

CONTRACT OF SALE

This Contract made on the _____ day of _____, in the year 2019 is by and between the Central Pine Barrens Joint Planning and Policy Commission, with a principal office at 624 Old Riverhead Road, Westhampton Beach, New York 11978 hereinafter called the "Seller" and _____, with offices at _____, Federal Identification Number _____ hereinafter called "Purchaser."

1. Agreement to Sell and Purchase

Seller owns Pine Barrens Credit Certificate # – in the amount of # ____ Pine Barrens Credits (the "PBC Certificate"). Seller agrees to sell the PBC Certificate and Purchaser agrees to buy the PBC Certificate. A copy of the PBC Certificate is attached hereto as Schedule A.

2. Purchase Price and When Paid

- a. The purchase price for the PBC Certificate is \$#####.
- b. The purchase price is payable as follows
 - i. A Non-Refundable Bid Deposit of \$##### (2.5%).
 - ii. A Downpayment by check, subject to collection, on the signing of this Contract of \$##### (10%). The Downpayment shall be deposited in the general account of the Seller. The funds shall not be held in escrow by Seller's attorneys.
 - iii. A Balance due at Closing of \$#-----.

3. Acceptable funds

All money payable under this Contract unless otherwise specified, shall be either:

- a. Cash, but not over Five Hundred (\$500.00) Dollars,
- b. Good certified check of Purchaser, or official check of any bank, savings bank, trust company, or savings and loan association having a banking office in the State of New York, payable to the order of Seller,
- c. Money other than the purchase price, payable to Seller at Closing, may be by check of Purchaser up to the amount One Hundred (\$100.00) dollars, or
- d. As otherwise agreed to in writing by Seller or Seller's attorney.

4. Closing Defined

Closing means the settlement of the obligations of Seller and Purchaser to each other under this Contract, including the payment of the purchase price to Seller, and the delivery to Purchaser the PBC Certificate free and clear of all encumbrances.

Seller will deliver to Purchaser at the time of Closing a resolution of its Commission authorizing the sale and delivery of the PBC Certificate .

5. Closing Date and Place

The Closing will take place at the office of Seller at 2:00 p.m. o'clock on or about the earlier of -----, in the year 2019 (30 days after the signing of the Contract).

6. Broker

Seller and Purchaser represents and warrants to each that neither party has dealt with any broker in connection with this sale. Seller and Purchaser shall indemnify and defend each other against any costs, claims and expenses, including reasonable attorneys' fees, arising out of the breach on their respective parts of any representation or agreement contained in this paragraph. The provisions of this paragraph shall survive Closing or earlier termination of this Contract.

7. Seller's Inability to Convey and Limitation of Liability or Cancellation of the Contract

If Seller is unable to transfer the PBC Certificate to Purchaser in accordance with this Contract or the Contract is cancelled pursuant to its terms, other than as a result of Purchaser's default, Seller's sole liability shall be to refund to Purchaser the Bid Deposit and Downpayment.

Upon such refund and payment, this Contract shall be considered canceled, and neither Seller nor Purchaser shall have any further rights, obligations or liabilities against or to the other hereunder.

8. Default

- a. If Purchaser defaults hereunder, Seller's sole remedy shall be to receive and retain the Bid Deposit and Downpayment as liquidated damages, as the parties agree that it might be impossible to determine the precise measure of the Seller's damages and the parties agree that the Downpayment and Bid Deposit represent a fair measure of Seller's damages and is not a penalty.
- b. If the Seller defaults hereunder, Seller shall return to Purchaser the Bid Deposit and Down Payment. Upon such refund and payment, this Contract shall be considered canceled, and neither Seller nor Purchaser shall have any further rights, obligations or liabilities against or to the other hereunder. Purchaser expressly waives any claims it may have or hereafter have against the Seller in the event of the Seller's default including but not limited to claims to specific

performance, actual, special or consequential damages.

