

**RESOLUTION**

**BOROUGH OF PEAPACK AND GLADSTONE, SOMERSET COUNTY, NEW JERSEY**

**RESOLUTION NO. 117-24**

**TITLE: RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT OF SALE WITH PG AFFORDABLE HOUSING INC AND THE BOROUGH OF PEAPACK AND GLADSTONE**

**WHEREAS**, the Borough has a desire to sell a parcel of property designated as Block 20, Lot 1.03 located in the Borough of Peapack & Gladstone, County of Somerset, State of New Jersey which is approximate 1.936-acre portion of the real property; and

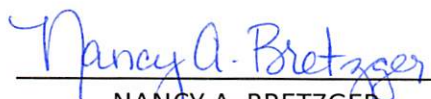
**WHEREAS**, the seller shall convey the premises in consideration of the purchaser's binding obligation to construct and operate twenty 100% affordable family rental units as set forth in the Borough's Affordable Housing Plan.

**WHEREAS**, that a condition of the contract of sale is that it is subject to the Council approval by resolution.

**NOW THEREFORE BE IT RESOLVED**, by the Mayor and the Borough of Peapack & Gladstone, County of Somerset, State of New Jersey, authorize Mayor Mark Corigliano to execute an agreement of sale with PG Affordable Housing.

Introduced	Seconded	Borough Council	Aye	Nay	Abstain	Absent
		Jamie Murphy	X			
X		Eric L. Quartello	X			
	X	Sergio Silva	X			
		Julie M. Sueta	X			
		John Sweeney	X			
		Jill Weible	X			

IT IS HEREBY CERTIFIED THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF A RESOLUTION ADOPTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF PEAPACK & GLADSTONE AT A MEETING OF SAID COUNCIL HELD ON JUNE 6, 2024.

  
\_\_\_\_\_  
NANCY A. BRETZGER  
BOROUGH CLERK

  
\_\_\_\_\_  
MARK A. CORIGLIANO  
MAYOR

**CONTRACT OF SALE**

This is a contract made on this <sup>29</sup> day of May, 2024, between:

The Borough of Peapack and Gladstone, a New Jersey public entity ("Seller")

and

PG Affordable Housing, Inc., having an office at 2 Main Street, Peapack, NJ 07977  
("Purchaser").

**1                    Sale of Premises, Fixtures and Personal Property etc.**

**1                    Sale of Premises.** Seller hereby agrees to sell and convey by Deed of Bargain and Sale, Covenants against Grantor's Acts, and Purchaser hereby agrees to purchase, an approximately 1.936 acre portion of the real property designated as Block 20, Lot 1.03, located in the Borough of Peapack and Gladstone, County of Somerset, State of New Jersey, and buildings and improvements thereon (the "Premises"), which Premises is depicted as Proposed Lot 1.03 on Schedule A annexed hereto.

**2                    Consideration.**

**1                    Consideration.** The Seller shall convey the Premises in consideration of the Purchaser's binding obligation to construct and operate twenty 100% affordable family rental units as set forth in the Borough's Affordable Housing Plan (the "Project").

**2. Survey.** Buyer, at Buyer's sole cost and expense, shall cause to be delivered to Seller and to the title insurance company, an updated and current plat or survey of the Premises prepared by a duly licensed land surveyor which shall show the following:

(a) Designate the corners of the Premises upon the ground and contain an accurate legal description thereof by metes-and-bounds;

(b) Reflect the actual dimensions of, and area within, the Premises, stating the number of square feet therein;

(c) Reflect the location of all utility lines and connections (including those for gas, electric, water or sewer service) on the Premises and the location and width of all rights-of-way, public roads, private roads, streets, alleys (and the locations of any access to same) and all curb cuts, easements, improvements, building setback lines, fences, conflicts, encroachments or overlaps thereon or thereover, and any pipelines;

(d) Include the surveyor's registered number and seal, the date of the survey (which shall be no earlier than the date hereof);

(e) The survey shall be sufficient to cause the title company to delete any and all printed exceptions for encroachments, overlaps, discrepancies, or conflicts in boundary lines, shortages in area or other matters which would be disclosed by an accurate survey and inspection of the Premises in the title policy to be delivered at closing.

**3. Matters to Which the Premises are Sold "Subject to"; Quality of Title.**

**1. State of Title.** The Premises are sold free and clear of all liens and encumbrances, except as hereinafter set forth in paragraph 3.2.

**2. Exceptions.** The Premises shall be sold and conveyed subject to the following:

(a) Zoning and building regulations, ordinances and requirements and any other laws, regulations or ordinances affecting the Premises or their use adopted by any authority having jurisdiction which relate to the Premises and use thereof; provided same (i) do not adversely affect or interfere with the present utilization of the Premises as the Affordable Units / the Group Homes, (ii) are not presently violated by such use, or (iii) are not and/or will not be violated by the existing improvements located on the Premises.

