

REHABILITATION AND PURCHASE AGREEMENT

THIS AGREEMENT, made this ___ day of **Month, Year** by and between the **CITY OF ROME, NEW YORK**, a municipal corporation organized and existing under the laws of the State of New York and having its principal place of business at 198 North Washington Street, Rome, New York 13440, hereinafter referred to as “Seller” and/or party of the first part, and **Accepted Purchaser**, hereinafter referred to as “Buyer” and/or party of the second part, consists of the promises, recitals, covenants and agreements hereinafter set forth.

WHEREAS, the Seller holds a tax deed to premises known and designated as **Location Address and Map Number** in the City of Rome, New York, hereinafter referred to as the “Premises”, which consists of land and any buildings or improvements that a physical inspection of same would reveal; and

WHEREAS, the Buyer wishes to acquire a deed to the Premises from the Seller for the consideration hereinafter mentioned; and

WHEREAS, pursuant to authority given the Seller by the Common Council and/or the Board of Estimate and Contract of the City of Rome, New York, the Seller is conditionally authorized to convey the Premises to the Buyer, contingent upon the Buyer entering into this Agreement to rehabilitate the Premises and performing said Agreement according to its terms and upon the payment of any additional monetary consideration as may be called for herein;

NOW, THEREFORE, upon valuable consideration, and the mutual promises and covenants herein contained, the parties do hereby agree as follows:

SECTION I PERFORMANCE BY BUYER

The Buyer hereby agrees to rehabilitate the Premises by performing the work specified in Exhibit “A” attached hereto and made a part hereof, said requirements having been recommended by the Codes Enforcement Office of Rome, New York, as a necessary condition of sale. Following execution of this Agreement, and subject to any conditions set forth herein, the Buyers, their agents, employees, contractors and/or assigns shall be entitled to enter onto the Premises to perform the rehabilitation only, which shall be completed on or before **Date** unless such time shall be extended by the City of Rome Real Property Committee upon written application to the City of Rome Real Property Committee representative by the Buyer. The Buyer shall demonstrate sufficient justification for the extension and the granting of the extension by the City of Rome shall not be unreasonably withheld. The Buyer understands that payment of all owed taxes may be due and necessary to obtain said extension. The Buyer shall be responsible for the cost of all labor, materials, permits, insurance, removal and/or dumping fees and all necessary and related costs in performing said rehabilitation. Further, the Buyer shall pay the additional monetary consideration, if any, as set forth in the applicable Common Council and/or Board of Estimate and Contract resolutions authorizing this Agreement and sale

of the Premises, which are incorporated herein by reference, in this case to be **Accepted Purchase Price**.

**SECTION II
CERTIFICATION BY REAL PROPERTY COMMITTEE REPRESENTATIVE**

Within ten (10) days after completion of the rehabilitation, the Buyer shall notify the City of Rome Real Property Committee representative that said work has been completed. Thereafter, the Buyer shall arrange a convenient time for the City of Rome Real Property Committee representative to inspect the Premises. If the Buyer has performed the rehabilitation to the satisfaction of the City of Rome Real Property Committee representative, the City of Rome Real Property Committee representative shall certify, in writing, to the City of Rome Corporation Counsel that said rehabilitation has been completed. If the work is deficient in any respect, the City of Rome Real Property Committee representative shall notify Buyer of the exact nature of said deficiencies; however, the Buyer would continue to have the right to cure the deficiencies within the time period established for performance in Section I above. Should any dispute arise between the Buyer and Seller as to whether or not the rehabilitation has been satisfactorily performed, the parties agree to make their best effort to resolve any such dispute without resort to court intervention, and, if the dispute cannot be amicably resolved, then to submit the dispute to binding arbitration, the arbitrator to be picked by mutual consent of both parties and said arbitration to be conducted according to the procedures of the American Arbitration Association. Both sides shall equally divide the cost of the arbitrator and arbitration proceeding.

