



To the Honorable Council
City of Norfolk, Virginia

November 29, 2022

From: Sean Washington
Acting Director of Development

Subject: Purchase & Sale Agreement - 200,
206 & 210 W. Ocean View Ave

Reviewed:

Dr. Larry H. Filer II, City Manager

Ward/Superward: 5/6

Approved:

Dr. Larry H. Filer II, City Manager

Item Number: R-04

- I. **Recommendation:** Adopt Ordinance
- II. **Applicant:** City of Norfolk
- III. **Description:**
This agenda item is an ordinance accepting the conveyance to the City of Norfolk by Level Realty, LLC of three parcels of real property consisting of a total of 0.5166 acres, more or less, and located at 200, 206 and 210 W. Ocean View Avenue in the City of Norfolk, Virginia (the "Property").
- IV. **Analysis:**
The Property is currently owned by Dirty Laundry Properties LLC ("Owner") and is comprised of the Soaps n' Suds Laundromat and adjacent parking lot parcels. Owner has entered into a Purchase Agreement with Level Realty, LLC ("Seller" or "Level") for Level's purchase of the Property. Following Level's closing on its acquisition of the Property, the City will purchase the Property from Level.
- V. **Financial Impact:**
The purchase price for the property is \$1,800,000.

VI. Environmental:

A Phase I environmental study is being conducted by the City as part of its due diligence process prior to purchase of the property.

VII. Community Outreach/Notification:

Public notification for this agenda item was conducted through the City's agenda notification process.

VIII. Board/Commission Action:

NA

IX. Coordination/Outreach:

This letter and ordinance have been coordinated with the City Attorney's Office.

Supporting Material from City Attorney's Office:

- Ordinance
- Exhibit A, Purchase and Sale Agreement

Supporting Material:

- Purchase & Sale Agreement-Soaps n Suds @ 200, 206, 210 W. OV Ave-v.3 (PDF)

Form and Correctness Approved:

BAP

Pursuant to Section 72 of the City Charter, I hereby certify that the money required for this item is in the city treasury to the credit of the fund from which it is drawn and not appropriated for any other purpose



By: _____
Office of the City Attorney

Contents Approved:



By: _____
Development

Michael Roggow

Michael Roggow, Director of Finance

NORFOLK, VIRGINIA

Ordinance No.

AN ORDINANCE APPROVING A PURCHASE AND SALE AGREEMENT BY AND BETWEEN LEVEL REALTY, LLC, AS SELLER, AND THE CITY OF NORFOLK, AS PURCHASER, FOR THOSE CERTAIN PARCELS OF REAL PROPERTY LOCATED AT 200, 206 AND 210 W. OCEAN VIEW AVENUE IN THE CITY OF NORFOLK, VIRGINIA; AUTHORIZING THE CITY MANAGER TO ACCEPT A SPECIAL WARRANTY DEED ON BEHALF OF THE CITY OF NORFOLK, VIRGINIA, AND AUTHORIZING THE EXPENDITURE OF A SUM OF UP TO \$1,805,000.00 FROM FUNDS HERETOFORE APPROPRIATED FOR ACQUISITION OF THE PROPERTY AND ALL RELATED TRANSACTIONAL COSTS.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the Purchase and Sale Agreement by and between Level Realty, LLC ("Seller"), and the City of Norfolk, ("Purchaser"), a copy of which is attached hereto as Exhibit A, wherein Seller agrees to transfer to the City those certain parcels of real property located at 200, 206 and 210 W. Ocean View Avenue in the City of Norfolk, Virginia (the "Property"), is hereby approved.

Section 2:- That the City Manager, with the advice and counsel of the City Attorney, is further authorized to correct, amend or revise the Purchase and Sale Agreement as may be necessary in order to carry out the intent of the Council as expressed in this ordinance.

Section 3:- That the City Manager and other proper officers of the City are hereby authorized to perform all necessary due

diligence and, if satisfactory, to accept a Special Warranty Deed, from Seller that is approved as to form and correctness by the City Attorney, and to do all other things necessary and proper to effect the conveyance of the Property to the City.

Section 4:- That the sum of up to \$1,805,000.00 from funds previously appropriated are hereby authorized for expenditure for the purchase of the Property and all related transactional costs.

Section 5:- That this ordinance shall be in effect from and after the date of its adoption.

ATTACHMENT: Exhibit A - Purchase and Sale Agreement (14 pages)

CERTIFICATION OF FUNDING

Account No.: 2150-73-100-5551-754

Amount: \$1,805,000.00

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “*Agreement*”) is made as of the ____ day of _____, 2022 by and between **LEVEL REALTY, LLC**, a Virginia limited liability company (the “*Seller*”), and the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia (the “*Purchaser*”).