(b) Covenants, easements and restrictions of record provided same (i) do not adversely affect or interfere with the use of the Premises as Affordable Units / the Group Homes, (ii) are not presently violated by such use, (iii) if ever violated in the future would not result in a reversion or forfeiture of title, or (iv) are not and/or will not be violated by the existing improvements located on the Premises.

(c) Any state of facts which would be shown by an accurate survey of the Premises, or part thereof, provided (i) such state of facts does not render title unmarketable or uninsurable at regular rates and (ii) all buildings, driveways and other improvements are located within the boundary lines of the Premises and there are no encroachments.

(d) Rights and easements relating to the construction, operation, and maintenance of utility lines, wires, cables, pipes, poles, distribution boxes and other such equipment in, on, over, or under the Premises; provided none of the same operate to render title unmarketable or unreasonably limit the use of the Premises as Affordable Units / the Group Homes.

**3. Insurability of Title.** Title to the Premises shall be good and marketable and insurable by a reputable title insurance company qualified to do business in the State of New Jersey (ALTA Form 1987) at standard rates subject only to the exceptions set forth in paragraph 3.2 and its standard printed exceptions except that the following standard printed exceptions in the ALTA form shall be deleted:

(i) The rights of parties in possession of any portion of the Premises not shown by the public records;

(ii) Encroachments, overlaps, boundary lines disputes and other matters which would be revealed by a survey and inspection of the Premises;

(iii) Easements or claims thereof not shown by the public records;

(iv) Any mechanic's, materialman's or other similar lien imposed by law and not shown by the public records; and

(v) Taxes or special assessments which are not shown as existing liens by the public records.

**4. Closing of Title.**

**1. Closing Date.** Closing of title shall take place forty-five days after

memorialization of the approval of the Project by the Land Use Board for the Borough of Peapack and Gladstone (the "Land Use Board").

2 Possession. Upon the closing of title, the Purchaser may enter upon the Premises.

5. Real Estate Brokerage. Purchaser and Seller represent and warrant to each other that, to their knowledge, no person has any claim for a brokerage or finder's fee or commission or similar compensation in connection with the negotiation, execution or consummation of this contract or the sale of the Premises.

6. Seller's Warranties and Representations. To the best of its knowledge, Seller warrants and represents the following each of which shall be true at closing and shall survive the closing and knowing and intending that the Purchaser shall rely thereon in entering into this contract and performing the obligations on his part to be performed hereunder:

1. Compliance With Law. The Premises are in full compliance with all applicable laws, ordinances, codes and regulations affecting the Premises or its use adopted by any authority having jurisdiction which relate to the Premises and the use thereof, including but not limited to zoning ordinances and all New Jersey and Federal environmental laws.

2. Violations. There are no violations of any laws, ordinances, codes, regulations, building codes, fire codes, requirements of any fire insurance rating organization, mortgagees or other persons, entities or governments having jurisdiction of the Premises of any kind or nature whatsoever.

3. Title; Easements. (a) Seller's title to the Premises is good and marketable and insurable by a reputable title company of Purchaser's selection authorized to do business in the State of New Jersey at regular rates, with no exceptions other than those contained in Paragraph 3.2 hereof.

(b) There are no easements, restrictions or claims to the Premises not of record.

(c) The acreage of the Premises is approximately 1.936 acres or within one-tenth (1/10) of an acre of such amounts of acreage and the Premises are one contiguous parcel.

(d) All existing vehicular accesses to the Premises are either directly to abutting thoroughfares or through valid recorded easements.

(e) All curb cuts shown on the survey of the Premises have been approved by all applicable governmental authorities; all of the streets, roads and avenues adjacent to the Premises are publicly owned and maintained; and there exists no proposed road development or alteration which would materially and adversely affect access to the Premises.

(f) To the best of Seller's knowledge, all present public utilities relating to the Premises either enter the Premises through adjoining public streets, or if they pass through adjoining private lands, do so in accordance with valid irrevocable easements which run to the benefit of the Premises, and do not require any payments by the owner of the Premises.

(g) There is no fact or condition existing which would result or could result in the termination or reduction of the current access from the Premises to existing highways and roads, or to sewer or other utility services presently serving the Premises.

(h) No person, firm or corporation or other entity has any right or option to acquire the Premises or any part thereof from Seller.

(i) The Premises are not located in any flood, conservation or historic or special use zoning district.

(j) Seller knows of no actual or pending imposition of any assessments for public betterments and no improvements have been constructed or planned which would be paid for by means of assessments upon the premises or the land upon which the Premises is situated. Seller has delivered to Purchaser a true copy of the most recent paid tax bills for the Property.

