

**(ATTACHMENT 2) ACTION ON A REQUEST TO APPROVE A DONATION AGREEMENT
BETWEEN MILWAUKEE PUBLIC SCHOOLS, THE CITY OF MILWAUKEE, AND
PHILLIS WHEATLEY SCHOOL REDEVELOPMENT, LLC, FOR THE PROPERTY
LOCATED AT 2442 NORTH 20TH STREET**

Document Number	PURCHASE AND SALE AGREEMENT
Name and Return Address: Department of City Development Attn: Rhonda Szallai 809 North Broadway – 2 nd Floor Milwaukee, WI 53202-3617	
Tax Key No.: 324-1642-111	
This document was drafted by: The City of Milwaukee Department of City Development and City of Milwaukee, City Attorney’s Office	
Recording Area	

AGREEMENT, By and between the **CITY OF MILWAUKEE** ("City"), a municipal corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, on behalf of the **Milwaukee Board of School Directors** ("MPS") (collectively "Seller"), pursuant to Wis. Stat. § 119.61, and **Phillis Wheatley School Redevelopment, LLC**, a Wisconsin limited liability company ("Buyer").

WITNESSETH:

WHEREAS, In furtherance of the objectives of, and pursuant to Resolution Nos. 171100 and 190321 adopted by the Common Council of the City of Milwaukee on November 5, 2018 and June 18, 2019 respectively, the City is willing to sell and the Buyer is willing to purchase the real property 2442 North 20th Street ("Property") and more particularly described in **Exhibit A** annexed hereto and made a part hereof, and to improve the Property for and in accordance with the uses specified in the provisions of this Agreement:

NOW, THEREFORE, In consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

SEC. 1. PROJECT DESCRIPTION

Buyer agrees to rehabilitate the Property for affordable family housing ("Project") which shall consist of the following activities:

- a. Rehabilitate the existing building and construct one or more new buildings for use as a 82-unit housing project consistent with the approved plans and specifications on file with the City of Milwaukee, Department of City Development ("DCD").
- b. Include in the project amenities and programming that promote healthy living for residents and neighbors, which may include a commercial kitchen, fitness center/gym, basketball court, playground, café, community room, business center, and on-site management office.

SEC. 2. BUYER ACTIONS

- (a) In connection with the Project, the Buyer shall:
 - 1. Submit final site plan, including a detailed fencing, paving and landscaping plan, to the DCD Real Estate Section for approval pursuant to Section 4(c).

2. Submit a final construction budget and evidence of firm financing and equity for the Project to DCD's Real Estate Section pursuant to Section 4(c).
3. Commence construction of the Project within thirty (30) days following closing for the Property and be completed within twenty-four (24) months of closing, subject to force majeure delays, and other delays not within the control of the Buyer.
4. Obtain a certificate of occupancy for the Property within twenty-four (24) months of closing, subject to force majeure delays, and other delays not within the control of the Buyer

(b) Comply with the Small Business Enterprise ("SBE") policy of the City. Buyer agrees to use best efforts to achieve SBE participation that is at least 25% of the total hard costs and 18% of professional services and shall execute an SBE agreement for the Project with the City's Office of Small Business Development ("OSBD") prior to Closing pursuant to Section 4.

SEC. 3. PURCHASE PRICE

(a) The total Purchase Price for the Property is One-Hundred Fifteen Thousand and No/100ths Dollars (\$115,000.00) ("Purchase Price"). Buyer shall pay the Purchase Price to Seller at Closing in the form of a check subject to the usual and customary credits and proration. The Seller may request that Buyer divide the amount due at Closing into separate checks for Closing expenses, outstanding charges and net sale proceeds to MPS.

SEC. 4. CONVEYANCE OF PROPERTY

(a) Closing. Closing on this transaction and conveyance of the Property from Seller to Buyer ("Closing") shall be at a mutually acceptable location at a date and time mutually agreed to by the parties, which shall be on or before January 1, 2020 provided Buyer has satisfied the Seller contingencies in Section 4(c) and is not in violation of Seller policies pursuant to Section 4(i).