1. Property. Subject to the terms and conditions of this Agreement, Seller shall sell to Purchaser and Purchaser shall purchase from Seller those certain parcels of real property located at 200, 206, and 210 W. Ocean View Boulevard in the City of Norfolk, Virginia, together with the improvements thereon (except as otherwise set forth herein) and all easements, covenants and other rights, if any, appurtenant to the land, as shown in Exhibit A attached hereto and made a part here (together, the “*Property*”).

2. Purchase Price; Deposit; Additional Consideration. The purchase price (the “*Purchase Price*”) for the Property shall be One Million Eight Hundred Thousand and 00/100 Dollars (\$1,800,000.00) and shall be paid to Seller by wire transfer at Closing (as defined below). Within ten (10) business days after (a) a fully executed copy of this Agreement and (b) Seller’s completed IRS Form W-9 are delivered to Purchaser, Purchaser shall pay the sum of Three Thousand and 00/100 Dollars (\$3,000.00) (the “*Initial Deposit*”) to Purchaser’s title company to be held in escrow. Except as otherwise set forth in this Agreement, the Deposit shall be credited against the Purchase Price at Closing.

3. Right of Entry; Due Diligence Period; Inspection.

(a) Seller shall provide Purchaser with a right-of-entry for the Property executed by the Owner, as hereinafter defined, such that at all reasonable times prior to Closing, Purchaser, its agents, employees, designees, representatives and contractors (collectively, the “*Purchaser Parties*”), at Purchaser’s sole cost and expense, shall have the right to do the following, following reasonable advance notice to Seller: (i) to enter the Property to perform such tests, inspections and examinations of the Property as Purchaser deems advisable; and (ii) to make investigations with regard to title to the Property, soil and environmental tests (including invasive testing), matters of survey, flood plain of the Property, utilities availability, zoning and building code, and other applicable governmental requirements with regard to the Property. Purchaser shall indemnify, defend, and hold Seller harmless from and against all cost, loss, damage, and expense, including reasonable attorneys’ fees, arising out of the activities of Purchaser and the Purchaser Parties upon the Property pursuant to this Section 3(a). The preceding indemnity obligation shall survive Closing and any termination of this Agreement. Seller agrees to take commercially reasonable steps to cooperate with Purchaser and the Purchaser Parties in Purchaser’s activities hereunder so long as such cooperation is at no cost to Seller. In this regard, Seller agrees to furnish Purchaser with copies of all surveys, title policies, environmental reports, market reports, soil reports, and engineering studies or other documentation relating to the Property in Seller’s possession, if any, within five (5) business days after the Effective Date. Purchaser shall not interfere unreasonably with Seller’s or Seller’s tenants’ operation of the Property during its due diligence investigations. Purchaser shall restore any area of the Property disturbed by Purchaser’s due diligence investigations to the condition existing prior to such investigations. Prior to making any entry on the Property, Purchaser shall deliver to Seller an insurance certificate showing

comprehensive general liability insurance in an amount and on such terms reasonably acceptable to Seller with Seller named as an additional insured and certificate holder, provided Purchaser, in its sole discretion, shall be entitled to self-insure with respect to the such insurance obligation.

(b) (i) The “**Due Diligence Period**” shall be a period of thirty (thirty) days commencing on the Effective Date.

(ii) Purchaser may terminate this Agreement at any time by delivering written notice to Seller of such termination prior to 5:00 p.m. on the date of expiration of the Due Diligence Period, in which event the Deposit shall be immediately returned to Purchaser and neither party shall have any further liability to the other under this Agreement, except as otherwise expressly provided in this Agreement or with respect to provisions which by their terms survive the termination of this Agreement.

(iii) Purchaser may waive any portion of the Due Diligence Period by written notice to Seller provided determination of the Closing Date, as defined below, is subject to the provisions of Section 10 of this Agreement.

(c) Purchaser will accept the Property from the Seller at Closing subject to the terms and conditions set forth in this Agreement. Except as expressly set forth in this Agreement, Purchaser shall accept the Property and the use and conveyance of the Property “as is.”

4. Title.

(a) Purchaser shall obtain a title commitment (the “**Title Commitment**”) for the Property issued by a reputable title insurance company, and no later than fifteen (15) days after the Effective Date, shall provide written notice to Seller (“**Title Objection Notice**”) of any matters reported in the Title Commitment that would make title to the Property unmarketable or uninsurable under an ALTA owner’s title insurance policy or that would prohibit the use of the Property for single-family dwellings in the reasonable opinion of Purchaser (such matters are referred to herein as the “**Title Objections**”). Any title matters that are not included as Title Objections in the Title Objection Notice will be deemed Permitted Exceptions (as defined below) and objections to such matters will be deemed waived by Purchaser.

