

## AGREEMENT FOR SALE AND PURCHASE OF PROPERTY

This AGREEMENT FOR SALE AND PURCHASE OF PROPERTY (“Agreement”) is made on June \_\_, 2023 (the “Effective Date”) by and between **THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF HAMPTON, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (“Buyer”) and **KING STREET PROPERTIES, L.L.C.**, a Virginia limited liability company (“Seller”).

### RECITALS:

- A. Seller owns that certain parcel of property located in the City of Hampton, Virginia (the “City”), identified in the City’s land records as LRSN 2002978, more commonly referred to as 112 Kings Way, Hampton, Virginia 23669, and as further described in Exhibit A (the “Property”).
- B. Seller and Buyer acknowledge that the Seller has existing leases with existing tenants at the Property and that Seller shall assign and Buyer shall assume such existing leases.
- C. Buyer acknowledges the purpose of the purchase is to control the land.
- D. Buyer acknowledges as a stand-alone parcel the maximum use and value of the parcel cannot be realized.
- E. Buyer recognizes this is a strategic acquisition as this parcel of property is adjacent to a key parcel in the downtown district identified for redevelopment. These two parcels, when combined, will enhance the redevelopment opportunity.
- F. The Buyer, by, resolution, at its meeting on June 20, 2023 approved the acquisition of Property.
- G. Seller desires to sell to Buyer and Buyer desires to purchase from Seller the Property on the following terms and conditions and for the price set forth herein.

### ARTICLE I. INSPECTION

1.1 Information Regarding Property. Seller shall provide to Buyer within five (5) Business Days of the Effective Date copies of all existing leases, service contracts, and other agreements pertaining to the Property and all studies, reports, information, and other materials it has in its actual possession relating to the Property, including but not limited to, title reports, surveys, and environmental site assessments. Buyer acknowledges that Seller shall not be held responsible for the content of any study, report, information, or other materials provided to the Buyer hereunder, but shall be held responsible for the content of all existing leases, service contracts, and other agreements pertaining to the Property.

1.2 Buyer's Inspection Rights. The Property shall be sold "AS IS" "WHERE IS" from Seller to Buyer, by deed of General Warranty containing English Covenants of Title. Buyer is purchasing the Property based solely on (1) its own inspection; and (2) and evaluation of the Property and the documents and information provided by Seller pursuant to Section 1.1. Notwithstanding any provision in this Agreement to the contrary, Buyer shall have until ninety (90) days after the Effective Date ("Feasibility Date") to determine whether the Property is acceptable to Buyer with respect to any and all matters Buyer desires to investigate including, but not limited to, title, physical, and environmental matters. The Buyer, in its sole discretion, may extend the Feasibility Date in thirty (30) day intervals for up to a total of sixty (60) additional days by providing written notice to the Seller prior to the then current Feasibility Date and each thirty (30) day extension thereof, as applicable, to accommodate unforeseen delays and receive such additional studies, reports, confirmations, and approvals as are deemed necessary by the Buyer.

Upon receipt of the documents and information provided by Seller pursuant to Section 1.1. and the documents and information received pursuant to this Section 1.2, the Buyer reserves the right to re-negotiate the Purchase Price and other terms of this Agreement, as applicable, to offset unanticipated costs, such as environmental remediation and structural repair costs.

If Buyer finds the Property to be unacceptable in any way and elects not to proceed with the transaction contemplated hereby, Buyer may terminate this Agreement by written notice to the Seller on or before the Feasibility Date. If Buyer shall give such written notice of termination to Seller on or before the Feasibility Date this Agreement shall be terminated. If Buyer fails to give written notice of termination to Seller on or before the Feasibility Date, Buyer shall be deemed to have found the Property acceptable in all respects and this Agreement shall remain in full force and effect.

1.3 Access; Right of Entry. Buyer and Buyer's agents, contractors, employees, representatives and invitees shall be entitled to enter the Property at all reasonable times as agreed to by Buyer and Seller in advance, which agreement shall not be unreasonably withheld or delayed, but only for the purpose of conducting tests and making site inspections and investigations pursuant to this Agreement. In doing so, however, Buyer agrees not to cause any damage or make any physical changes to the Property or interfere with the rights of others who may have a legal right to use or occupy the Property. Under no circumstances shall the right of entry granted herein be interpreted as delivery of possession of the Property before Closing.

