

RESOLUTION 116 – 2013
RESOLUTION AUTHORIZING TERMS OF AN AGREEMENT OF SALE FOR
PURCHASE OF REAL PROPERTY

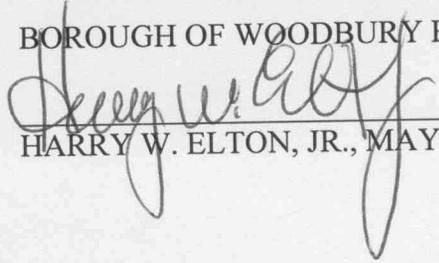
WHEREAS, the Borough heretofore authorized the purchase of that property known as Block 91, Lot 6 of the tax maps to be used for the purpose of providing opportunities for affordable housing;

WHEREAS, the Borough has negotiated the terms of the purchase with W&C Associates, LLC as contained within the annexed Agreement of Sale;

WHEREAS, the Borough intends by this Resolution to approve the terms of the aforesaid Agreement and authorize the execution and delivery of same to the Seller;

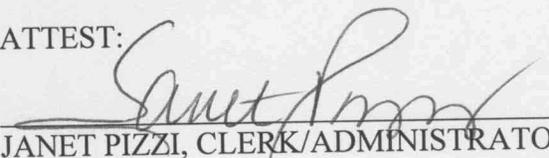
NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Woodbury Heights, with the Mayor concurring, that the annexed Agreement of Sale, by and between the Borough and W&C Associates, LLC is hereby approved and the mayor and clerk authorized to execute and deliver same on behalf of the Borough.

BOROUGH OF WOODBURY HEIGHTS



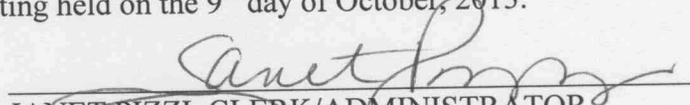
HARRY W. ELTON, JR., MAYOR

ATTEST:



JANET PIZZI, CLERK/ADMINISTRATOR

The foregoing Resolution was duly adopted by the Borough Council of the Borough of Woodbury Heights at a Regular Meeting held on the 9th day of October, 2013.



JANET PIZZI, CLERK/ADMINISTRATOR

AGREEMENT OF SALE

THIS AGREEMENT is made this _____ day of _____, 2013, by and between W & C ASSOCIATES, L.L.C., a New Jersey Limited Liability Company (the "Seller") and THE BOROUGH OF WOODBURY HEIGHTS, or their nominee or assignee (the Buyer").

- A. Seller is the owner of all that tract or parcel of land, including any buildings and other improvements located thereon (the "Improvements"), and known as Block 91, Lot 6, of the Tax Maps of the Borough of Woodbury Heights, County of Gloucester, New Jersey, being all the real property owned by Seller at that location (the "Seller's Total Property").

In consideration of the mutual covenants and agreements contained herein, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Agreement to Sell and Purchase. Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, subject to the terms and conditions of this Agreement, the Property, together with (a) any land lying in the bed of any street, road or alley, open or proposed, in front, abutting or adjoining the subject property, (b) any easement, privilege, license or right-of-way inuring to the benefit of the subject property, and (c) the appurtenances and hereditament belonging or otherwise pertaining to the subject property. For purposes of this Agreement, the phrase "Effective Date" used within this Agreement shall mean the date on which Buyer receives a fully executed copy of this Agreement.

2. Purchase Price. The total purchase price to be paid by Buyer to Seller for the Property (the "Purchase Price") shall be the sum of One Hundred Forty Thousand (\$140,000.00) Dollars.

2.1 The aforesaid Purchase Price shall be payable as follows:

(a) The sum of Two Thousand (\$2,000.00) Dollars ("First Deposit") in cash or by check to be deposited with Buyer's title insurance company in New Jersey (the "Escrow Agent") within three (3) business days following Buyer's receipt of a fully executed copy of this Agreement.

(b) The balance of the Purchase Price is to be paid by certified check, title company check or wire transfer of funds at Closing (hereinafter defined).