(b) Extension. If Buyer is unable to close on or before January 1, 2020, Buyer may submit a written request to the DCD Commissioner for one (1) twelve (12)-month extension of this Agreement ("Extended Period"), a \$1,000 renewal fee and a progress report of Buyer's efforts to obtain final construction plans and firm financing. The DCD Commissioner shall grant the Extended Period if DCD is satisfied that Buyer is making progress to obtain Final Plans and financing. The renewal fee shall not be credited toward the Purchase Price.

(c) Seller Closing Contingencies. Notwithstanding anything to the contrary contained herein, the Seller's duty to close and convey the Property is contingent upon:

1. Financing and/or Equity. Buyer submitting to Seller evidence of financing and/or equity in an amount equal to the Final Budget and satisfactory to Seller;
2. Seller approving Buyer's Final Site Plan and Building Plans for new construction. If Project is to be phased, Seller must approve Buyer's construction schedule.
3. SBE. Buyer submitting to Seller an SBE Agreement executed by Buyer and acceptable to the City's OSBD.

(d) Form of Deed. Seller shall, at Closing and upon submission of the Purchase Price, convey the Property to Buyer by Quit Claim Deed ("Deed") in an "as is, where is" condition with all faults and defects, known or unknown, physical or otherwise, including but not limited to environmental defects, whether disclosed or not disclosed, known or not known, and without representation or warranty, express or implied. Such provisions shall bar all tort, warranty, and misrepresentation claims, including any action based on non-disclosure. The conveyance and title shall, in addition to the provisions of Section 15 of this Agreement and all other conditions, covenants and restrictions set forth or referred to elsewhere in this Agreement, be subject to:

1. Applicable statutes, orders, rules and regulations of the Federal Government and State of Wisconsin, and laws and ordinances of the City, including zoning, building and land subdivision laws and regulations.
2. All easements of record.
3. Prohibition on Tax Exemption.
4. Reversionary clause consistent with 119.61(4)(c)(5)(b).

(e) Proration of Taxes. There shall be no proration of taxes as the Property is tax exempt at the time of Closing. If Buyer wishes to seek a real estate exemption for its ownership of the Property, Buyer is responsible for seeking such an exemption from the City.

(f) Recordation of Deed. Seller shall promptly file the Deed for recording with the Milwaukee County Register of Deeds or as permitted by the Municipal Code of Ordinances. Buyer shall pay all costs for so recording the Deed. No real estate transfer fee is due pursuant to Wis. Stat. Section 77.25(2). Buyer shall cooperate with Seller in Seller's preparation the Real Estate Transfer Return.

(g) Title Insurance. Seller shall procure and deliver to the Buyer for examination a preliminary commitment for title insurance prepared by Knight Barry Title Group in the amount of the full Purchase Price naming the Buyer as the insured. This commitment shall guarantee the Seller's title to be in the condition called for by this Agreement. Seller shall pay the base cost of title insurance. Buyer shall pay the cost of title updates, gap endorsements and special assessment letters.

(h) Special Assessments. Seller will be responsible for all special assessments levied as of the date of Closing. Buyer is responsible for all special assessments levied after the date of Closing. Seller will provide details of any known or contemplated special assessments at closing. If outstanding special assessments for which Seller is responsible exist at Closing, Seller shall notify the City's Department of Public Works to bill Seller at such times as bills are issued for the special assessments. If the special assessment is inadvertently certified to the tax roll, Buyer shall provide the bill to Seller for payment and Seller shall pay the special assessment.

(i) City Policies. Buyer certifies that it is not now and will not be at Closing in violation of the following City Policies:

1. Delinquent real estate or personal property taxes due the City.
2. Building or health code violations that are not being actively abated.
3. Convicted of violating an order of the Department of Neighborhood Services or Health Department within 12 months preceding Closing.
4. Outstanding judgment to the City
5. In Rem foreclosure by the City within five years preceding Closing.

If Buyer is found to violate any of these City Policies, Seller shall give Buyer notice to correct this condition by the expiration of the option period as extended or other such period as determined by the Commissioner of DCD. If the violation is not corrected within the specified period, this Agreement for Sale may be canceled at the option of Seller and all option and renewal fees and the Deposit (as defined below) shall be retained by the Seller as liquidated damages.

(j) Buyer Closing Contingencies.