(k) No portion of the Premises is wetlands, as defined under state or federal statutes and regulations.

**4. Seller's Corporate Status.** (a) Seller is a public entity, validly existing and in good standing under the laws of the State of New Jersey, with the full power and authority to carry on its business as it is now conducted and to own the properties and assets which it now owns.

(b) This contract has been duly executed and delivered by Seller, and constitutes a valid and binding agreement of Seller, enforceable in accordance with its terms.

(c) The execution and delivery of this contract by Seller and the performance of its covenants and agreements hereunder have been duly authorized by governing body of the Borough. Seller has the legal power and right to enter into and to perform this contract, and no approval or authorization by any other person or party is required for this contract to be binding upon Sellers.

(d) The execution, delivery and performance of this contract by Seller and the consummation of the transactions contemplated hereby will not violate any provision of law.

**5. Seller Not a Foreign Person.** Seller is not a "foreign person" as such term is defined in Section 1445 (f)(3) of the Internal Revenue Code of 1986, as amended, and Seller shall provide Purchaser with an affidavit to that effect at Closing.

**6. No Omissions.** Neither this Agreement and the Schedules attached hereto, nor any other certificate, statement, document or other information furnished by Seller to Purchaser regarding the transaction contemplated herein contained or will contain a misstatement of material fact, or omits or will omit to state a material fact necessary in order to make the representations, warranties and information furnished by the Seller not misleading under the circumstances.

#### **7. Right of Entry.**

**1. Access to Premises.** Purchaser shall have the right to enter in and upon the Premises at all reasonable times between the date hereof and the date of closing for purposes of viewing and inspecting the same.

**8. No Representations or Warranties Outside the Contract Purchaser's Agreement to Take "as is".**

The Purchaser represents to the Seller that the Purchaser knows, has examined and has

investigated to its full satisfaction, the physical nature and condition of the land, the improvements thereon and the fixtures and appurtenances annexed thereto, and the income, expenses, operation and use of the Premises, and the personal property to be transferred under this contract; that neither the Seller nor any broker, agent, attorney, employee or representative of the Seller had made any representation whatsoever regarding the subject matter of this sale, or any part thereof, except as expressly set forth in this contract and that the Purchaser, in executing, delivering and performing this contract does not rely upon any statement and/or information to whomsoever made or given, directly or indirectly verbally or in writing, by any individual, firm or corporation. The Purchaser agrees to take the Premises "as is" as of the date hereof and subject to reasonable wear and tear of the Premises from the date hereof until the date of closing.

## 9. Seller Under No Liability.

1. Limitation of Liability. Notwithstanding any other provisions of this contract expressed or implied, if for any reason whatsoever, the Seller shall be unable to convey the Premises in accordance with the terms of this contract and any representations made herein, or with good and marketable title subject to the exceptions set forth in this contract, then the sole obligation and liability of the Seller shall be to refund the Purchaser's deposits made hereunder and the cost of the Purchaser's title search and survey not to exceed \$250; and, upon the making of such refund this contract shall be deemed cancelled and shall wholly cease and terminate, and neither party shall have any further claim against the other by reason of this contract, and upon such payment, the lien, if any, of the Purchaser against the Premises shall wholly cease.

2. Actions To Quiet Title. In no event shall the Seller be required to take any measures of any kind, or to bring any action or proceeding, in order to render the title to the Premises marketable or otherwise convey title in accordance with the terms or representations of this contract.

3. Purchaser's Options. The Purchaser may, nevertheless, accept such title as the Seller may be able to convey, without reduction of the purchase price or any credit or allowance against the same and without any other liability on the part of the Seller.

3 Discharge of Liens at Closing. If at the closing there are liens or encumbrances other than those to which title is to be conveyed subject hereunder, Seller shall deliver to Purchaser at closing instruments. The existence of any such liens or encumbrances shall not be deemed objections to title if Seller shall comply with the foregoing requirements.

## 10. Conditions of the Purchaser's Obligations.

The obligations of Purchaser to purchase the Premises from Seller under the terms of this contract are subject to the satisfaction as of the date of closing or the time period indicated below, of each of the following conditions any of which may be waived in whole or in part in writing by Purchaser at or prior to the closing, provided, however, that no such waiver of a condition shall constitute a waiver by Purchaser of any of its rights or remedies, by law or in equity, if Seller shall be in default under any of its representations, warranties or covenants under this contract:

(a) All of the representations and warranties of Seller set forth in this contract shall be true and correct in all respects on and as of the date of closing as though made at that time.

(b) Seller shall have performed, satisfied and complied with all of the covenants, agreements, and conditions required by this contract to be performed or complied with by it on or before the date of closing.