(c) Escrow Agent shall hold the Deposit in escrow in a federally insured, interest-bearing account for the benefit of Buyer, pursuant to the terms of this Agreement.

(d) The Deposit and all interest accrued thereon shall be applied to the Purchase Price to be paid by Buyer at Closing (as hereinafter defined).

3. Closing. Closing (the "Closing") hereunder shall occur on or before December 30, 2013, and only if the conditions set forth in Section 6 (a) below have been

satisfied by Buyer. Closing shall take place at the offices of Buyers' title insurance company, or at such other location as the parties hereto shall mutually agree.

4. Condition of Title.

(a) Title to the Property shall be (i) good and marketable, and free and clear of all liens, restrictions, easements, encumbrances, leases, tenancies and other title objections except regarding those required by any Municipal or County approvals, and (ii) insurable under an ALTA Owner's Policy, Form B, Amended 10-21-87, as aforesaid, by any reputable title insurance company at regular rates. Buyer shall order a commitment for a title insurance policy for the Property (the "Title Commitment") after the execution of this Agreement and then deliver a copy of the Title Commitment to Seller upon receipt, but prior to the expiration of the Due Diligence Period. If any title objections are disclosed in the Title Commitment, and which are identified as objectionable in writing from Buyer to Seller, Seller shall use its best efforts (except for the affirmative obligation to remove monetary liens as provided below) to correct, at Seller's sole cost, any such title objections within ten (10) days after Seller's receipt of the Title Commitment. Buyer shall provide Seller with a list of title objections prior to the expiration of the Due Diligence Period. Buyer's objections shall consist of only those items which Buyer reasonably believes will adversely impact the construction of Buyer's intended improvements on the Property. If Seller is unable to correct such objections within said ten (10) day period (or as otherwise extended by Buyer), Buyer may, at any time thereafter, exercise its rights set forth in Section 4(b). Failure of Buyer to provide Seller with a list of Title Objections prior to expiration of the Due Diligence Period shall be deemed a waiver thereof by Buyer.

(b) In the event Seller is unable to convey good and marketable title and such as will be insured by any reputable title insurance company at regular rates as set forth in Section 4(a), Buyer shall have the option of (i) taking such title as Seller can give without abatement of the Purchase Price, except that any existing liens or encumbrances which can be removed by the payment of money shall be paid and discharged by Seller at or prior to Closing, or (ii) terminating this Agreement, in which event, the Escrow Agent shall return the Deposit to Buyer, this Agreement shall become null and void, and neither party shall have any further obligations or liabilities hereunder.

5. Inspections and Studies; Plans and Reports.

(a) Buyer, at Buyers' sole expense, may engage a soil consultant, environmental consultant, civil engineer, attorney and/or other professionals to perform an inspection of the environmental condition of the Property and the approvals and improvements proposed for the Property. The aforesaid inspection (the "Due Diligence Inspection") may include, but is not limited to, (i) a Phase I and II environmental site assessment and soils testing, (ii) a wetlands and floodplain delineation and analysis, geotechnical studies, (iii) an inspection as to the availability of all utilities required to service the Property (including, without limitation, public or on-site sewer service, public or on-site water service, gas, electric and cable services), (iv) an inspection as to the condition of the title to the Property, including any restrictions, encumbrances and/or easements applicable thereto, (v) a review of all permits, approvals and improvements proposed for the Property and (vi) any other reviews, inspections or interviews Buyer deems necessary in connection with Buyer's proposed purchase of the Property.

6. Conditions Precedent to Buyer's Obligation.

(a) The obligation of Buyer under this Agreement to purchase the Property from Seller is subject to the satisfaction at the time specified of each of the following conditions (any or all of which may be waived in whole or in part by Buyer at or prior to Closing):

(i) Buyer shall be satisfied, in Buyer's sole and absolute discretion, with the results of the Due Diligence Inspection. If Buyer is dissatisfied for any reason whatsoever with the results of the Due Diligence Inspection, then Buyer shall have the option to terminate this Agreement by delivery of written notice to Seller at any time prior to December 27, 2013, in which event Escrow Agent shall deliver the Deposit (which term includes all interest earned thereon) to Buyer. If the Buyer does not terminate this Agreement within the period aforesaid, the Buyer's right to terminate shall expire and be considered null and void.