1.4 Buyer's Obligations with Respect to Inspections. To the extent necessary, Buyer shall restore the Property to its original condition promptly after Buyer's factual, physical and legal examinations and inquiries of the Property. Buyer shall be solely responsible for payment of all costs associated with Buyer's examinations and inspections. Buyer shall not suffer or permit the filing of any liens against the Property and if any such liens are filed, Buyer shall promptly cause them to be released or otherwise eliminated from being a lien on the Property. If the transaction contemplated by this Agreement is not closed for any reason whatsoever, Buyer shall remain obligated with respect to the obligations contained in this Section 1.4.

ARTICLE II.  
PURCHASE PRICE AND OTHER CONSIDERATION; CLOSING ADJUSTMENTS

2.1 Purchase Price. The total purchase price of the Property shall be Two Hundred Ninety Thousand and No/100 Dollars (\$290,000.00) (the "**Purchase Price**"). The Purchase Price represents the value of all estates or interests in such Property.

2.2 Payment of Purchase Price. The Purchase Price, subject to the prorations and adjustments for which provision is made herein, shall be paid in lawful money of the United States of America by wire transfer of funds, in cash, or by certified check at the time of Closing.

2.3 Prorations; Adjustments; Closing Costs. The following adjustments and prorations shall be computed as of the Closing Date, as defined in Section 5.1, and the Purchase Price shall be adjusted at Closing to reflect such adjustments and prorations. All items of cost and expense associated with the ownership of the Property with respect to the period before the Closing Date shall be for the account of the Seller. All items of cost and expense associated with the ownership of the Property with respect to the period on and after the Closing Date shall be for the account of Buyer. All prorations shall be based on actual calendar days, and shall be prorated as of 11:59 p.m. on the day of Closing Date. Cost and expenses associated with the ownership of the Property shall include, but not be limited to:

(a) Payables. Seller shall pay any and all Payables that may result in an encumbrance upon the Property on or before the Closing Date. For the purposes of this subsection, "Payables" shall include, but not be limited to all of Seller's accounts payable incurred in the ordinary course of ownership of the Property.

(c) Taxes, Assessments, and Liens. Taxes and assessments for the year of Closing subject to proration, including, but not limited to, real estate taxes, sewer and stormwater fees, and business improvement district taxes, shall be prorated as of the Closing Date if the amount of such taxes is known at the time of Closing. Public and all other liens, if any, certified or for which the work has been substantially completed on the date of Closing shall be paid by Seller. No liens shall be assumed by Buyer.

(d) Fuel, Water, and Other Utility Charges. All fuel, water, and other utility services shall be transferred from the name of Seller to the name of Buyer, effective as of the Closing Date. To the extent that such transfer cannot be accomplished timely, fuel, water and utility charges shall be estimated, adjusted and apportioned pursuant to custom or on the basis of the last meter reading as of the Closing Date. If there are meters on the Property, Seller shall furnish readings to date not more than three (3) days before the Closing Date, and the unfixed meter charges, if any, based thereon for the intervening time shall be apportioned on the basis of such last reading. Readings will be secured for all utilities as close as practicable to the Closing Date.

(e) Sewer and Stormwater Charges. Sewer and stormwater charges, if any, shall be estimated, adjusted, and apportioned as per custom as of the Closing Date.

(f) Income and Deposits. Income from any machines or devices on the Property, if any, shall be retained by Seller, subject to Seller's removal of all such machines or devices as of the Closing Date. In the event any such coin-operated machines remain at the Property after the Closing Date, all income related thereto shall be retained by Buyer. Deposits, if any, made by Seller or on behalf of Seller, or any predecessor in title as security under any utility or public service contract shall be credited to the extent that the same remains on deposit and is verified by the holder thereof for the benefit, and in the name of, Buyer. If such deposits cannot remain on deposit for the benefit of the Buyer, Buyer shall place new deposits with the utility company(ies) and the existing deposits shall be released to Seller.

(g) Fees for Licenses and Permits. Fees paid or payable, if any, for licenses and permits shall not be adjusted and apportioned as of the Closing Date inasmuch as Buyer shall not assume such licenses and permits.