(c) During the period from date of this contract to the date of closing, there shall not have been any material adverse change in the Premises.

(d) Seller shall cooperate with Purchaser to obtain Land Use Board approval of the Project.

#### 11. Conditions of Seller's Obligations.

1. The obligations of Seller to sell the Premises to Purchaser under the terms of this contract are subject to the satisfaction as of the date of closing or the time period indicated below of each of the following conditions, any of such conditions may be waived in whole or in part in writing by Seller at or prior to the closing, provided however, that no such waiver of a condition shall constitute a waiver by Seller of any of its rights or remedies, by law or in equity, if Purchaser shall be in default of any of its representations, warranties or covenants under this contract:

(a) All representations and warranties of Purchaser set forth in this contract shall be true and correct in all respects on and as of the date of closing as though made at that time.

(b) Purchaser shall have performed, satisfied and complied with all of the covenants, agreements, and conditions required by this contract to be performed or complied on or before the date of closing.

(c) Purchaser shall not be in receivership or dissolution or have made any assignment for the benefit of creditors or admitted in writing of its inability to pay its debts as they mature or have been adjudicated bankrupt or have filed a petition in voluntary bankruptcy or a petition or answer seeking reorganization under state law or any other similar law or statute of the United States or any state, and no such petition shall have been filed against it.

(d) Purchaser shall make application to the Borough's Land Use Board to subdivide the larger property to create the Premises, and for site plan approval of the Project, and the approval of same shall not be appealed for a period of forty-five (45) days following publication of memorialization of the approval.

#### 12. Closing Agenda.

1. Seller's Deliveries. The Seller shall execute and/or deliver at the closing hereof the following, as a condition precedent to the Purchaser closing hereunder, all in form satisfactory to counsel for Purchaser:

(a) A Bargain and Sale Deed, Covenant against Grantor's Acts for the Premises.

(b) An Affidavit of Title in customary form with such amendments as shall be required by the title company for the Purchaser.

2. Purchaser's Deliveries. The Purchaser shall execute and/or deliver at

the closing hereof, the following: Any documents reasonably required by the title company from the Purchaser in connection with the closing of this Contract for Sale and the subject matter hereof.

**13. Notices.**

1. All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed to have been duly given when mailed by certified mail, return receipt requested:

(a) To the Purchaser at:

PG Affordable Housing, Inc.  
2 Main Street  
Peapack, NJ 07977

with a copy to:

Katharine A. Coffey, Esq.  
Day Pitney LLP  
One Jefferson Road  
Parsippany, NJ 07054

(b) To the Seller at:

Borough of Peakpack-Gladstone  
1 School Street, PO Box 218,  
Peapack, NJ 07977  
Attn.: Nancy Bretzger, Borough Administrator/Clerk

with a copy to:

Steven Warner, Esq.  
Savo Schalk  
56 East Main Street, Suite 301  
Somerville, NJ 08876

And

Ellen Gillespie, Esq.  
Savo Schalk  
56 East Main Street, Suite 301  
Somerville, NJ 08876

or to such other address or to such other persons as the Purchaser or the Seller shall have last



designated by written notice to the other party.

**14. Miscellaneous.**

**1. Successors and Assigns.** This contract shall inure to the benefit of and be binding upon the parties' respective heirs, administrators, executors, personal representatives, successors and assigns.

**2. Entire Agreement.** This contract contains the entire agreement between the parties, and it is intended by the parties to be an integration of all agreements between the parties with respect to the Premises. Any future agreement shall be ineffective to change, modify or discharge this contract, in whole or in part, unless such agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought.

**3. Captions.** The captions of this contract are inserted only for the purposes of convenient reference and in no way define, limit or prescribe the scope or intent of this contract.

**4. New Jersey Law.** This contract is being executed and delivered pursuant to the laws of the State of New Jersey and shall be construed in accordance therewith.

**5. Further Assurances.** In addition to the obligations required to be performed hereunder by Seller and Purchaser at the closing, Seller and Purchaser shall, from time to time perform such other acts, and shall execute, acknowledge and/or deliver such other instruments, documents and other materials, prior to or at the closing, as the other party may reasonably require in order to effectuate the consummation of the transactions provided for herein and to vest title to the Premises in Purchaser.

**6. Construction.** The Purchaser and the Seller agree that each party and its counsel have reviewed and revised this contract and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this contract or any amendments, exhibits or schedules hereto.

**7. Execution.** This contract may be executed in any number of counterparts, each of which, when so executed and delivered, shall be deemed an original, but such counterparts together shall constitute but one and the same instrument.

**8. Severability.** In the event that any one or more of the provisions of this contract shall be determined to be void or unenforceable by a court of competent jurisdiction, or by law, such determination will not render this contract invalid or unenforceable and the remaining provisions hereof shall remain in full force and effect.