1. Buyer shall have one hundred twenty (120) days following the effective date of this Agreement (the "Feasibility Period") to, at Buyer's sole cost and expense: review any Property documents and such other information Buyer shall deem appropriate and to determine, in its sole discretion, whether the purchase, development, construction and rehabilitation of the Property is feasible, including, but not limited to, receipt of any and all licenses, permits or other approvals required by local, state or federal law or regulation, economic feasibility, sufficiency and availability of utilities to the Property, obtaining an ALTA survey of the Property, performing physical inspections of the Property, reviewing environmental assessments of the Property and confirming Buyer's ability to develop and use the Property for Buyer's contemplated purpose without added or extraordinary costs.

2. In the event that, in the sole discretion of Buyer, Buyer determines that the purchase of the Property is not feasible, then Buyer shall have the right to terminate this Agreement by written notice delivered to Seller prior to expiration of the Feasibility Period. In the event of such termination, the parties' attorneys shall immediately direct the title company to deliver the Deposit to Buyer, and the parties shall have no further obligation to one another.

3. Buyer and Seller agree to cooperate in attempting to satisfy all of Buyer's conditions and contingencies to closing described in this Agreement, including but not limited to, executing any documents deemed necessary by Buyer to satisfy the conditions set forth herein.

SEC. 5. PERFORMANCE DEPOSIT

Buyer shall deliver at Closing a performance deposit in the amount of Ten Thousand and No/100ths (\$10,000.00) Dollars ("Deposit"). The Deposit shall serve as security for the performance of the obligations of the Buyer to construct as provided hereinafter. DCD shall authorize return of the Deposit concurrently with its formal approval of the Certificate of Completion pursuant to Section 7 or shall retain the Deposit as liquidated damages in accordance with the provisions of Sections 7 and 15. No interest shall be paid on the deposit. All or part of the Deposit may be retained by Seller if Buyer fails to complete the Project according to the time schedule provided in Section 2(a)3.

SEC. 6. SITE PREPARATION AND CERTAIN OTHER ACTION BY SELLER

(a) Work To Be Performed By Seller. Seller shall, without expense to Buyer, prepare the Property for Buyer in the following manner:

1. The Property will be conveyed to Buyer in "as is, where is" condition, with all faults and defects (including title, geotechnical and environmental), known or unknown, detected or undetected, physical or otherwise, and without warranty or representation, whatsoever, express or implied except as expressly set forth in this Agreement.
2. Buyer shall be responsible for all site development expenses, including, but not limited to, extension of water and sewer laterals to the Property and the provision or replacement of sidewalks and curb cuts.
3. Seller discloses that the Property may contain old building foundations, rubble and debris from prior buildings that may have been demolished. Buyer agrees to accept the Property "as is, where is" and is solely responsible for conducting its own geotechnical investigation to determine the bearing capacity of the soil and for all site excavation, debris removal, fill and development expenses.
4. Seller has provided to Buyer and Buyer acknowledges receipt of the following environmental reports:
 - a. Asbestos Management Report dated October 23, 2017, prepared by MPS Environmental Services Group.

Seller shall conduct no additional environmental investigations. Any additional environmental investigations shall be at Buyer's sole expense. If Buyer pursues such investigation, Buyer is encouraged to use an environmental consultant under a master contract with Seller if Seller will be asked to rely on any information in the report. Buyer shall accept the Property in "as is, where is" condition including all environmental conditions, known or unknown, disclosed or not disclosed. Buyer is solely responsible for the cost of any abatement or encapsulation of asbestos or other hazardous materials subject to regulation by the WDNR.

(b) Access to Property. Prior to the conveyance of the Property to Buyer, Seller shall permit representatives of Buyer to have access to any part of the Property as to which Seller holds title, at all reasonable times for the purpose of obtaining data and making various tests necessary to carry out the Agreement upon receipt by Seller of a written request for such entry and submittal of evidence of insurance according to Seller's minimum guidelines. Such request and evidence of insurance must be satisfactory to Seller in form and substance prior to Seller granting such access. After the conveyance of the Property to Buyer, Buyer shall permit the representatives of Seller, upon five (5) days prior written notice, access to the Property at all reasonable times necessary for the purposes of this Agreement, including, but not limited to, inspection of all work being performed in connection with the construction as hereinafter defined. No compensation shall be payable nor shall any charge be made in any form by any party for the access provided for in this Section.