(h) Contracts for Operations. All prepayments made under any continuing service, maintenance, supply, management, operating, employment, equipment rental, or other agreement, however termed, whether written or oral, affecting the use, ownership, management, maintenance, or operation of all or any part of the Property (the "**Contracts for Operations**") affecting the Property, if any, shall be adjusted and paid in full by Seller as of the Closing Date. Seller shall certify in writing that all prepayment or continuing payments on Contracts for Operations affecting the Property have been paid in full and that all such Contracts for Operations have been terminated, and shall provide evidence that any and all personal property that is not owned by Seller and is the subject of any Contracts for Operations has been removed from the Property, including, but not limited to, machines or devices. Buyer shall have no obligation to Seller related to any Contracts for Operations; nor shall Buyer assume or otherwise be responsible for any of Seller's obligations to any party pursuant to those Contracts for Operations, including, but not limited to, any liquidated damages that may be associated with the termination of any of those Contracts for Operations any other agreement.

(i) Other Customary Prorations. All other verifiable charges and fees customarily prorated and adjusted in similar transactions shall be adjusted and apportioned as of the Closing Date.

(j) Intent of Proration Provisions. The intent of the prorations and adjustments provided for herein is that Seller shall bear all expenses of ownership incurred in connection with the Property.

2.4 Closing Costs and Expenses. Buyer shall pay all documentary stamp taxes, recording taxes and other transfer taxes on the Deed, if any, and all costs of recording and the title insurance premium for the owner's title insurance policy to be obtained by Buyer. Seller shall pay the cost of preparation of all documents required under Section 5.2, and for payment of the Virginia Grantor's Tax. Attorneys' fees, consulting fees, and other due diligence expenses shall be borne by the party incurring such expense.

ARTICLE III  
SELLER LEASE AND TRANSFER OF LEASES

3.1 Exclusive possession of the Property shall be delivered by Seller to Buyer at Closing. Notwithstanding Buyer's right to exclusive possession, Buyer acknowledges that Seller has entered into certain leases with those parties identified in the information provided by Seller to Buyer pursuant to Section 1.1. With respect to those leases:

(a) On or before Closing, Seller shall transfer and assign those agreements and all rights thereunder to Buyer and further agrees to execute any assignment of lease or other documents that may be necessary for that purpose. Seller and Buyer shall jointly notify all tenants. In addition, Seller shall use its best efforts to obtain Tenant Estoppel Affidavits executed by all tenants on or before the Closing Date. In the event Seller is unable to obtain a Tenant Estoppel Affidavit from any tenant by the Closing Date, Seller authorizes Buyer to obtain same on a form agreed to by Buyer and Seller at Closing, and further agrees to promptly remedy any issues raised by any such tenant to Buyer, as it may pertain to the statements in the Tenant Estoppel Affidavit. After the Closing Date, Seller shall direct any and all inquiries from or on behalf of tenants to Buyer. Seller's obligations under this subsection 3.1(a) shall survive Closing until the expiration of 12 months after the Closing Date.

(b) Rents received from tenants shall be adjusted and apportioned as of the Closing Date. All security or other deposits, if any, paid or on behalf of any tenants to Seller shall be (1) itemized in the information provided by Seller to Buyer pursuant to Section 1.1 and (2) transferred, assigned, and credited to Buyer at Closing.

(c) Seller shall compensate all tenants of the Property, if applicable, for any damages the tenant or tenants may suffer and sustain by reason of the conveyance agreed to hereunder and will hold harmless the Buyer from any and all claims that may be made by tenant or tenants by reason of such conveyance or action or inaction of the Seller prior to conveyance.

3.2 Seller currently utilizes a portion of the Property for its own storage. If Seller desires to continue to utilize a portion of the Property for its own storage following its transfer of the Property to Buyer, Seller must execute a lease agreement with Buyer, in a form approved by Buyer, on or before Closing (the "Seller Lease").

ARTICLE IV  
TITLE; SURVEY

4.1 Title Review Period. Upon receipt of the documents delivered to the Buyer by Seller pursuant to Section 1.1, and any title commitment ordered by the Buyer for the Property (collectively, the "Title Documents"), the Buyer shall examine such Title Documents and give notice to the Seller prior to the Feasibility Date, of any liens, tenancies, encumbrances, conditions, restrictions, or defects (the "Title Defects") affecting title to the subject Property that are not acceptable to the Buyer. Upon the failure of the Seller to eliminate all Title Defects within 45 days after its receipt of notice from the Buyer of same ("Title Cure Period"), the Seller may attempt, but shall not be obligated, to eliminate such Title Defects at its own expense.