**9. Attorneys' Fees.** In connection with any litigation including appellate proceedings arising out of this contract, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs. Each party shall be entitled to recover attorneys' fees and costs from the other in connection with the enforcement of rights under the contract or under law by reason of breach of default by the other party.

**10. Waiver.** No waiver by either party of any failure or refusal to comply with its obligations shall be deemed a waiver of any other or subsequent failure or refusal to so comply.

**11. Date of Contract.** As used herein the term "date of this contract" or "date hereof" shall mean the date on which an executed copy of this contract has been delivered to the Purchaser or its attorney.

**12. Contract Not Offer.** This contract is transmitted for examination only, and does not constitute an offer to purchase, and this contract shall become effective only upon execution thereof by both parties hereto. No rights are to be conferred upon the Seller until this contract has been duly executed by the Seller and Purchaser and a copy of this contract, duly executed by Seller and Purchaser, has been delivered to the Purchaser. This contract is subject to resolution by Borough Council authorizing same and execution of this contract for sale.

**13. No Recording.** Purchaser shall not record this contract, and any recording of this contract by Purchaser shall constitute a default by Purchaser hereunder.

IN WITNESS WHEREOF, the parties have executed and delivered this contract on the date and year first above written.

WITNESS:

PG Affordable Housing, Inc.

\_\_\_\_\_

By: \_\_\_\_\_

WITNESS:

BOROUGH OF PEAPACK AND GLAUBSTONE

Matthew J. DiCetti

[Signature]

## CONTRACT OF SALE

This is a contract made on this <sup>2<sup>nd</sup></sup> day of May, 2024, between:

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and

PG Affordable Housing, Inc., having an office at 2 Main Street, Peapack, NJ 07977  
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1                    Sale of Premises. Seller hereby agrees to sell and convey by Deed of Bargain and Sale, Covenants against Grantor's Acts, and Purchaser hereby agrees to purchase, an approximately 1.936 acre portion of the real property designated as Block 20, Lot 1.03, located in the Borough of Peapack and Gladstone, County of Somerset, State of New Jersey, and buildings and improvements thereon (the "Premises"), which Premises is depicted as Proposed Lot 1.03 on Schedule A annexed hereto.

2                    Consideration.

1                    Consideration. The Seller shall convey the Premises in consideration of the Purchaser's binding obligation to construct and operate twenty 100% affordable family rental units as set forth in the Borough's Affordable Housing Plan (the "Project").

2. Survey. Buyer, at Buyer's sole cost and expense, shall cause to be delivered to Seller and to the title insurance company, an updated and current plat or survey of the Premises prepared by a duly licensed land surveyor which shall show the following:

                                  (a) Designate the corners of the Premises upon the ground and contain an accurate legal description thereof by metes-and-bounds;

                                  (b) Reflect the actual dimensions of, and area within, the Premises, stating the number of square feet therein;

                                  (c) Reflect the location of all utility lines and connections (including those for gas, electric, water or sewer service) on the Premises and the location and width of all rights-of-way, public roads, private roads, streets, alleys (and the locations of any access to same) and all curb cuts, easements, improvements, building setback lines, fences, conflicts, encroachments or overlaps thereon or thereover, and any pipelines;

                                  (d) Include the surveyor's registered number and seal, the date of the survey (which shall be no earlier than the date hereof);

                                  (e) The survey shall be sufficient to cause the title company to delete any and all printed exceptions for encroachments, overlaps, discrepancies, or conflicts in boundary lines, shortages in area or other matters which would be disclosed by an accurate survey and inspection of the Premises in the title policy to be delivered at closing.

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**2. Exceptions.** The Premises shall be sold and conveyed subject to the following:

(a) Zoning and building regulations, ordinances and requirements and any other laws, regulations or ordinances affecting the Premises or their use adopted by any authority having jurisdiction which relate to the Premises and use thereof; provided same (i) do not adversely affect or interfere with the present utilization of the Premises as the Affordable Units / the Group Homes, (ii) are not presently violated by such use, or (iii) are not and/or will not be violated by the existing improvements located on the Premises.

(b) Covenants, easements and restrictions of record provided same (i) do not adversely affect or interfere with the use of the Premises as Affordable Units / the Group Homes, (ii) are not presently violated by such use, (iii) if ever violated in the future would not result in a reversion or forfeiture of title, or (iv) are not and/or will not be violated by the existing improvements located on the Premises.

(c) Any state of facts which would be shown by an accurate survey of the Premises, or part thereof, provided (i) such state of facts does not render title unmarketable or uninsurable at regular rates and (ii) all buildings, driveways and other improvements are located within the boundary lines of the Premises and there are no encroachments.