(ii) All of Seller's representations set forth in this Agreement shall be true and correct in all respects as of the date of this Agreement and as of the date of Closing as though made on and as the date of Closing. Seller shall have performed and complied with all of the terms and conditions required by this Agreement to be performed or complied with by Seller prior to or on the date of Closing.

7. Operation of the Property Prior to Closing. Between the date of this Agreement and the date of Closing:

(a) Seller shall use good faith efforts to maintain the Property and all portions thereof, including the Improvements (if any), in the same condition as on the date hereof, normal wear and tear excepted.

(b) Buyer and its architects, contractors, engineers, inspectors, consultants, agents and other representatives shall have access to and permission to enter the Property, on reasonable notice to Sellers, to inspect, survey, measure, take test borings or soil samples, or appraise the Property. Buyer shall indemnify, defend and hold Seller harmless for any claim or damage which may be caused by Buyer or its representatives entering upon the Property after the Effective Date and shall restore the Property to its condition existing prior to such tests.

(c) Seller shall cooperate with Buyer in connection with Buyer's efforts to satisfy the conditions set forth in this Agreement, including, without limitation, executing all applications and other documents which are required in connection therewith but at no cost or expense of Seller. Notwithstanding such, Seller shall pay all real estate taxes on or before due dates therefore.

(d) Seller shall not convey or encumber the Property or any portion thereof without Buyer's prior written consent.

(e) Seller shall deliver to Buyer, immediately upon delivery or receipt by Seller, copies of any and all notices, letters, memoranda and other correspondence to or from any government agencies relating to the Property.

8. Provisions with Respect to Closing.

(a) At the Closing, Seller shall deliver or cause to be delivered to Buyer the following:

(i) Deed. A Bargain and Sale Deed with Covenants against Grantors Acts for the Property, duly executed and acknowledged by Seller, and in form satisfactory to Buyer's attorney and Title Company.

(ii) Title Company Affidavit. An affidavit to Buyer's title insurance company of the type customarily provided by sellers of real property to induce title companies in the Southern New Jersey area to insure over certain "standard" or "preprinted" exceptions to title.

(iii) Closing Certificate. A certificate stating that Seller's representations contained in this Agreement are true and correct as of the date of Closing, and that the conditions precedent to Closing required to be performed by Seller have been satisfied.

9. Taxes: Apportionments.

(a) Buyer shall be responsible for payment or cancellation of real estate taxes at Closing, inclusive of accrued interest and penalties thereon.

(b) All realty transfer taxes in connection with this transaction shall be paid by Seller. Buyer shall pay all title insurance premiums charged by Buyer's title insurance company. Each party shall pay its own counsel fees. All other recording and closing costs of any nature or description shall be paid or apportioned in accordance with the custom and practice in the county in which the Property is located with each party to equally pay the cost of the Title agent settlement fee at Closing. Seller shall pay all roll-back taxes, if applicable.

10. Eminent Domain. If, at any time prior to the date of Closing, Seller is notified of any eminent domain proceedings against all or any portion of the Property, Seller shall promptly give written notice thereof to Buyer. Buyer shall have the right, within thirty (30) days of receipt of any such notice, at its sole option, to terminate this Agreement, in which event the Deposit (together with all interest earned thereon) shall be returned to Buyer and this Agreement shall become null and void and neither party shall have any further liabilities or obligations hereunder. If Buyer does not elect to terminate this Agreement as aforesaid, then (a) Buyer shall have the right, to participate in and approve the determination of any eminent domain award, (b) the proceeds of any eminent domain award with respect to the Property paid between the date of this Agreement and the Closing shall be credited against the Purchase Price, and (c) all unpaid claims and rights in connection with the taking shall be assigned to Buyer at Closing.