Should the Buyer not elect to cure, or not successfully cure or waive the Title Defects within 60 days of expiration of the Title Cure Period, then the Buyer may terminate this Agreement by giving written notice to the Seller. Upon Seller's receipt of such notification from the Buyer, the Parties shall not have any further rights against or obligations or liability to the others hereunder with respect to that Property, except for any obligations that expressly survive termination.

In addition, as soon as practicable after the commencement of the Title Review Period, Buyer shall provide to Seller for review and revision any and all documents necessary to the Buyer's desired title commitment, including, but not limited to, a seller's affidavit, no financing affidavit, or any similar document, including any related to gap indemnity coverage.

4.2 Survey. Within five (5) days of the Effective Date, Buyer shall have the right to order, at Buyer's cost and expense, a survey of the Property, together with certification of the surveyor as may reasonably be required by Buyer (the "Survey"). The Survey shall satisfy, if required by Buyer, the most recent "Minimum Standard Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA and ACSM, and shall meet the accuracy requirements of a Class A Survey as defined therein. If the Survey reveals any exceptions to title or any matters affecting the Property ("Survey Exceptions"), Buyer may notify Seller of such Survey Exceptions ("Survey Notice") on or before the Feasibility Date.

If Buyer timely and properly files Survey Notice, then Seller shall have the option to use reasonable diligence to cure the Survey Exceptions and shall have a period of 5 days after receipt of notice thereof in which to do so (and if necessary the Closing Date may be extended by Seller, but in no event past 10 days following the Feasibility Date, except as mutually agreed by the parties in writing). Seller shall not in any event be obligated to litigate any matter in order to remove, discharge or correct any Survey Exception. If Seller is unwilling or unable to correct any Survey Exception within such period, and notifies Buyer in writing of their decision, then Buyer shall, at its option, notify Seller within five (5) Business Days of its decision to either terminate this Agreement or accept title in its then existing condition without reduction of the Purchase Price. If Buyer shall elect to terminate this Agreement, this Agreement shall terminate, and thereafter neither Seller nor Buyer shall have any further rights or obligations hereunder except that Buyer shall remain obligated with respect to the provisions that survive termination. If Buyer fails to give the Survey Notice to Seller on or before the Feasibility Date all matters reflected on the Survey shall be deemed to be acceptable to the Buyer and this Agreement shall remain in full force and effect and Buyer shall be obligated to complete the transaction as required by this Agreement.

## ARTICLE V CLOSING

5.1 Time and Place. Closing shall take place within thirty (30) days of the later of (a) the Feasibility Date; or (b) the exhaustion of all time periods provided herein to address any and all Title Defects and Survey Exceptions noted by the Buyer pursuant to Article X (the "Closing Date"). Closing shall be held at the office of the Buyer located at 22 Lincoln Street, Hampton, Virginia 23669, without need for Seller to be present so long as Seller has delivered to Buyer all documents and/or funds required from Seller for Closing.

5.2 Seller's Deliveries. At Closing, Seller shall deliver or cause to be delivered to Buyer the following items (executed on behalf of the appropriate entities and by the appropriate individuals, where applicable):

(a) A Seller's Affidavit related to the Real Property in a form as is reasonably required by Buyer's attorney or the Title Company;

(b) All keys and security codes in Seller's possession with respect to the Property; to include labels or other adequate identification for proper use;

(c) Duly adopted Resolutions or a Consent in Writing of Seller authorizing Seller to consummate the transaction contemplated hereby and to perform all of Seller's obligations hereunder;

(d) Certificate of Good Standing from the Commonwealth of Virginia showing Seller as duly organized, existing and in good standing;

(e) Incumbency Certificate as to the existing managers, officers, and directors of Seller who are authorized to act on behalf of the Seller;

(f) A Certificate recertifying the representations, warranties, and covenants of Seller contained herein as of the Closing Date;

(g) A Certificate recertifying the payment in full of all Payables, including any outstanding Payables which may result in an encumbrance upon the Property, as further set forth in Section 2.3(a);