(d) Rights and easements relating to the construction, operation, and maintenance of utility lines, wires, cables, pipes, poles, distribution boxes and other such equipment in, on, over, or under the Premises; provided none of the same operate to render title unmarketable or unreasonably limit the use of the Premises as Affordable Units / the Group Homes.

**3. Insurability of Title.** Title to the Premises shall be good and marketable and insurable by a reputable title insurance company qualified to do business in the State of New Jersey (ALTA Form 1987) at standard rates subject only to the exceptions set forth in paragraph 3.2 and its standard printed exceptions except that the following standard printed exceptions in the ALTA form shall be deleted:

(i) The rights of parties in possession of any portion of the Premises not shown by the public records;

(ii) Encroachments, overlaps, boundary lines disputes and other matters which would be revealed by a survey and inspection of the Premises;

(iii) Easements or claims thereof not shown by the public records;

(iv) Any mechanic's, materialman's or other similar lien imposed by law and not shown by the public records; and

(v) Taxes or special assessments which are not shown as existing liens by the public records.

**4. Closing of Title.**

**1. Closing Date.** Closing of title shall take place forty-five days after

memorialization of the approval of the Project by the Land Use Board for the Borough of Peapack and Gladstone (the "Land Use Board").

2 Possession. Upon the closing of title, the Purchaser may enter upon the Premises.

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1. Compliance With Law. The Premises are in full compliance with all applicable laws, ordinances, codes and regulations affecting the Premises or its use adopted by any authority having jurisdiction which relate to the Premises and the use thereof, including but not limited to zoning ordinances and all New Jersey and Federal environmental laws.

2. Violations. There are no violations of any laws, ordinances, codes, regulations, building codes, fire codes, requirements of any fire insurance rating organization, mortgagees or other persons, entities or governments having jurisdiction of the Premises of any kind or nature whatsoever.

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(b) There are no easements, restrictions or claims to the Premises not of record.

(c) The acreage of the Premises is approximately 1.936 acres or within one-tenth (1/10) of an acre of such amounts of acreage and the Premises are one contiguous parcel.

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(e) All curb cuts shown on the survey of the Premises have been approved by all applicable governmental authorities; all of the streets, roads and avenues adjacent to the Premises are publicly owned and maintained; and there exists no proposed road development or alteration which would materially and adversely affect access to the Premises.

(f) To the best of Seller's knowledge, all present public utilities relating to the Premises either enter the Premises through adjoining public streets, or if they pass through adjoining private lands, do so in accordance with valid irrevocable easements which run to the benefit of the Premises, and do not require any payments by the owner of the Premises.

(g) There is no fact or condition existing which would result or could result in the termination or reduction of the current access from the Premises to existing highways and roads, or to sewer or other utility services presently serving the Premises.

(h) No person, firm or corporation or other entity has any right or option to acquire the Premises or any part thereof from Seller.

(i) The Premises are not located in any flood, conservation or historic or special use zoning district.

(j) Seller knows of no actual or pending imposition of any assessments for public betterments and no improvements have been constructed or planned which would be paid for by means of assessments upon the premises or the land upon which the Premises is situated. Seller has delivered to Purchaser a true copy of the most recent paid tax bills for the Property.

(k) No portion of the Premises is wetlands, as defined under state or federal statutes and regulations.

**4. Seller's Corporate Status.** (a) Seller is a public entity, validly existing and in good standing under the laws of the State of New Jersey, with the full power and authority to carry on its business as it is now conducted and to own the properties and assets which it now owns.

(b) This contract has been duly executed and delivered by Seller, and constitutes a valid and binding agreement of Seller, enforceable in accordance with its terms.

(c) The execution and delivery of this contract by Seller and the performance of its covenants and agreements hereunder have been duly authorized by governing body of the Borough. Seller has the legal power and right to enter into and to perform this contract, and no approval or authorization by any other person or party is required for this contract to be binding upon Sellers.

(d) The execution, delivery and performance of this contract by Seller and the consummation of the transactions contemplated hereby will not violate any provision of law.

**5. Seller Not a Foreign Person.** Seller is not a "foreign person" as such term is defined in Section 1445 (f)(3) of the Internal Revenue Code of 1986, as amended, and Seller shall provide Purchaser with an affidavit to that effect at Closing.

**6. No Omissions.** Neither this Agreement and the Schedules attached hereto, nor any other certificate, statement, document or other information furnished by Seller to Purchaser regarding the transaction contemplated herein contained or will contain a misstatement of material fact, or omits or will omit to state a material fact necessary in order to make the representations, warranties and information furnished by the Seller not misleading under the circumstances.