**SECTION III
PERFORMANCE BY SELLER**

Upon receipt of a certification pursuant to Section II above, the Corporation Counsel's Office shall then prepare a **Quit Claim Deed**, Real Property Transfer Tax Report (TP-584) and Equalization and Assessment Report (RP-5217) for presentation to the Buyer. Once the documents have been prepared, the Seller will notify the Buyer or Buyer's attorney, in writing, whereupon the Buyer shall have a period of forty-five (45) days to review said documents and conclude the transfer *at the offices of the Seller or at some other place as may be mutually agreed upon*. At that time, the Buyer shall sign the required transfer documents and pay the balance of the purchase price, if any, together with the required fees for stamping and recording the deed along with any tax payments owed. Unless other arrangements are made in advance, the Seller shall assume the responsibility of stamping and recording the deed and making the tax payments, all of which shall be at Buyer's expense. An additional administrative fee of \$20.00 shall be added to the actual cost of stamping and recording the deed.

In instances where the rehabilitation cannot be completed within the time period set forth in Section I above, the City of Rome may, *in its sole discretion*, instruct the Corporation Counsel's Office to convey a deed granting a "fee on limitation", so that if the remainder of the rehabilitation is not performed within a specified period of time following delivery of the deed, then the title will automatically revert in the Seller ("possibility of reverter") without any affirmative act necessary on the part of the Seller, or, in the alternative, may convey a deed

granting a “fee on condition”, reserving in the Seller a “right of reacquisition” upon failure of Buyer in completing the rehabilitation.

The Seller makes no representations, express or implied, with regard to the marketability, warrantability or insurability of the title. The Seller is willing to provide whatever documentation it has in its possession to the Buyer, if any, including but not limited to any deeds on file with the City Engineer, stub searches, Notices of Final Tax Redemption, and proof of compliance with the City Charter pertaining to tax foreclosure sales. Title shall be conveyed by a Quit Claim Deed. Should the Buyer wish to obtain any title searches, tax searches, bankruptcy searches, surveys, title insurance, or any other title inquiries, the Buyer is advised to do so in advance of entering into this Agreement or incurring any out-of-pocket expenses. If the Buyer chooses not to examine the title to the Premises, the Buyer does so at his own risk. In the event the title to the Premises should be defective, for any reason, the Buyer shall have no cause of action against the Seller under this Agreement. Seller does not guarantee the exact dimensions of the Premises’ lot size. All references and/or representations by the City of Rome Real Property Committee of said Premises’ lot size are approximate and not exact. Further, the Buyer hereby expressly waives the right to assert a “failure of consideration” defense in any legal or equitable proceedings hereafter maintained by either party in connection with this Agreement.

SECTION IV ADDITIONAL ALTERATIONS AND FORFEITURE ON FAILURE TO CLOSE

The Buyer shall only be obligated to perform the rehabilitation set forth herein. The Buyer may, upon the express written consent of the Seller, perform any additional work he may deem necessary and/or appropriate. The parties hereby acknowledge and agree that should the Buyer fail to perform the obligations herein within the time period established herein for completion, the authorizing approvals of the Common Council and/or the Board of Estimate and Contract shall become null and void, and any and all improvements and/or additions to the Premises shall inure to the benefit of the Seller. The Buyer hereby acknowledges that he shall have no claim or cause of action against the Seller for unjust enrichment, quantum meruit, or any other theory of liability, whether legal or equitable, for any of the improvements made to the Premises.

SECTION V ZONING, PERMITS AND LICENSES

The Buyer is purchasing the property subject to any and all applicable zoning regulations, and shall be responsible for securing any necessary permits and/or licenses for the rehabilitation work to be performed, if applicable, at his own cost and expense.

**SECTION VI
LIABILITY AND ASSUMPTION OF RISK**

The parties acknowledge that the Buyer is not performing the work for the benefit of the Seller, but rather, is performing the work to benefit Buyer in anticipation that he will be obtaining a deed to the Premises upon completion thereof. Seller shall not be responsible, in any way, for supervising Buyer's performance of the work or the methods or manner in which said work is conducted. Buyer shall comply with all laws, rules, ordinances, regulations or orders of all public authorities relating to the performance of the work. The Buyer acknowledges and agrees that he shall assume all risk or liability associated with entering onto the Premises and in performing any of the work specified herein. The Buyer hereby agrees that the Seller shall not be responsible for any claims or causes of action arising on said Premises, whether occurring within or without the performance of the work herein specified. The Buyer hereby releases the Seller from any and all liability, claims, causes of action, damages to persons or property or any other damages occurring on the Premises, whether foreseen or unforeseen, and shall defend, with competent counsel, and indemnify the Seller and hold Seller completely harmless from and for all costs, damages, losses and expenses, including but not limited to judgments and reasonable attorney's fees, resulting from claims arising on the Premises, whether such claims be in favor of himself, or in favor of a third person or persons, the Buyer's agents, employees, contractors and/or assigns.