(h) A Certificate recertifying the notification and termination of all existing Contracts for Operations;

(i) Assignments of the leases and Tenant Estoppel Affidavits for all tenants of the Property, and any security deposits related to the leases, as set forth in Section 3.1(a);

(j) Seller Lease as required by Section 3.2;

(k) Foreign Investment in Real Property Tax Act ("FIRPTA") Affidavit (1) confirming that the Seller is not a foreign entity subject to withholding under FIRPTA; or (2) authorizing the Buyer to withhold a portion of the Purchase Price to meet any potential liabilities under federal tax laws; and

(l) Such other usual and customary documentation or deliveries as may be reasonably requested by Buyer or necessary for Buyer's title commitment.

5.3 Buyer's Deliveries. At Closing, Buyer shall deliver or cause to be delivered to Seller the following items:

- (a) Balance of cash to close in the amount required by Article II, together with any other amounts as required herein by wire transfer to Seller's account;
- (b) Closing Statement; and
- (c) Such other usual and customary documentation or deliveries as may be reasonably requested by Seller.

5.4 Possession. Seller shall surrender exclusive possession of the Property to Buyer at Closing, free and clear of any tenancies or other parties in possession except as provided for in Section 3.1.

5.5 Contingencies. Notwithstanding anything to the contrary contained herein, Buyer's and Seller's obligation to proceed to Closing is specifically contingent on Seller and Buyer, respectively, having performed all obligations required to be performed by it under this Agreement by such party on or before the Closing Date.

ARTICLE VI  
SELLER'S CONTINUING COVENANTS

6.1 Seller covenants and agrees that between the Effective Date and the Closing Date, Seller shall (a) not intentionally damage the Property; and (b) maintain any insurance coverage that is presently in effect.

ARTICLE VII  
BUYER'S AND SELLER'S WARRANTIES AND REPRESENTATIONS

7.1 Buyer warrants and represents that:

- (a) Buyer has the full right, power and authority to purchase the Property from Seller as provided in this Agreement and to carry out Buyer's obligations hereunder;
- (b) all requisite action necessary to authorize Buyer to enter into this Agreement and to carry out Buyer's obligations has been obtained;
- (c) this Agreement has been duly authorized, executed and delivered by Buyer; and
- (d) the execution of this Agreement and the Closing to occur hereunder do not and will not violate any contract, covenant or other agreement to which Buyer may be a party or by which Buyer may be bound.

7.2 Seller warrants and represents that:

- (a) Seller has the full right, power and authority to sell the Property to Buyer as provided in this Agreement and to carry out Seller's obligations hereunder;



(b) All requisite action necessary to authorize Seller to enter into this Agreement and to carry out Seller's obligations has been obtained;

(c) This Agreement has been duly authorized, executed and delivered by Seller;

(d) The execution of this Agreement and the Closing to occur hereunder do not and will not violate any contract, covenant or other agreement to which Seller may be a party or by which Seller may be bound;

(e) Seller is a limited liability company duly formed, validly existing and in good standing under the laws of the Commonwealth of Virginia, duly qualified to transact business in the Commonwealth of Virginia, and has all requisite power and authority to own its interests in the Property, and to carry on its business as now being conducted;

(f) Seller, to the best of Seller's knowledge, information and belief, other than as may be contained in documents provided to Buyer pursuant to Section 1.1 has not received any written or oral notification from any governmental authority concerning the Property for any violation of federal, state, county or municipal laws, ordinances or regulations, expressly including any violations concerning health, fire, building, sanitation, safety code violations, zoning, Hazardous Materials or any other environmental problems. Seller agrees to forward to Buyer copies of any notices described in the preceding sentence immediately on receipt by Seller. To the best of Seller's knowledge, information and belief, Seller is not in violation of any governmental laws, ordinances, rules, and regulations applicable to the use and occupation of the Property, including, without limitation, health, fire, sanitation and safety codes. To the best of Seller's knowledge, information and belief, Seller is not in violation of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 *et seq.*, the Toxic Substances Control Act, 15 U.S.C. §§ 2601 *et seq.*, or any modifications or amendments thereto, or applicable state law and other federal, state and local laws and the regulations implementing such laws now in force or hereinafter enacted relating to hazardous waste disposal and/or toxic substances (the above laws are collectively referred to as "Environmental Laws"). Seller warrants and represents that it has disclosed to Buyer all pending or threatened litigation known to Seller and orders, rulings, notices, permits or investigations known to Seller regarding Hazardous Materials, as such terms are defined herein and in applicable Environmental Laws.

