

**SECOND AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE OF REAL  
PROPERTY**

THIS SECOND AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY (the "Second Amendment") is entered into by and between THE CITY OF CLEVELAND HEIGHTS, an Ohio municipal corporation (the "Seller") and TWG DEVELOPMENT, LLC, an Indiana limited liability company (the "Purchaser"). Each party to this Second Amendment is individually referred to as a "Party" and collectively referred to as the "Parties."

**RECITALS**

**WHEREAS**, on or about January 20, 2023, the Parties entered into that certain Agreement for Purchase and Sale of Real Property (the "Agreement") relative to the real property described therein.

**WHEREAS**, pursuant to the terms of the Agreement, Purchaser deposited the sum of Ten Thousand Dollars (\$10,000.00) with the Title Company (the "Earnest Money") to be applied to the Purchase Price at Closing or otherwise distributed in accordance with the terms of the Agreement.

**WHEREAS**, pursuant to the terms of the Agreement, the Parties had one hundred eighty (180) days from the Tax Credit Notification Date to negotiate and execute a mutually satisfactory Development Agreement, the execution of which being a condition precedent to Closing.

**WHEREAS**, on or about May 19, 2023, the Parties entered into that certain First Amendment to Agreement for Purchase and Sale of Real Property (the "First Amendment") wherein the Tax Credit Notification Date was agreed to be May 19, 2023.

**WHEREAS**, pursuant to the terms of the First Amendment, the Parties had one hundred eighty (180) days from the May 19, 2023 Tax Credit Notification Date (i.e., November 15, 2023) in which to execute a mutually satisfactory Development Agreement and proceed to Closing.

**NOW, THEREFORE**, based upon the recitals, representations, and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each Party, the Parties hereto agree to the following:

1. That Section 9 of the Agreement, as amended by the First Amendment, is hereby amended and restated to read as follows:

The Parties shall have until June 1, 2024 to execute a mutually satisfactory Development Agreement for the construction of a multi-family residence on the Property and proceed to Closing, subject to Purchaser's right to extend the Closing Date as provided in Section 11(a). The City may extend the June 1, 2024 deadline for a further period of ninety (90) days without additional action by City Council, to be evidenced in a writing signed by the Mayor in a form approved by the Director of Law. In the event the Parties are unable to negotiate and execute a mutually acceptable Development Agreement within the aforementioned time periods, Seller

shall not be required to sell and Purchaser shall not be required to purchase the property. The Parties agree that Purchaser and Seller's administration shall use good faith efforts to negotiate such Development Agreement; and Purchaser acknowledges and understands that such Agreement must be approved by Cleveland Heights City Council in its sole discretion prior to execution.

The execution of a Development Agreement shall not exempt Purchaser from the normal building, fire and zoning code processes and board approvals, and Seller makes no warranties with respect to said required approvals.

2. Earnest Money. Upon full execution of this Second Amendment, the previously deposited Earnest Money in the amount of Ten Thousand Dollars (\$10,000.00) shall become fully non-refundable to Purchaser except in the event of Seller's default under the Agreement, as amended by the First Amendment and this Second Amendment.
3. Representations. The Parties represent and warrant that each Party to this Second Amendment has full and unrestricted power, right, and authority to enter into this Second Amendment and perform its respective obligations hereunder.
4. Recitals. The recitals set forth herein are incorporated in this Second Amendment by reference.
5. Headings. The headings preceding each Section are intended for the convenience of the Parties to this Second Amendment and have no legal significance.
6. Capitalized Terms. Capitalized terms not defined herein shall have the meaning as ascribed in the Agreement and/or First Amendment as applicable.
7. Execution in Counterparts. This Second Amendment may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same document. Signatures delivered by electronic means (facsimile, pdf scan, etc.) shall be deemed binding originals thereof.
8. Binding Effect. This Second Amendment shall bind and inure to the benefit of the Parties hereto, their respective heirs, beneficiaries, members, partners, shareholders, subsidiaries, affiliates, agents, officers, directors, employees, insurers, successors, assigns, and all other representatives acting on the Parties' respective behalves.
9. Amendment. The Agreement, as amended by the First Amendment and this Second Amendment, shall not be amended, changed, or modified except by written instrument signed by all Parties hereto.
10. Incorporation/Conflict. The terms and conditions of the Agreement, as amended by the First Amendment, are incorporated herein by reference. In the event of a conflict between the terms and conditions of the Agreement, as amended by the

First Amendment, and this Second Amendment, the terms and conditions of this Second Amendment shall control.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties have executed this Second Amendment to Agreement for Purchase and Sale of Real Property as of the dates indicated below.

PURCHASER:


TWG DEVELOPMENT, LLC

  
\_\_\_\_\_  
Alex Frazier, Development Director

Date: 11/14/23

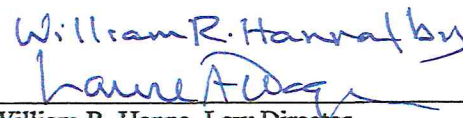
SELLER:

THE CITY OF CLEVELAND HEIGHTS

  
\_\_\_\_\_  
Kahlil Seren, Mayor

Date: 11/15/2023

Approved as to legal form:

  
\_\_\_\_\_  
William R. Hanna, Law Director