**SECTION VII
LIABILITY INSURANCE/WAIVER OF LIABILITY**

The parties acknowledge and agree that the Seller does not have any policy or policies of insurance, liability or otherwise, on the Premises, and that no coverage will be afforded to the Buyer or any other persons present on the Premises. The Buyer shall not commence work under this Agreement or enter onto the Premises until he has obtained all insurance required under this section and until such insurance has been approved by the Seller. Should the Buyer enter or allow any person or persons onto the Premises without such insurance in effect, they shall be deemed trespassers illegally present on the Premises. The Buyer shall not allow any agent, employee, contractor or subcontractor to commence work on the Premises until all similar insurance required of him has been so obtained and approved. The insurance that will be required consists of the following, as may be applicable under the circumstances:

- (a) Workers' compensation insurance for all of the Buyer's contractors or employees engaged in work at the site.
- (b) Public liability and property damage insurance taken out and maintained for the duration of the contract by the Buyer to protect the Buyer and all of its approved agents, employees, contractors or subcontractors, from claims for damages for personal injury, accidental death and property. The amounts of such insurance shall be in the sum of five hundred thousand dollars (\$500,000) for personal injury and five hundred thousand dollars (\$500,000) for property damage, or, in the alternative, blanket coverage for five hundred thousand dollars (\$500,000), and the Buyer shall

insure that the City of Rome is named as an additional insured on any such policy or policies.

The Buyer also hereby agrees to waive any and all claims against the Seller for any personal injuries that may occur on the Premises during the rehabilitation period and if the Seller is named in any type of litigation or negligence lawsuit arising out of any action of the Buyer or the Buyer's agents, employees, contractor or subcontractor during the rehabilitation period, the Buyer agrees to defend and indemnify the Seller from said lawsuit.

SECTION VIII OCCUPANCY OF PREMISES

Until such time as the performance of the work herein specified is completed, a written certificate of completion issued by the City of Rome Real Property Committee representative, and the balance of the purchase price paid by the Buyer, if applicable, the Buyer shall only have a limited license to be on the Premises to perform the work required under this Agreement. The Buyer shall not have possession of the Premises, nor shall the Buyer put himself or any other person or persons in possession or occupancy of the Premises until each and every term and condition of this Agreement has been satisfactorily performed by the Buyer. If the work called for under this Agreement has not been completed within the time frame established for performance in Section I above, and upon twenty (20) days written notice from the Seller, the license to be on the Premises shall automatically cease and terminate and the Buyer shall have no right to be present thereon. The Buyer acknowledges that no legal action need be commenced by the Seller to "eject" or "oust" the Buyer from the Premises, as no landlord/tenant relationship exists.

SECTION IX SIDEWALK PROVISION

If replacement of a sidewalk is required as part of the rehabilitation Agreement, Buyer shall not allow more than one week to transpire between breaking up/removing the old sidewalk and pouring the new sidewalk. If Buyer goes over this one week timeframe, it shall be considered a breach of this Agreement and the City of Rome has the right to declare said breach and to cancel said Agreement and market Premises to another Buyer.

SECTION X CODES/TAX COMPLIANCE

Buyer agrees that to be eligible for purchasing a property from the City of Rome Real Property Committee, he or she must be current on all City of Rome and Oneida County taxes, School taxes, water and garbage fees and any other applicable taxes/charges on all properties currently owned by the Buyer or under the Buyer's control that fall within the City of Rome. Likewise, Buyer agrees that to be eligible for purchasing a property from the City of Rome Real Property Committee, he or she must be in compliance with all City of Rome Codes regulations on all properties currently owned by the Buyer or under the Buyer's control that fall within the City of Rome. Failure to abide by these conditions shall be considered a breach of this

Agreement and the City of Rome has the right to declare said breach and to cancel said Agreement and market this property to another Buyer.

**SECTION XI
REAL ESTATE TAXES / WATER RENTS**

The property conveyed under this Agreement is being conveyed free and clear of any past due taxes/water rents owed to the City of Rome and/or the Rome City School District, and, *if the property has been prequalified in accordance with an Intermunicipal Agreement between the City of Rome and the County of Oneida*, it may also be conveyed free and clear of any delinquent County tax liens that were due and owing as of the date of prequalification. Any County taxes levied thereafter by the Oneida County Commissioner of Finance would be the Buyer's sole responsibility. The Buyer is advised to contact the Oneida County Commissioner of Finance, and, if the property is located outside of the Rome City School District, the school district in which the subject property is located, to determine the status of any taxes due (or to become due) to those entities.