#### **7. Right of Entry.**

**1. Access to Premises.** Purchaser shall have the right to enter in and upon the Premises at all reasonable times between the date hereof and the date of closing for purposes of viewing and inspecting the same.

**8. No Representations or Warranties Outside the Contract Purchaser's Agreement to Take "as is".**

The Purchaser represents to the Seller that the Purchaser knows, has examined and has

investigated to its full satisfaction, the physical nature and condition of the land, the improvements thereon and the fixtures and appurtenances annexed thereto, and the income, expenses, operation and use of the Premises, and the personal property to be transferred under this contract; that neither the Seller nor any broker, agent, attorney, employee or representative of the Seller had made any representation whatsoever regarding the subject matter of this sale, or any part thereof, except as expressly set forth in this contract and that the Purchaser, in executing, delivering and performing this contract does not rely upon any statement and/or information to whomsoever made or given, directly or indirectly verbally or in writing, by any individual, firm or corporation. The Purchaser agrees to take the Premises "as is" as of the date hereof and subject to reasonable wear and tear of the Premises from the date hereof until the date of closing.

## 9. Seller Under No Liability.

1. Limitation of Liability. Notwithstanding any other provisions of this contract expressed or implied, if for any reason whatsoever, the Seller shall be unable to convey the Premises in accordance with the terms of this contract and any representations made herein, or with good and marketable title subject to the exceptions set forth in this contract, then the sole obligation and liability of the Seller shall be to refund the Purchaser's deposits made hereunder and the cost of the Purchaser's title search and survey not to exceed \$250; and, upon the making of such refund this contract shall be deemed cancelled and shall wholly cease and terminate, and neither party shall have any further claim against the other by reason of this contract, and upon such payment, the lien, if any, of the Purchaser against the Premises shall wholly cease.

2. Actions To Quiet Title. In no event shall the Seller be required to take any measures of any kind, or to bring any action or proceeding, in order to render the title to the Premises marketable or otherwise convey title in accordance with the terms or representations of this contract.

3. Purchaser's Options. The Purchaser may, nevertheless, accept such title as the Seller may be able to convey, without reduction of the purchase price or any credit or allowance against the same and without any other liability on the part of the Seller.

3 Discharge of Liens at Closing. If at the closing there are liens or encumbrances other than those to which title is to be conveyed subject hereunder, Seller shall deliver to Purchaser at closing instruments. The existence of any such liens or encumbrances shall not be deemed objections to title if Seller shall comply with the foregoing requirements.

## 10. Conditions of the Purchaser's Obligations.

The obligations of Purchaser to purchase the Premises from Seller under the terms of this contract are subject to the satisfaction as of the date of closing or the time period indicated below, of each of the following conditions any of which may be waived in whole or in part in writing by Purchaser at or prior to the closing, provided, however, that no such waiver of a condition shall constitute a waiver by Purchaser of any of its rights or remedies, by law or in equity, if Seller shall be in default under any of its representations, warranties or covenants under this contract:

(a) All of the representations and warranties of Seller set forth in this contract shall be true and correct in all respects on and as of the date of closing as though made at that time.

(b) Seller shall have performed, satisfied and complied with all of the covenants, agreements, and conditions required by this contract to be performed or complied with by it on or before the date of closing.

(c) During the period from date of this contract to the date of closing, there shall not have been any material adverse change in the Premises.

(d) Seller shall cooperate with Purchaser to obtain Land Use Board approval of the Project.

#### 11. Conditions of Seller's Obligations.

1. The obligations of Seller to sell the Premises to Purchaser under the terms of this contract are subject to the satisfaction as of the date of closing or the time period indicated below of each of the following conditions, any of such conditions may be waived in whole or in part in writing by Seller at or prior to the closing, provided however, that no such waiver of a condition shall constitute a waiver by Seller of any of its rights or remedies, by law or in equity, if Purchaser shall be in default of any of its representations, warranties or covenants under this contract:

(a) All representations and warranties of Purchaser set forth in this contract shall be true and correct in all respects on and as of the date of closing as though made at that time.

(b) Purchaser shall have performed, satisfied and complied with all of the covenants, agreements, and conditions required by this contract to be performed or complied on or before the date of closing.

(c) Purchaser shall not be in receivership or dissolution or have made any assignment for the benefit of creditors or admitted in writing of its inability to pay its debts as they mature or have been adjudicated bankrupt or have filed a petition in voluntary bankruptcy or a petition or answer seeking reorganization under state law or any other similar law or statute of the United States or any state, and no such petition shall have been filed against it.

(d) Purchaser shall make application to the Borough's Land Use Board to subdivide the larger property to create the Premises, and for site plan approval of the Project, and the approval of same shall not be appealed for a period of forty-five (45) days following publication of memorialization of the approval.

