are inserted for the convenience of the parties and may not be used as a means of interpreting this Contract.
- c) This Contract shall be binding upon and inure to the benefit of the parties hereto, their respective legal representatives, heirs, executors, administrators, successors and assigns.
- d) All notices under this Contract shall be in writing and shall be served by personal service, or by certified or registered mail, return receipt requested. Notices by mail shall

be addressed to each party at the address set forth in this Contract. Any party may notify the other parties of a different address to which notices shall be sent.

e) There are and were no verbal or written representations, agreements, or promises pertaining to the subject matter of this Contract not incorporated in writing in this Contract.

f) The waiver by any party hereof of any breach of any provision of this Contract shall not operate or be construed as a waiver of any subsequent breach.

g) The acceptance of the Deed by Buyer shall be deemed to be the full performance and discharge of every agreement and obligation on the part of Seller to be performed pursuant to the provisions of this Contract.

h) If any action, suit, arbitration or other proceeding is instituted to remedy, prevent or obtain relief from a default in the performance by Seller or Buyer of its obligations under this Contract, such action, suit, or other proceeding shall be brought and/or commenced or noticed in Albany County, and the prevailing party shall be entitled to recover all of such party's attorneys' fees incurred in each and every such action, suit, arbitration or other proceeding, including any and all appeals therefrom. As used in this paragraph, attorneys' fees shall be deemed to include the full and actual costs of any legal services actually performed in connection with the matters involved calculated on the basis of the usual fee charged by the attorney performing such services and shall not be limited to mean "reasonable attorneys' fees" as defined in any statute or rule of court.

IN WITNESS WHEREOF, the Seller and Buyer have executed this Contract as of the date first above written.

\_\_\_\_\_  
Albany County Land Bank Corporation  
69 State Street, 8th Floor  
Albany, NY 12207

\_\_\_\_\_  
Buyer: \_\_\_\_\_

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## EXHIBIT A

### Property Purchase Application

#### INFORMATION FOR POTENTIAL BUYERS OF ALBANY COUNTY LAND BANK PROPERTIES

The Albany County Land Bank Corporation, (the “Land Bank”), acquires properties that are tax delinquent, vacant, abandoned, or underutilized and sells them to qualified buyers with the goal of returning the properties to productive use.

This handout is intended to provide a brief explanation of certain terms of the Land Bank’s Contract to Purchase. It does not cover all of the terms and conditions contained in the Contract to Purchase. Accordingly, please review the Contract to Purchase carefully. Information obtained from this handout should not be relied upon as legal advice. The Land Bank strongly recommends that potential buyers have an attorney assist them with reviewing the Contract to Purchase.

Potential buyers should be aware of the following key points before entering into the Contract to Purchase:

- **Title Documents.** The Land Bank does not provide abstracts of title, tax searches, or land surveys to the buyer. The buyer is responsible for obtaining any abstract of title, tax search, land survey, title insurance or other title item at its sole cost and expense. The preparation of such title documents can take several weeks and, as such, if a buyer decides to obtain such title documents they are encouraged to do so as soon as possible following the Land Bank’s acceptance of their purchase offer in order to facilitate a timely closing.
- **Representations and Warranties.** Most of the Land Bank’s properties have been acquired following a municipal tax foreclosure proceeding. As such, the Land Bank makes no representations or warranties as to title to the property which is the subject of the Contract to Purchase except that the Land Bank has not done anything to encumber the property. The Land Bank does not promise that it has good and marketable title to the property and, as such, it is incumbent on the buyer to carefully review title to the property.

In addition, the Land Bank makes no representations or warranties as to the condition, quality, or habitability of the property. Land Bank properties are sold “as is,” and no Property Condition Disclosure Statement will be provided to the buyer by the Land Bank.

- **Attorney Approval Contingency Clause.** The Contract to Purchase does not contain an attorney approval contingency clause. Accordingly, the Land Bank advises all buyers to consult with an attorney before signing the Contract to Purchase.
- **Inspection Period.** The buyer, at his or her sole cost and expense, is permitted to conduct any inspections, tests, or other desired evaluation of the property. If the results of the buyer’s inspections, tests, or other evaluation are unsatisfactory, the buyer has the option of terminating the Contract to Purchase by providing written notice to the Land Bank within 15 days from the date that the Land Bank accepted the signed Contract to Purchase.