(b) The Seller shall have a reasonable time to cure any Title Objections, but, for the avoidance of doubt, Seller is not required to cure any Title Objections. Seller may agree or decline to cure any Title Objection by providing written notice thereof (“**Seller’s Cure Notice**”) to Purchaser within thirty (30) days after receipt of Purchaser’s Title Objection Notice. If Seller fails to provide Seller’s Cure Notice to Purchaser or fails to agree to cure any Title Objection within such 30-day period, then Seller will be deemed to have elected not to cure such Title Objections. If the Seller declines to cure any Title Objection or does not cure any Title Objections that it has agreed to cure, the Purchaser shall have the right, within ten (10) days after receipt of Seller’s Cure Notice (or, if Seller fails to send Seller’s Cure Notice, then within ten (10) days after expiration of the 30-day period provided to Seller to send its Seller’s Cure Notice), to either waive its Title Objections in writing and take title to the Property subject to such Title Objections which shall be considered Permitted Exceptions or to terminate this Agreement (“**Purchaser’s Reply Notice**”).

Purchaser's failure to deliver Purchaser's Reply Notice will be deemed Purchaser's election to waive its Title Objections and take title to the Property subject to such Title Objections.

(c) At Closing, as hereinafter defined, Purchaser shall obtain, at its expense, an ALTA Owner's Policy of Title Insurance.

(d) If this Agreement is terminated pursuant to this Section 4, neither party shall have any further liability to the other except as expressly provided otherwise in this Agreement.

(e) All matters of title (i) that are shown as exceptions in the Title Commitment and are not objected to as Title Objections in Purchaser's Title Objection Notice or (ii) that are objected to as Title Objections in Purchaser's Title Objection Notice which are either (A) cured by Seller or (B) waived by Purchaser in writing, or deemed waived by Purchaser, as provided above shall be referred to collectively as the "*Permitted Exceptions*".

5. Zoning. Intentionally omitted.

6. Representations and Warranties of Seller. Seller represents and warrants to Purchaser that the following are true and correct in all material respects as of the Effective Date and again as of Closing:

(a) Seller and Dirty Laundry Properties, LLC ("*Owner*") have entered into that certain Purchase Agreement dated March 3, 2022, as amended by that certain First Amendment to Purchase Agreement dated June 20, 2002, for Seller's purchase of the Property (the "Seller's Purchase Agreement"). Upon Seller's purchase of the Property in accordance with the terms of the Seller's Purchase Agreement, Seller shall be the legal owner of the Property, with the full right to convey the Property without the joinder of any other person or party, and Seller has not granted any option contract, right of first refusal, or other sales contract pursuant to which any other party has any right to purchase any interest in the Property or any part thereof.

(b) There are no leases, tenancies, or other rights of occupancy relating to or affecting any portion of the Property other than the fee interest of Owner.

(c) To Seller's actual knowledge, there are no pending or threatened, judicial, municipal or administrative proceedings affecting the Seller or any portion of the Property (including condemnation proceedings) or affecting Seller's right to sell any portion of the Property.

(d) To Seller's actual knowledge, the Property is not in violation of any applicable wetlands or environmental law, or other zoning, subdivision, or land use law. Within five (5) days after a fully executed copy of this Agreement is delivered by Purchaser to Seller, Seller shall provide Purchaser with copies of any environmental reports on the Property which are either in Seller's possession or reasonably accessible to Seller.

7. Representations and Warranties of Purchaser. Purchaser represents and warrants to Seller that the following are true and correct in all material respects as of the Effective Date and again as of Closing:

(a) Neither the execution and delivery of this Agreement, nor compliance with the terms and conditions of this Agreement by Purchaser, nor the consummation of the purchase, constitutes or will constitute a violation or breach of any agreement or judicial order to which Purchaser is a party or to which Purchaser is subject.

(b) Purchaser has the power and authority to sign this Agreement and to consummate the transactions contemplated by this Agreement.

8. Covenants.

(a) Seller agrees as follows:

(i) While this Agreement is in effect, Seller will neither negotiate nor enter into any back up contract for the sale of any portion of the Property.

(ii) Seller shall close upon its purchase of the Property from Dirty Laundry Properties, LLC, and shall provide the City with written notice of such closing within three (3) business days after the date of such closing.