SEC. 7. CERTIFICATE OF COMPLETION

Promptly after completion of the construction, including landscaping, in accordance with this Agreement, and receiving its certificate of occupancy, Buyer shall request that the Commissioner of DCD issue a Certificate of Completion ("Certificate") and return the Deposit. This Certificate shall be a conclusive determination of satisfaction and termination of the covenants in this Agreement and the Deed with respect to the obligations of Buyer and its successors and assigns to construct and the dates for the beginning and completion thereof. Representatives of Seller shall inspect the Property within thirty (30) days following receipt of Buyer's request to determine if the work has been completed according to Seller-approved plans and this Agreement. If the Property is determined to be in conformance, the Commissioner shall execute the Certificate within thirty (30) days of the inspection and shall present the Certificate to

Buyer. If the Commissioner refuses to authorize this Certificate, Seller shall within thirty (30) days of the Property inspection provide Buyer with a written statement indicating in adequate detail how Buyer has failed to complete the development of the Property in conformity with approved plans or this Agreement, or is otherwise in default, and what measures or acts are necessary, in the opinion of the Commissioner, for Buyer to take or perform in order to obtain the Certificate. Concurrent with Commissioner's consideration of the request for the Certificate, Seller shall consider return of the Deposit. All or part of the Deposit may be retained by Seller if the Project is not completed according to the schedule specified in Section 2. A check for the amount of Deposit authorized for return by Seller shall be provided within ten (10) days of issuance of the Certificate by Seller.

SEC. 8. RESTRICTIONS ON USE

Buyer agrees for itself, and its successors and assigns, and every successor in interest to the Property, or any part thereof, to:

- (a) Not discriminate upon the basis sex, race, color, age, marital status, sexual orientation, source of income, religion, national origin, ancestry, disability or the presence of a service animal, or status as a victim of domestic abuse, sexual assault or stalking in the sale, lease or rental, or in the use or occupancy of the Property or any improvements located or to be erected thereon, or any part thereof.
- (b) Comply with all requirements of the Americans with Disabilities Act of 1990, U.S.C. #12101, et. seq.

SEC. 9. COVENANTS BINDING UPON SUCCESSORS IN INTEREST: PERIOD OF DURATION

It is intended and agreed that the covenants provided in Sections 8 and 18 shall be covenants running with the land binding to the fullest extent permitted by law and equity for the benefit and in favor of, and enforceable by, Seller, its successors and assigns, Seller, and any successor in interest to the Property, or any part thereof, and the United States (in the case of the covenant provided in subsection (b) of Section 8), against Buyer, its successors and assigns, and every successor in interest to the Property or any part thereof or any interest therein, and any party in possession or occupancy of the Property or any part thereof. It is further intended and agreed that the covenant provided in subsection (a) of Section 8 shall remain in effect without limitation as to time.

SEC. 10. TRANSFER OF PROPERTY

Buyer has not made or created, and will not, prior to the completion of the Project as certified by DCD, make or suffer to be made any other sale, assignment, conveyance, lease or transfer in any other form of or with respect to this Agreement or the Property, or any part thereof or any interest therein, or contract or agree to do any of the same, without the prior written approval of the Commissioner, provided that Buyer may assign or transfer to an entity which has the substantially similar ownership as Buyer.

SEC. 11. LIMITATION UPON ENCUMBRANCE OF PROPERTY

Prior to issuance of the Certificate, neither Buyer nor any successor in interest to the Property shall engage in any financing or any other transaction creating any mortgage or other encumbrances or lien upon the Property, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Property except for the purposes only of obtaining (a) funds only to the extent necessary for the construction, development and acquisition provided in Section 5 and (b) such additional funds, if any, in an amount not to exceed the Purchase Price paid by Buyer to Seller. Until issuance of the Certificate, Buyer (or successor in interest) shall notify Seller in advance of any financing secured by mortgage or other similar lien instrument it proposes to enter into with respect to the Property and of any encumbrance or lien that has been created on or attached to the Property whether by voluntary act of Buyer or otherwise.

SEC. 12. MORTGAGEES NOT OBLIGATED TO CONSTRUCT

Notwithstanding any of the provisions of this Agreement, including but not limited to those which are intended to be covenants running with the land, the holder of any mortgage authorized by this Agreement (including any holder who obtains title to the Property or any part thereof as a result of foreclosure proceedings, or action in lieu thereof, but not

including (a) any other party who thereafter obtains title to the Property or such part from or through such holder or (b) any other purchaser at foreclosure sale other than the holder of the mortgage itself) shall not be obligated by the provisions of this Agreement to complete the construction or to guarantee such construction.

