

CONTRACT TO PURCHASE

This **CONTRACT TO PURCHASE** is entered into by and between **Wayne County Regional Land Bank Corporation**, a New York not-for-profit corporation having an office for the transaction of business at 16 William Street, Lyons, New York 14489 ("Seller") and _____ 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 situated in the Village of _____/Town of _____, County of Wayne, State of New York commonly known as _____ and being all of current Village/Town tax map parcel # _____, 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 \$ _____ payable as follows:

a) **Deposit.** \$ _____ shall be deposited with Seller, the Broker identified herein, or Seller's attorney, and held in escrow until this Contract is accepted and executed by Seller, at which time it shall become part of the purchase price and held in accordance with the terms and conditions of this Contract. In the event Seller shall not accept and execute this Contract, the Deposit shall be returned to Buyer.

b) **Balance.** \$ _____ in cash or other good funds at Closing.

c) **Financing.** \$ _____ of the purchase price shall be obtained by Buyer, at Buyer's cost and expense, obtaining a mortgage loan upon such terms and conditions as are acceptable to Buyer. Buyer shall make good faith application for this financing within 3 days of acceptance of this Contract by Seller. Buyer shall provide Seller with evidence of written approval of this financing, or reasonably satisfactory proof of financial ability to close, within _____ days of acceptance of this Contract by Seller or Seller may cancel this Contract at Seller's option by written notice as provided for herein. If, following a good faith application by Buyer, this financing cannot be obtained, as evidenced by a denial letter from a lender which

regularly makes mortgage loans in the county where the Property is located, this Contract may be terminated by either party and the Deposit shall be returned to Buyer.

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) No subsurface Tests shall be conducted without Seller's prior written approval; and
- d) Seller shall have the right, but not the obligation, to have its representatives present at such times as the Tests are taking place; and
- e) If the Property is improved by a one to four family dwelling, all such Tests shall be completed within 10 calendar days of acceptance of this Contract by Seller. If the Property is not improved by a one to four family dwelling, all such Tests shall be completed within 30 calendar days of 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.

If the Property is not improved by a one to four family dwelling, prior to entry and as a condition to undertake the Tests, Buyer agrees to provide a liability insurance certificate and policy endorsement naming Seller as an additional insured in such amounts as reasonably agreeable to Seller and with no endorsements limiting or restricting coverage with respect to New York Labor Law.

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 3 calendar days from the date on which the Tests were required to be completed 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 Bargain and Sale Deed with a covenant against grantor's acts.

6. **IMPROVEMENT OF PROPERTY.** Buyer has agreed to improve, develop and use the Property (the "Development Plan") 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 at Closing a Development Enforcement Mortgage in form acceptable to Seller, in its sole but reasonable discretion, to ensure Buyer fulfills the Development Plan. In addition to any Purchase Price financing contingency set forth above, Seller's obligations under this Contract are subject to Buyer providing Seller with reasonable satisfactory proof of Buyer's financial ability to complete the Development Plan. Such reasonable satisfactory proof may be in the form of a construction mortgage loan commitment upon such terms and conditions as are acceptable to Buyer or such other written proof of financial ability to complete the Development Plan as Seller deems acceptable in its sole but reasonable discretion. Buyer shall provide such evidence of financial ability to complete the Development Plan within __ days of acceptance of this Contract by Seller or Seller may cancel this Contract at Seller's option by written notice as provided for herein at which time this Contract will be terminated and the Deposit shall be returned to Buyer.

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, OR OTHERWISE.** 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. **AGRICULTURAL DISTRICT NOTICE.** The Property is located within an Agricultural District. Notice pursuant to New York State Agriculture and Markets Law Section 310:

It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This disclosure notice is to inform

prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective residents are also informed that the location of property within an agricultural district may impact the ability to access water and/or sewer services for such property under certain circumstances. Prospective purchasers are urged to contact the New York State Department of Agriculture and Markets to obtain additional information or clarification regarding their rights and obligations under article 25-AA of the Agriculture and Markets Law.

10. **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.

11. **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.

12. **CLOSING.** If the Property is improved by a one to four family dwelling, the Closing shall be held on or before the 30th calendar day following acceptance of this Contract by Seller, time being of the essence. If the Property is not improved by a one to four family dwelling, the Closing shall be held on or before the 60th calendar day following Seller's acceptance of this Contract, time being of the essence. The Closing shall be held at the office of the attorney for Seller unless otherwise agreed.

13. **ADJUSTMENTS.** Prepaid or unpaid charges for real property taxes and other assessments levied and assessed against the Property, including water usage charges, rents, fuel oil and special district levies, shall be apportioned as of the date of Closing, with Seller being responsible for the apportioned costs attributable to the time period prior to Closing, and Buyer being responsible for the apportioned costs attributable to the time period subsequent to Closing. Under no circumstances shall Seller be responsible for the payment of any missing meter charges, "turn on" or reconnection charges imposed by a utility company or municipality in establishing or reestablishing water or any other utility services to the Property. 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.

14. **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.

15. **POSSESSION.** Possession of the Property shall be delivered by Seller to Buyer at Closing subject to the rights of tenants therein.

16. **RECORDING EXPENSES AND CLOSING FEE.** Buyer shall pay at Closing all costs, if any, for recording the deed and any related transfer documents including the Real Property

Transfer Report (RP-5217) and the Transfer Tax Return (TP-584) and, as Seller is wholly exempt from all taxation, Buyer is obligated to pay any New York State transfer tax due upon the sale of the Property. Buyer shall also pay a closing fee to the attorney for the Seller which fee shall be due and payable at Closing together with the Purchase Price. Seller shall be responsible for the cost, if any, to record any Development Enforcement Mortgage required by Seller.

17. **ASSIGNMENT.** Buyer may assign its interest in this Contract to a business entity wholly owned by Buyer. Otherwise, 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.

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, the prevailing party shall be entitled to recover all of such party's reasonable attorneys' fees incurred in each and every such action, suit, arbitration or other proceeding, including any and all appeals therefrom.

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

**Wayne County Regional
Land Bank Corporation**

Buyer:

By: _____
Name:
Title:

Date: _____

Date: _____

Seller's Attorney:

Buyer's Attorney:

John P. Morell, Esq.
Converse & Morell
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The Wayne County Land Bank acquires properties that are tax-delinquent, vacant, and/or abandoned and sells them to qualified buyers in order to return the properties to productive use.

This handout provides a brief explanation of certain terms of the Land Bank's Contract to Purchase and our sales process. 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 review the Contract to Purchase.

Potential buyers should be aware of and agree to the following:

- I understand that back taxes on properties I currently own would mean that my application or purchase contract cannot proceed until such time as those issues are resolved.
- I understand that all Land Bank properties are sold in "as is" condition and no warranties or representations are made regarding property condition. It is my responsibility to thoroughly inspect the property and to schedule a final walk-thru prior to closing.
- I understand that there are certain additional closing costs associated with the purchase of a Land Bank property that may include, but not limited to:
 - Seller's Attorney's fee
 - Buyer's Attorney's fees
 - Title Searches
 - Title Insurance
 - Surveys
 - Home inspections or other testing
 - Real Estate Transfer Tax
- I understand this property is currently exempt from property taxes, but will become taxable when I take title and that I will be mailed a pro-rated bill for the remainder of the year.
- I understand that 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.
- I have carefully read the application and contract and understand that an incomplete application may be rejected.

Print

Signature

Date

*Check ALL boxes, print, sign, and date, in order for the Land Bank to consider your offer complete.
Mail Completed Contract to: WC Regional Land Bank, 16 William St., Lyons, NY 14489