"Hazardous Materials" for the purposes of this Section shall mean any toxic, radioactive, caustic or otherwise hazardous substance, including petroleum, its derivatives, by-products and other hydrocarbons, or any substance having any constituent elements displaying any of the foregoing characteristics. The term "Hazardous Materials" includes, without limitation, any substance regulated under any and all federal, state and local statutes, laws (including case law), regulations, ordinances, rules, judgments, orders, decrees, codes, plans, injunctions, permits, concessions, grants, franchises, licenses, agreements and other governmental restrictions, whether now or hereafter in effect, relating to human health, the environment or to emissions, discharges or releases of pollutants, contaminants, toxic substances, hazardous substances or wastes into the environment including, without limitation, ambient air, surface water, ground

water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, Hazardous Materials or wastes or the clean-up or other remediation thereof;

(g) To the best of Seller's knowledge, information and belief, there are no unrecorded easements that adversely affect the use and access to the Property. Prior to the Closing Date, Seller will not grant any easement that will affect title to the Property or Seller's right to transfer its property interest hereunder;

(h) To the best of Seller's knowledge, information and belief, Seller has not received any written or oral notification of a breach of any Contracts for Operations, any licenses or permits and there are no defaults or conditions which with the passage of time or the giving of notice would constitute defaults thereunder. There are no persons with a right to use or occupy the Property other than the existing lease lessees. Each of the Contracts for Operations, licenses and permits have been duly terminated.

(i) There are no currently effective employment agreements, management agreements, collective bargaining agreements, or pensions, retirement or profit-sharing plans, with or covering any of the employees of the Seller.

(j) To the best of Seller's knowledge, information and belief, Seller has not received any notice from any insurance company that has issued a policy with respect to the Property or from any board of fire underwriters (or other body exercising similar functions) claiming any defects or deficiencies or requesting the performance of any repairs, alterations, or other work to the Property, which, if not corrected, would result in termination of insurance coverage; and

(k) To the best of Seller's knowledge, information and belief, there are no pending suits, litigation, or administrative proceedings relating to Seller, or to the, without limitation, pending labor grievances or arbitrations or suits that impact the Property.

#### ARTICLE VIII ASSIGNMENT

8.1 Seller may not assign this Agreement, nor may any of Seller's rights hereunder be transferred in any manner to any person or entity, without Buyer's specific prior written consent, which consent shall not be unreasonably withheld by Buyer. If Seller assigns this Agreement pursuant to the terms hereof: (a) the assignee shall be liable (jointly and severally with assignor) for all of Seller's obligations hereunder; (b) the assignor (i.e., the original Seller hereunder) shall remain obligated (but jointly and severally with assignee) with respect to all of Seller's obligations hereunder; and (c) the assignor and any assignee shall execute such instruments of assignment and assumption in such form as Buyer may require in confirmation of the provisions hereof; (d) Seller shall notify Buyer no later than ten (10) days before the Closing of the Assignment and the name of the Assignee.

ARTICLE IX  
BROKERAGE

9.1 Buyer and Seller represent and warrant to Seller and Buyer, respectively, that each has not contacted or entered into any agreement with any real estate broker, agent, finder, or any other party in connection with this transaction, and that neither has taken any action which would result in any real estate broker's finder's, or other fees or commissions being due or payable to any other party with respect to this transaction.

ARTICLE X  
DEFAULT

10.1 Buyer's Default. If this transaction shall not be closed because of default of Buyer, Seller shall be entitled to pursue specific performance. In the event that specific performance is obtained by Seller, Seller and Buyer shall close on the terms herein contained. If subsequent to Closing, Buyer shall fail to comply with its obligations contained herein which survive Closing, Seller, in addition to any rights and remedies provided herein, shall be entitled to any and all remedies available at law or in equity.