SEC. 13. FORCED DELAY IN PERFORMANCE

Neither Seller nor Buyer, nor any successor in interest, shall be considered in breach or default of its obligations with respect to the preparation of the Property for development or commencement and completion of construction, in the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence. The time for the performance of the obligations shall be extended for the period of the enforced delay, as determined by Seller, if the party seeking the extension shall request it in writing of the other party within ten (10) days after the beginning of the enforced delay.

SEC 14. NO DAMAGES FOR DELAY

Buyer shall not be entitled to recover any damages from the Seller arising from or attributable to any delays in construction upon or development of the Property, unless Seller caused the delay in question.

SEC. 15. REMEDIES

(a) General. In the event of breach of this Agreement, the parties have their respective rights hereunder, and those available at law and in equity. Seller expressly retains all rights under Wis. Stat. Section 893.80

(b) Prior to Conveyance. If, prior to Seller's conveyance of the Property, Buyer assigns or attempts to assign this Agreement or any rights hereunder or fails to pay the Purchase Price and take title to the Property upon Seller's offer of conveyance, Seller may, at its option, terminate this Agreement and retain any fees submitted by Buyer as liquidated damages.

(c) Notice of Breach and Right to Cure. Except as otherwise provided herein, in the event of default or breach ("Default") by either party hereto, the defaulting party shall, upon written notice from the other, cure or remedy such Default within 30 days after receipt of notice and demand to cure providing, however, that if the Default is one that cannot reasonably be cured with said 30 days, the defaulting party must diligently and faithfully pursue cure, and if the Default is not then remedied or cured with a reasonable time, or if the defaulting party fails to faithfully and diligently pursue cure, then (in any of the events described above) the aggrieved party may institute such proceedings and/or take such action to secure any rights as the aggrieved party may have available to it hereunder or at law or in equity, including, but not limited to, an action to compel specific performance and/or seeking damages.

(d) Waiver. No delay, waiver, omission or forbearance on the part of any party to exercise any right or power arising out of any other party's Default shall be deemed a waiver by that party of such right or power against the other party for any subsequent Default.

(e) Seller's Retained Reversionary Interest.

1. Seller's Right to Reverter and Deposit. Notwithstanding anything to the contrary contained herein, or in the Deed, if subsequent to conveyance of the Property to Buyer and prior to issuance of the Certificate:
 - i. Buyer or any successor defaults on or violates its obligations with respect to the Project, including the nature of, and the dates for commencement and completion of construction, or abandons or substantially suspends construction, and any such default, violation, abandonment or suspension shall not be cured, ended or remedied with 90 days after Seller's written demand; or
 - ii. Buyer or any successor fails to pay real estate taxes, special assessment or special charges on the Property or any part thereof when due, or shall place thereon any encumbrance or lien not authorized by this Agreement, or shall suffer any levy, lien, or attachment to be made, or any materialman, mechanic, or construction lien, or any other unauthorized encumbrance or lien to attach, and such taxes or assessment shall not have been paid, or the encumbrance or lien removed or discharged or provision

- satisfactory to Seller made for such payment, removal or discharge, within 90 days after Seller written demand so to do; or
- iii. there is any transfer of the Property or any part thereof in violation of this Agreement, and such violation shall not be cured within 90 days after Seller's written demand;