#### 12. Closing Agenda.

1. Seller's Deliveries. The Seller shall execute and/or deliver at the closing hereof the following, as a condition precedent to the Purchaser closing hereon, all in form satisfactory to counsel for Purchaser:

(a) A Bargain and Sale Deed, Covenant against Grantor's Acts for the Premises.

(b) An Affidavit of Title in customary form with such amendments as shall be required by the title company for the Purchaser.

2. Purchaser's Deliveries. The Purchaser shall execute and/or deliver at



the closing hereof, the following: Any documents reasonably required by the title company from the Purchaser in connection with the closing of this Contract for Sale and the subject matter hereof.

**13. Notices.**

1. All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed to have been duly given when mailed by certified mail, return receipt requested:

(a) To the Purchaser at:

PG Affordable Housing, Inc.  
2 Main Street  
Peapack, NJ 07977

with a copy to:

Katharine A. Coffey, Esq.  
Day Pitney LLP  
One Jefferson Road  
Parsippany, NJ 07054

(b) To the Seller at:

Borough of Peakpack-Gladstone  
1 School Street, PO Box 218,  
Peapack, NJ 07977  
Attn.: Nancy Bretzger, Borough Administrator/Clerk

with a copy to:

Steven Warner, Esq.  
Savo Schalk  
56 East Main Street, Suite 301  
Somerville, NJ 08876

And

Ellen Gillespie, Esq.  
Savo Schalk  
56 East Main Street, Suite 301  
Somerville, NJ 08876

or to such other address or to such other persons as the Purchaser or the Seller shall have last

designated by written notice to the other party.

**14. Miscellaneous.**

**1. Successors and Assigns.** This contract shall inure to the benefit of and be binding upon the parties' respective heirs, administrators, executors, personal representatives, successors and assigns.

**2. Entire Agreement.** This contract contains the entire agreement between the parties, and it is intended by the parties to be an integration of all agreements between the parties with respect to the Premises. Any future agreement shall be ineffective to change, modify or discharge this contract, in whole or in part, unless such agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought.

**3. Captions.** The captions of this contract are inserted only for the purposes of convenient reference and in no way define, limit or prescribe the scope or intent of this contract.

**4. New Jersey Law.** This contract is being executed and delivered pursuant to the laws of the State of New Jersey and shall be construed in accordance therewith.

**5. Further Assurances.** In addition to the obligations required to be performed hereunder by Seller and Purchaser at the closing, Seller and Purchaser shall, from time to time perform such other acts, and shall execute, acknowledge and/or deliver such other instruments, documents and other materials, prior to or at the closing, as the other party may reasonably require in order to effectuate the consummation of the transactions provided for herein and to vest title to the Premises in Purchaser.

**6. Construction.** The Purchaser and the Seller agree that each party and its counsel have reviewed and revised this contract and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this contract or any amendments, exhibits or schedules hereto.

**7. Execution.** This contract may be executed in any number of counterparts, each of which, when so executed and delivered, shall be deemed an original, but such counterparts together shall constitute but one and the same instrument.

**8. Severability.** In the event that any one or more of the provisions of this contract shall be determined to be void or unenforceable by a court of competent jurisdiction, or by law, such determination will not render this contract invalid or unenforceable and the remaining provisions hereof shall remain in full force and effect.

**9. Attorneys' Fees.** In connection with any litigation including appellate proceedings arising out of this contract, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs. Each party shall be entitled to recover attorneys' fees and costs from the other in connection with the enforcement of rights under the contract or under law by reason of breach of default by the other party.

**10. Waiver.** No waiver by either party of any failure or refusal to comply with its obligations shall be deemed a waiver of any other or subsequent failure or refusal to so comply.

**11. Date of Contract.** As used herein the term "date of this contract" or "date hereof" shall mean the date on which an executed copy of this contract has been delivered to the Purchaser or its attorney.

**12. Contract Not Offer.** This contract is transmitted for examination only, and does not constitute an offer to purchase, and this contract shall become effective only upon execution thereof by both parties hereto. No rights are to be conferred upon the Seller until this contract has been duly executed by the Seller and Purchaser and a copy of this contract, duly executed by Seller and Purchaser, has been delivered to the Purchaser. This contract is subject to resolution by Borough Council authorizing same and execution of this contract for sale.

**13. No Recording.** Purchaser shall not record this contract, and any recording of this contract by Purchaser shall constitute a default by Purchaser hereunder.

IN WITNESS WHEREOF, the parties have executed and delivered this contract on the date and year first above written.

WITNESS:

PG Affordable Housing, Inc.

\_\_\_\_\_

By: \_\_\_\_\_

WITNESS:

BOROUGH OF PEAPACK AND GLAISTONE

Matthew J. Spicetti