11. Representations of Seller. Seller, to induce Buyer to enter into this Agreement and to purchase the Property, represents to Buyer as follows:

(a) Compliance. Seller has received no notices from any governmental

authority of any violations of any federal, state or local law, regulation or ordinance affecting any portion of the Property which remains uncorrected. Seller shall use best efforts to cure, prior to Closing, any violation of which Seller receives written notice pertaining to the Property.

(b) Litigation. There is no action, suit or proceeding pending or, to the knowledge of Seller, threatened, against or affecting the Property or any portion thereof or relating to or arising out of the ownership, management or operation of the Property in any court or before or by any federal, state or local department, commission, board, bureau or agency or other governmental instrumentality which could, if adversely decided, have any adverse effect on Buyer's acquisition, ownership, development or use of the Property.

(c) Public Improvements. No assessment for public improvements has been served upon the Seller with respect to the Property which remains unpaid, including, but not limited to, those for construction of sewer, water, electric, gas lines and mains, streets, sidewalks and curbing. In the event work for any public improvements with respect to the Property is assessed or commenced before the Closing, Seller shall be responsible for the assessments and charges that are imposed on Seller or the Property in connection therewith. Seller knows of no public improvements which have been ordered to be made and/or which have not heretofore been completed and paid for.

(d) Environmental Disclosures. Seller has not installed or used or knowingly permitted anyone else to install or use, any asbestos-containing materials on the Property, and no machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) have been located on the Property at any time during Seller's ownership of the Property. To the best of Seller's actual knowledge, no current or prior tenant, or prior owner, of the Property has used or permitted the Property to be used for any of the matters described in the preceding two sentences. No notice from any governmental body has ever been served upon Seller, its agents or employees or, to the best of Seller's knowledge, any current or prior tenant, or prior owner, of the Property, claiming any violation of any federal, state or local law, regulation or ordinance concerning the environmental state, condition, or quality of the Property, or requiring or calling attention to the need for any work, repairs, construction, alterations, demolition, renovation or installation on or in connection with the Property in order to comply with any law, regulation or ordinance concerning the environmental state, condition or quality of the Property.

Further, Seller hereby warrants and represents to Buyer that, to Seller's best knowledge and belief, after due inquiry, that the Property has not been used for landfill or toxic waste disposal activities or operations and that there are no materials, substances, products or wastes of any nature located on or in the Property. If Seller learns, at any time, that the representations contained in this Paragraph are no longer true and correct with respect to this Property, then Seller shall immediately deliver a notice thereof to the Buyer. Additionally, Seller represents and warrants that there are no underground fuel storage tanks within or below the surface of the Property. The terms and provisions of this subparagraph 11(d) shall survive the date of closing and transfer of title to the Buyer for a term of two (2) years from the date of Closing.

(e) Leases. There will be, at Closing, no outstanding leases, tenancies, licenses or other rights of occupancy or use for any portion of the Property except as Buyer may, in writing, agree.

12. Brokers. Seller and Buyer each warrant and represent to the other that each has had no dealings, negotiations or communications with any brokers or realtors or other intermediaries in connection with this Agreement or the sale of the Property. In the event that any claim is asserted by any other person, firm or corporation, whether broker or otherwise, claiming a commission and/or finder's fee with respect to the sale and purchase of the Property resulting from any act, representation or promise of either party, such party shall indemnify and save the other harmless from any such claim.

13. Notices. All notices, requests and other communications under this Agreement shall be in writing and shall be deemed to have been properly given if personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, or by private overnight express carrier, such as Federal Express, next day delivery, charges prepaid, addressed as follows: if intended for Seller: Attn.: George Diemer, 3000 Atrium Way, Suite 219, Mt. Laurel, New Jersey, 08054 with a copy to Robert Messick, Esq., 41 Grove Avenue, Haddonfield, New Jersey, 08033; if intended for Buyer: 500 Elm Avenue, Woodbury Heights, New Jersey, 08097, with a copy to Barry N. Lozuke, Esquire, 131 Delaware Street, Woodbury, New Jersey, 08096, or at such other address of which Seller or Buyer shall have given notice as herein provided. Notices by the parties may be given on their behalf by their respective counsel. All such notices, requests and other communications shall be deemed to have been sufficiently given for all purposes on the date of delivery, if personally delivered, or the postmarked date of mailing, if sent by registered or certified mail, or the date of deposit if sent by private overnight express carrier.