then Seller shall have the right to reenter and take possession of the Property and to record against the Property in the Milwaukee County Register of Deeds Office a "Notice of Reverter." Buyer agrees that the recording of such Notice of Reverter shall have the effect of delivering and recording a deed from Buyer to Seller, and shall automatically terminate all of Buyer's rights, title to and interest in and to the Property (and any interest of any successor that has taken title from or through Buyer, except Permitted Successors) and revert in Seller, subject to rights of Permitted Successors, the full estate conveyed by the Deed. The intent of this provision, together with other provisions of this Agreement, is that the conveyance of the Property to Buyer pursuant and subject to this Agreement shall be made upon a condition subsequent to the conveyance that in the event of any default, failure, violation, breach or other action or inaction by Buyer specified in subsections (a), (b) or (c) above, and the failure on the part of Buyer to remedy, end, abrogate or otherwise cure such default, failure, violation, breach or other action or inaction, within the period and in the manner stated in such subdivisions, Seller at its option may effect a termination of the estate conveyed to Buyer in favor of Seller in which case all rights and interests of Buyer (and of any successor or assign to Buyer or the Property, except Permitted Successors), shall revert to, and thereafter be solely and fully vested in, Seller. And such reversion of title in Seller shall be subject to, limited by, and shall not defeat, render invalid or limit (a) the lien of any mortgage authorized by this Agreement, (b) any right or interest provided in the Agreement for the protection of the holder of such mortgage and (c) any right of any Permitted Successor, including any lessee or buyer authorized by this Agreement.

If Seller exercises its reversionary right as set forth above, Seller may also retain the Deposit.

Seller's reversionary right is a material provision of this Agreement, without which, Seller would not have entered into this transaction.

SEC. 16. RESALE OF REACQUIRED PROPERTY: DISPOSITION OF PROCEEDS

Upon the reversion in Seller of title to the Property or any part thereof as provided in Section 15, Seller shall use best efforts to resell the Property or part thereof (subject to rights of Permitted Successors) as soon and in such manner as the Seller shall find feasible and consistent with the objectives of applicable law to a qualified and responsible party or parties (as determined by Seller) who will either (a) assume the obligation of making or completing the Project as shall be satisfactory to the Seller or (b) agree to undertake such other project at the Property as shall meet Seller's approval (or, alternatively, the Project with such modifications to which Seller may agree.)

Upon Seller resale of the Property (or part thereof) the proceeds thereof shall be applied:

(a) First, to reimburse Seller, on its own behalf or on behalf of Seller, for all costs and expenses incurred by Seller, including, but not limited to, salaries of personnel in connection with the reversion in title, management and resale of the Property or part thereof (but less any income derived by Seller from the Property or part thereof in connection with such management); all taxes, assessments, and water and sewer charges with respect to the Property or part thereof (or, in the event the Property is exempt from taxation or assessment or such charges during the period of ownership thereof by Seller, an amount, if paid, equal to such taxes, assessments or charges (as determined by the Seller assessing official) that would have been payable if the Property were not so exempt); any payments made or necessary to be made to discharge any encumbrances or liens existing on the Property or part thereof at the time of reversion of title thereto in Seller or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of Buyer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the Project (or such modified or alternate project as Seller may establish or to maintain the Property), and any amounts otherwise owing Seller by Buyer and its successors or transferee; and

(b) Second, to reimburse Buyer, its successor or transferee, up to the amount equal to the sum of the net Purchase Price paid by it for the Property (or allocable to the part thereof) and the cash, labor and material actually invested by it in performing any work related to the construction, acquisition, development or rehabilitation of the Property or part thereof, less any gains or income withdrawn or made by it from the Agreement or the Property.

Any balance remaining after such reimbursements shall be retained by Seller.

**SEC. 17. CONFLICT OF INTEREST:
SELLER'S REPRESENTATIVES NOT INDIVIDUALLY LIABLE**

No City or MPS member, official or employee shall have any personal interest, direct or indirect, in this Agreement, nor shall any such person participate in any decision relating to this Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is, directly or indirectly, interested. No City or MPS member, official or employee shall be personally liable to Buyer or any successor in the event of any Seller default or breach or for any amount which may become due to Buyer or successor or on any obligations under the terms of this Agreement.

SEC. 18. INDEMNIFICATION

Buyer agrees to defend, indemnify and hold harmless Seller and Seller's respective officers, agents and employees, from and against all claims, demands, damages, liability, suits, judgments and decrees, attorney's fees, losses, costs and expenses of any kind or nature whatsoever that may come or be asserted against Seller on account of: (a) Buyer's (or anyone acting for or at the direction of, or anyone claiming by, through, or under Buyer) preacquisition entry onto or investigations at the Property, provided, however that Buyer's obligation to indemnify Seller hereunder shall not apply to situations involving negligence or willful misconduct by Seller or its agents, and/or the presence of preexisting environmental contaminants on the Property; and (b) if Buyer closes on this transaction and becomes owner of the Property, the condition of the Property, including environmental and geotechnical. The provisions in this Section shall survive completion of the Project, recording of the Certification and any termination of this Agreement.