The Buyer hereby agrees that the applicable taxing districts shall have the ability to levy real property taxes, water rents and trash collection fees, as applicable, against the property from the date of the execution of this Agreement, despite the fact that the deed is not be conveyed until a later date. Once the Buyer completes his/her performance of the rehabilitation and is entitled to receive a deed to the Premises, the Corporation Counsel's Office will present the Buyer with a statement of all taxes accruing from the date of the execution of this Agreement through the current tax billing cycles, all of which must be paid by the Buyer at the time of closing. Any questions pertaining to County or School district taxes (when the property is outside of the Rome City School District) shall be addressed to the appropriate agency.

**SECTION XII
BREACH AND/OR DEFAULT**

Should the Buyer be in violation of any of the provisions of this Agreement, the Seller shall have the sole right, in its reasonable discretion, to terminate this Agreement upon twenty (20) days written notice to Buyer, subject to the Buyer's right to cure any such defaults within that period. In the event of such termination, the Buyer shall forfeit any and all bid deposits made, if any, to the Seller, and the Seller shall have all such other rights as reserved elsewhere in this Agreement.

**SECTION XIII
ADDITIONAL PROVISIONS**

All of the terms and conditions contained in any authorizing resolutions and/or ordinances of the Common Council of the City of Rome or the Board of Estimate and Contract of the City of Rome shall be and hereby are incorporated into this Agreement by reference as though more fully set forth herein. In the event that any provision of this Agreement shall

contradict any provision contained in the aforementioned approvals, the provisions of the authorizing resolutions and/or ordinances shall govern.

**SECTION XIV
RISK OF LOSS**

If this Agreement involves the transfer of property having buildings and/or improvements thereon, the parties hereby acknowledge and agree that the provisions of the Uniform Vendor and Purchaser Risk Act (General Obligations Law §5-1311) shall not govern the risk of loss in the event the Premises are destroyed, and instead, the Buyer shall assume all hazards of damage to or destruction of any improvements now on the Premises or hereafter to be placed thereon.

**SECTION XV
GOVERNING LAW**

This instrument shall be interpreted and enforced according to the laws of the State of New York. Should any provision herein contained be invalid according to the laws of this State, or any other state, territory, jurisdiction or locality, all such remaining provisions that are valid shall remain unaffected.

**SECTION XVI
ENTIRE AGREEMENT**

This Agreement, together with all of the extraneous documents incorporated herein by reference, constitutes the entire Agreement between the parties, and there are no other representations, warranties or conditions made a part of this Agreement.

**SECTION XVII
WAIVER / MODIFICATION**

Failure of either party to insist upon strict performance of any or all of the terms and conditions herein contained shall not constitute a waiver of same, nor shall it prevent either party from insisting upon strict performance of any term of this Agreement at a later date. Any provisions which are not immediately and strictly enforced will continue to be binding upon the parties nonetheless. Further, this Agreement cannot be unilaterally altered, amended, modified or changed by either party, and no such modifications will be binding upon the parties unless agreed to in writing and executed by both parties hereto with the same formality as this instrument.

**SECTION XVIII
BINDING EFFECT**

This Agreement shall be binding upon the parties hereto and any and all respective heirs, executors, administrators, successors and/or assigns, as the case may be.

IN WITNESS WHEREOF, the parties have hereto caused this Instrument to be executed on the day and date hereinafter set forth, which Agreement shall take effect on the later date thereof.

Buyers :

Buyer Name

The City of Rome, New York

Seller:

By:

Hon. James F. Brown, Mayor

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss.:

On the ____ day of _____, 2006, before me, the undersigned, a notary public in and for said state, personally appeared **James F. Brown, Mayor** of the City of Rome, New York, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and duly acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

Notary Public - Oneida County, New York
My Commission Expires:

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss.:

On the ____ day of _____, 2006, before me, the undersigned, a notary public in and for said state, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and he duly acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

Notary Public - Oneida County, New York
My Commission Expires:

My Commission Expires:

EXHIBIT A

Detailed List of Rehabilitation Requirements Including Buyer Proposed Items