10.2 Seller's Default. If this transaction shall not be closed because of default of Seller, Buyer shall be entitled to pursue specific performance. In the event that specific performance is obtained by Buyer, Buyer and Seller shall close on the terms herein contained. If subsequent to Closing, Seller shall fail to comply with its obligations contained herein which survive Closing, Buyer, in addition to any rights and remedies provided herein, shall be entitled to pursue all rights and remedies at law or in equity.

ARTICLE XI  
INDEMNIFICATION

11.1 Survival. The covenants and agreements of the parties (including, without limitation, the covenants and agreements of the parties set forth in this Article XI) contained in this Agreement shall survive the Closing. The representations and warranties of the parties contained in this Agreement or in any certificate or other writing delivered pursuant to this Agreement shall survive the Closing until the expiration of 12 months after the Closing Date or the expiration of the terms of the leases assigned pursuant to Article III, whichever is later. Notwithstanding the preceding sentence, any representation or warranty in respect of which indemnity may be sought under this Agreement shall survive the time at which it would otherwise terminate pursuant to the preceding sentence, if notice of the inaccuracy of such representation or warranty giving rise to such right of indemnity shall have been given to the party against whom such indemnity may be sought before such time, and such period of survival shall continue until the indemnification claim related to such inaccuracy of such representation or warranty shall have been finally resolved pursuant to this Article XI.

11.2 Indemnification by Seller. Seller agrees to indemnify and hold harmless the Buyer from and against any and all losses, claims, demands, damages, and reasonable costs and expenses of whatsoever kind or nature related to or arising as a result of (i) liabilities of Seller, (ii) any

misrepresentation or breach of any warranty made by Seller in this Agreement or (iii) any breach of any covenant or agreement made or to be performed by Seller pursuant to this Agreement (collectively, the "Seller Deficiencies").

## ARTICLE XII MISCELLANEOUS

12.1 Risk of Loss. Risk of loss or damage to the Property by fire, wind, storm, or other casualty, or other cause shall remain upon the Seller until transfer of legal title at Closing Date. In the event of substantial loss or damage to the Property before Closing Date, the Buyer shall have the option of either (a) terminating this Agreement, or (b) affirming this Agreement, in which event the Seller shall assign to the Buyer all of the Seller's rights under any policy or policies of insurance applicable to the Property.

12.2 Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original without production of any other counterpart. Any signature delivered via electronic means shall be deemed an original signature hereto.

12.3 Severability and Waiver. Invalidity of any one section or provision of this Agreement by judgment or court order shall in no way affect any other section or provision. Failure of any party to this Agreement to insist on the full performance of any of its provisions by the other party (or parties) shall not constitute a waiver of such performance unless the party failing to insist on full performance of the provision declares in writing signed by it that it is waiving such performance. A waiver of any breach under this Agreement by any party, unless otherwise expressly declared in writing, shall not be a continuing waiver or waiver of any subsequent breach of the same or other provision of this Agreement.

12.4 Governing Law; Venue. The laws of the Commonwealth of Virginia (without regard to conflicts of law) shall govern the validity, construction, enforcement and interpretation of this Agreement. Buyer and Seller hereby submit to the jurisdiction of the Civil Courts of the City of Hampton, Virginia, in respect of any suit or other proceeding brought in connection with or arising out of this Contract and venue shall be in the City.

12.5 Further Acts. In addition to the acts and deeds recited in this Agreement and contemplated to be performed, executed, and/or delivered under this Agreement, Seller and Buyer agree to perform, execute and/or deliver or cause to be delivered, executed and/or delivered at Closing or after Closing all further acts, deeds, and assurances reasonably necessary to consummate the transactions contemplated hereby.

12.6 Notices. All notices, demands, requests, and other communications required or permitted hereunder shall be in writing, and may be sent by any party or counsel thereto. All such notices, demands, requests and other communications (and copies thereof) shall be deemed to be delivered: (a) if sent by messenger, on receipt or refusal to the party to whom the notice is directed; (b) on receipt or refusal if sent by overnight courier, with request for next Business Day

delivery; or (c) on receipt or refusal after deposit in a regularly maintained receptacle for the United States mail, registered or certified, return receipt requested, postage prepaid, addressed as follows (or to such other address as the parties may specify by notice given pursuant to this Section):

To Seller: King Street Properties, L.L.C.  
2388 Sabina Way  
Virginia Beach, VA 23456  
Attn: Chris Stuart