SEC. 19. PROVISIONS NOT MERGED WITH DEED

No provision of this Agreement is intended to or shall be merged by reason of any deed transferring title to the Property from Seller to Buyer or any successor in interest, and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

SEC. 20 GOVERNING LAW

This Agreement shall be construed according to Wisconsin Law.

SEC. 21 PUBLIC RECORDS

Both parties understand that the Seller is bound by the Wisconsin Public Records Law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. sec. 19.21 *et. sec.* Buyer acknowledges that it is obligated to assist the Seller in retaining and producing records that are subject to the Wisconsin Public Records Law, including but not limited to those records produced or collected by BUYER under this Agreement pursuant to Wis. Stat. sec. 19.36(3) and that the failure to do so shall constitute a material breach of this Agreement, and that the Seller must defend and hold the City harmless from liability due to its fault under that law. Except as otherwise authorized, those records shall be maintained for a period of seven years after issuance of the Certificate of Completion under Section 7.

SEC. 22 SUCCESSORS AND ASSIGNS.

This Agreement is binding upon the parties hereto and their successors and assigns, including successors in interest to the Property. Notwithstanding the foregoing, until issuance of the Certificate, Buyer may not assign this Agreement or its rights hereunder without Seller's prior written consent.

SEC. 23. APPROVALS

In any instance in which Seller's approval or consent and/or the approval or consent of the Commissioner is required under this Agreement, such approval or consent shall not be unreasonably withheld or delayed.

SEC. 24. NOTICES

Notices required to be sent under this Agreement shall be in writing and given either by personal delivery, by certified mail postage prepaid, or by facsimile to the following individuals. Notices personally delivered shall be deemed delivered upon actual receipt or upon refusal to accept delivery. Notices sent by certified mail shall be deemed delivered two business days after mailing. Notice recipient and sending information may be changed from time to time by sending written notice of the same to all parties in accordance with this paragraph.

If to the Seller:

Martha L. Brown – Deputy Commissioner
Department of City Development
809 North Broadway, Milwaukee, Wisconsin 53202

If to Buyer:

Royal Capital Group, LLC
710 N Plankinton Ave, Suite 300
Milwaukee, WI 53203
Attn: Stephen Waclawski

With a copy to:

Reinhart Boerner Van Deuren
1000 N. Water Street, Suite 1700
Milwaukee, WI 53202
Attn: William Cummings

SEC. 25. SPECIAL PROVISIONS

(a) Buyer will not discriminate against any employee or applicant for employment because of age, arrest and/or conviction record, ancestry, color, national origin or race, creed, disability, genetic testing, honesty testing, marital status, military service, pregnancy or childbirth, sex, sexual orientation, or use or nonuse of lawful products off the employer's premises during nonworking hours. Buyer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their age, arrest and/or conviction record, ancestry, color, national origin or race, creed, disability, genetic testing, honesty testing, marital status, military service, pregnancy or childbirth, sex, sexual orientation, or use or nonuse of lawful products off the employer's premises during nonworking hours

Such action shall include, but not be limited to, the following: employment, upgrading, promotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Seller or the Wisconsin Department of Industry, Labor and Human Resources setting forth the provisions of this nondiscrimination clause.

(b) Buyer will include the provisions of Paragraph (a) in every construction contract for this property, and will require the inclusion of these provisions in every subcontract entered into by any of its contractors, so that such provisions will be binding upon each such contractor or subcontractor, as the case may be.

SEC. 26. COUNTERPARTS

The Agreement is executed in three (3) counterparts, each of which shall constitute one and the same instrument.

[Signature Page Follows]

EXHIBIT A
Description of Property

Legal Description:

Lots 1 through 40 inclusive and all of the vacated alleys, in Block 8, in Meinecke's Subdivision of Lots 1, 2, 7 and 8 and a part of Lots 3 and 6, in Partition of the South 1/2 of the West 1/2 of the Southeast 1/4 of Section 18, Township 7 North, Range 22 East, in the City of Milwaukee, County of Milwaukee, State of Wisconsin.

For informational purposes only:

Property Address: 2442 North 20th Street, Milwaukee, WI 53206

Tax Key Number: 3241642111