9. Purchasers Obligations and Seller's Right to Cancel the PBC Certificate

- a. Purchaser must redeem with a Town in Suffolk County or the Suffolk County Department of Health Services the PBC Certificate within twelve (12) months from the date of the Closing. Purchaser may adjourn the closing for 60 days upon payment of a refundable deposit of 20% of the total purchase price and a non-refundable payment of 5% of the total purchase price upon Seller's written approval. "Redeem" means Purchaser's irrevocable transfer of the PBC Certificate to a Town or the Suffolk County Department of Health Services in exchange for an increase in the density or intensity of a development project owned by Purchaser.
- b. Seller may cancel the PBC Certificate if Purchaser fails to redeem it during the 12 month redemption period. Seller may, but shall not be obligated to, return, to the Purchaser's fund, monies paid by Purchaser, less any non-refundable payments if the Credits are not redeemed within the 12 month redemption period and/or are cancelled. Seller shall provide Purchaser an opportunity to be heard before determining whether to cancel the Owner's Pine Barrens Credits or retain any payments made under this program.
- c. The provisions of this paragraph shall survive Closing or earlier termination of this Contract.

10. Notice

Any notice or other communication shall be in writing and sent by the parties' respective attorneys who are hereby authorized to do so on their behalf, by mail, postage prepaid, or delivered in person or by overnight courier to the respective parties' attorneys, to whom the notice is to be given, or to such other address as such party's attorney shall hereafter designate by notice given, or to such other address as such party's attorney shall hereafter designate by notice given to the other party's attorney pursuant to this paragraph. Each notice mailed shall be deemed given on the day of mailing the same except that each notice delivered in person or by overnight courier shall be deemed given when delivered.

11. Miscellaneous Provisions.

- a. Entire Agreement: All prior understandings and agreements between Seller and Purchaser are merged in this Contract. It completely expresses their full agreement. It has been entered into after full investigation, neither party relying upon any statements made by anyone else that are not set forth in this Contract.
- b. Changes Must be in Writing: This Contract may not be changed or canceled except in writing. The Contract shall also apply to and bind the distributees, heirs, executors, administrators, successors and assigns of the respective parties. Each

of the parties hereby authorize their attorneys to agree in writing to any changes in dates and time periods provided for in this Contract.

- c. Assignment: Any assignment by Purchaser of its rights or obligations under this Contract, without the prior written consent of Seller, which Seller may grant or withhold in its sole discretion, shall be null and void and shall constitute a default by Purchaser. The Commission shall retain any funds paid for the transferred or assigned certificate as liquidated damages.
- d. Rules of Construction: Regardless of any contrary rule of construction, no provision of this Contract shall be construed in favor of one of the parties because it was drafted by the other party's attorney. No alleged ambiguity in this Contract shall be construed against the party whose attorney drafted it.
- e. Governing Law and Venue: This Contract shall be governed by the substantive and procedural laws of the State of New York. Venue for any action concerning the Contract shall be in Suffolk County, New York.
- f. Survival or Provisions: No provision of this Contract shall survive the Closing unless otherwise set forth herein.
- g. Recording: This Contract, nor any document relating to the subject matter contained herein may be recorded.
- h. Captions: The captions in this Contract are inserted for convenience of reference only and in way define, describe or limit the scope or intent of this Contract or any provisions hereof.
- i. This Contract shall be binding upon and shall be inure to the benefit of the parties hereof and their respective heirs or successors or permitted assigns.
- j. This Contract shall not be binding or effective until properly executed and a fully executed original is delivered to Purchaser.
- k. As used in this Contract, the masculine shall include the feminine and neuter, the singular shall include the plural and the plural shall include the singular, as the context requires.

IN WITNESS WHEREOF, this Contract has been duly executed by the parties hereto.

Central Pine Barrens Joint
Planning and Policy Commission.

PURCHASER

By: _____
John W. Pavacic, Executive Director

By: _____

Schedule A

Copy of PBC Certificate