14. Buyer's Default; Seller's Default; Interest.

(a) In the event Buyer violates or fails to fulfill or perform any of the terms and conditions of this Agreement required to be performed by Buyer, and Buyer fails to cure such violation or failure within 10 days after Buyer's receipt from Seller of a written notice notifying Buyer of said violation or failure, Seller shall have the option to take the deposit as full and complete damages or, in the alternative, to seek damages from the Buyer by way of any legal remedy. In addition, if Seller is the prevailing party in any dispute between Seller and Buyer under this Agreement, then Buyer shall reimburse Seller for all reasonable attorney's fees and costs incurred by Seller in resolution of any such dispute.

(b) In the event Seller violates or fails to fulfill and perform any of the terms and conditions of this Agreement required to be performed by Seller, Buyer shall have the right to compel transfer of the property to Buyer by a suit for specific performance of Seller's obligations hereunder or the right to terminate this Agreement and receive a refund of the Deposit (including the interest thereon and all portions designated as "non-refundable") in the alternative at the sole discretion of the Buyer. In addition, if Buyer is the prevailing party in any dispute between Seller and Buyer under this Agreement, then Seller shall reimburse Buyer for all reasonable attorney fees and costs incurred by Buyer in the resolution of any such dispute.

(c) The interest earned on the Deposit shall belong to Buyer unless Buyer defaults pursuant to Section 14(a) above.

15. Escrow Agent. Seller and Buyer agree that Escrow Agent is acting as agent only and shall not be liable to either party for any act or omission except as the result of Escrow Agent's gross negligence or willful misconduct. Escrow Agent shall be entitled to rely upon any document reasonably believed by it to be genuine. In the event of any dispute between Buyer and Seller regarding the Deposit, Escrow Agent shall be entitled to deposit the Deposit into Court and thereafter shall have no further liability or obligation hereunder as Escrow Agent.

16. Miscellaneous.

(a) The headings and captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

(b) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

(c) The representatives and officers who have executed this Agreement on behalf of Seller and Buyer hereby represent, warrant and confirm that they have the authority to execute this Agreement.

(d) Possession is to be delivered by Seller to Buyer at Closing.

(e) This Agreement contains the entire agreement between the Seller and the Buyer and there are no other terms, obligations, covenants, representations, statements or conditions, oral or otherwise of any kind whatsoever concerning this sale. Furthermore, this Agreement shall not be altered, amended, changed or modified except in writing executed by the parties hereto.

(f) This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

(g) This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same instrument.

(h) Time is of the essence with respect to each and every provision of this Agreement.

(i) At Closing, title shall be transferred to Buyer free and clear of any tenancies or tenant claims.

(j) Buyer may assign all of Buyer's rights and obligations of this Agreement to an entity formed and authorized to do business in the State of New Jersey.

17. Buyer's Ability to Settle. Buyer represents that it is financially able to pay the purchased price and complete the settlement under the terms and conditions of this Agreement. The Buyer represents that this purchase is not contingent upon Buyer receiving a mortgage, loan or any other third-party financing in order to complete settlement and fulfill Buyer's obligations under this Agreement.

IN WITNESS WHEREOF, intending to be legally bound hereby, the parties hereto have executed this Agreement as of the date first above written.

Dated: 9/5/13

SELLER: W&C ASSOCIATES, LLC

WITNESS:
[Signature]

BY: [Signature]
Authorized Member

Dated: 10/09/2013

BUYER: BOROUGH OF WOODBURY HEIGHTS

BY: [Signature]
HARRY W. ELTON, JR., MAYOR

ATTEST: (Buyer)
[Signature]
JANET PIZZI, CLERK