To Buyer: The Economic Development Authority  
of the City of Hampton, Virginia  
22 Lincoln Street, 8<sup>th</sup> Floor  
Hampton, VA 23669  
Attn: Chair/Vice Chair

With a copy to: City of Hampton, Office of the City Attorney  
22 Lincoln Street, 8<sup>th</sup> Floor  
Hampton, VA 23669  
Attn: Cheran Ivery, City Attorney

12.7 Entire Agreement and Amendment. This Agreement contains the entire understanding between Buyer and Seller with respect to the subject matter hereof. Neither this Agreement nor any provision hereof may be modified, amended, changed, waived, discharged or terminated orally. Any such action may occur only by an instrument in writing signed by the party against whom enforcement of the modification, change, waiver, discharge or termination is sought.

12.8 Recording. This Agreement shall not be recorded by the Buyer or the Seller. Any recordation shall constitute a default by recording party.

12.9 No Third-Party Beneficiary. This Agreement is solely between Seller and Buyer and no other party shall be entitled to rely on any provision hereof for any purpose whatsoever.

12.10 Back Up Contract(s). Seller may neither actively negotiate with other parties nor enter into back up contracts for the sale of the Property.

12.11 Appropriation. Notwithstanding any provision herein to the contrary, Buyer's obligations under this Agreement are subject to the appropriation of sufficient funds to perform such obligations. If adequate funds are not appropriated by the Buyer, Buyer shall not be subject to any claim for damages, penalty or expense of any kind whatsoever, or otherwise liable for such consequence in any respect. In the event funds are not appropriated for payments due under the Agreement, Buyer shall notify Seller of such occurrence in writing within thirty (30) days of non-appropriation, and the Agreement shall terminate without penalty or expense to the Buyer of any kind whatsoever.

12.12 Recitals. By this reference, the Recitals are incorporated into this Agreement.

13.13 Force Majeure. No party to this Agreement shall be deemed in breach or default to the extent performance of any obligation under this Agreement is delayed, hindered, or prevented after the effective date of this Agreement by reason of labor difficulties, inability to procure materials, failure of power, restrictive government regulations, acts of God (including, but not limited to, floods, earthquakes, tornados, or hurricanes), incidences of terrorism, wars or riots, civil disturbances, fire, explosions, or other reason of like nature not the fault of the party delayed in doing acts required under the terms of this Agreement,

12.14 WAIVER OF JURY TRIAL. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE, TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY DOCUMENT EXECUTED IN CONNECTION WITH OR RELATED TO, OR ANY COURSE OR CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS TRANSACTION.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Buyer and Seller have duly executed this Agreement for Sale and Purchase of Property on the date first set forth above.

**SELLER:**

King Street Properties, L.L.C.

By: Nicole Stuart  
Name: Nicole Stuart  
Its: Managing Director

**BUYER:**

THE ECONOMIC DEVELOPMENT AUTHORITY  
OF THE CITY OF HAMPTON, VIRGINIA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: Chair/Vice Chair

Approved as to Content:

\_\_\_\_\_  
Economic Development Department Date

Certified as to Availability of Funds:

\_\_\_\_\_  
Karl Daughtrey Date  
Director of Finance

Budget Code: **TBD**

Approved as to Legal Sufficiency:

\_\_\_\_\_  
Angela King Date  
Deputy City Attorney

**EXHIBIT A**  
LEGAL DESCRIPTION

112 Kings Way (LRSN 2002978)

ALL THAT certain lot, piece or parcel of land, situate, lying and being in the City of Hampton, Virginia, containing 6,366 square feet, more or less, and being shown and designated on that certain plat entitled, "Plat Showing Property To Be Conveyed to: Ronald W. Maust, 112 King's Way Mall, City of Hampton, Virginia", which plat is dated August 9, 1978, revised as of October 8, 1979, and signed by City Engineer – J.L. Womack, Jr., P.E.; a copy of which plat is recorded in Deed Book 563 at page 306 and by this reference made part of this description.

BEING part of the same property conveyed to King Street Properties, L.L.C. from Ronald W. Maust and Brenda S. Maust by deed dated August 27, 2003 and recorded August 26, 2023 in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia as Instrument No. 030021520.