(iii) Seller shall demolish all improvements on the Property in accordance with all applicable laws and shall grade the Property prior to Closing. Upon completion of such demolition, Purchaser shall have the right to inspect the Property to confirm that such demolition and the Property are in compliance with the terms and conditions of this Agreement.

(iv) Seller shall not (1) mortgage, pledge, or subject the Property or any part thereof to a lien or other encumbrance, (2) allow any mechanic's or materialmen's lien to attach against the Property, (3) cause or permit to be placed or recorded any document affecting title to any portion of the Real Property except as contemplated by this Agreement, or (4) subject any portion of the Property to any option contract, sales contract, or any other agreement pursuant to which any party shall have any right to occupy or use any portion of the Property without the prior written consent of Purchaser. While this Agreement is in effect, Seller shall not enter into any new leases or other rights of occupancy with respect to any portion of the Property.

(v) Seller will not enter into any contract or other undertaking with respect to the Property, or any portion thereof, which will survive the Closing or otherwise affect the use, operation, or enjoyment of any portion of the Property after the Closing, without the prior written consent of Purchaser.

(b) Purchaser makes the following covenants to Seller:

(i) Purchaser agrees, at its sole cost and expense, to use commercially reasonable efforts to satisfy the conditions set forth in Section 9(a).

(ii) Purchaser shall provide to Seller a copy of all environmental and engineering reports prepared by or on behalf of Purchaser or the Purchaser Parties.

9. Conditions.

(a) The obligation of Purchaser under this Agreement to purchase the Property from Seller is subject to the satisfaction of each of the following conditions (any of which may be waived in whole or in part by Purchaser in writing on or prior to the Closing Date):

(i) Title to the Property shall be good and marketable, and subject to no liens, encumbrances, leases, licenses, rights of occupancy, security interests, restrictions, rights-of-way, easements, or encroachments (collectively "*Exceptions*") other than the Permitted Exceptions. Purchaser's title insurance company shall be prepared to issue a title insurance policy insuring the title to the Property, subject only to the Permitted Exceptions;

(ii) Seller shall have demolished and removed the buildings and other improvements located on the Property, demolished and removed the pavement located on the Property, and graded the Property, and shall have provided Purchase with written notice of the completion of such demolition work and provided Purchaser with an opportunity to inspect such demolition work to ensure compliance with the terms and conditions of this Agreement;

(iii) As of the Closing Date, (A) Seller's representations and warranties shall be true and correct in all material respects, and (B) Seller shall have performed all of its other obligations under this Agreement.

(iv) The Property and shall be in substantially the same condition as on the date of this Agreement, except for the demolition and grading work.

(v) The environmental reports obtained by Tenant for the Property shall indicate that no action is required.

In the event that any of the foregoing conditions to Closing have not been met or waived in writing by Purchaser on or before the Closing Date, Purchaser shall have the right to terminate this Agreement within fifteen (15) days thereafter by written notice to Seller. In the event of such termination, thereafter, neither party shall have any further obligation to the other (except as otherwise expressly provided in this Agreement) and except for the breach of any covenant which causes a non-satisfaction of the condition giving rise to such termination. In the event such termination is made pursuant to Section 9(a) above (except to the extent such termination is a result of Purchaser's negligence or failure to perform an act or action required under this Agreement), the Deposit shall be returned to Purchaser immediately.

(b) The obligation of the Seller to close hereunder is expressly conditioned upon the fulfillment by and as of the Closing Date of each of the conditions listed below, provided, however, that the Seller at its election, evidenced by notice delivered to Purchaser prior to or at the Closing, may waive any or all of the following conditions:

(i) All representations, warranties, acknowledgements, and covenants made by Purchaser in this Agreement shall be true and correct in all material respects, and shall continue to be true and correct in all material respects at the date of Closing and Purchaser shall have performed all of its other obligations under this Agreement.

10. Closing. If all of the conditions to Closing as set forth in Section 9 above have been satisfied or waived in accordance therewith and the Due Diligence Period has expired or has been waived by Purchaser, the closing (“**Closing**”) shall be held in the office of Purchaser’s closing agent within (30) days after such Conditions have been satisfied or such earlier date as mutually agreed by the parties (the “**Closing Date**”); provided, however, that the Closing may be effected by a “mail away” closing (i.e., in which funds are sent via wire transfer and closing documents are executed prior to Closing and delivered to the closing agent/attorney in escrow).

(a) At the Closing, Seller, in addition to any other documents required to be delivered under the terms of this Agreement, shall deliver fully executed copies (unless otherwise noted) of the following:

(i) A general warranty deed (the “**Deed**”) to the Property, duly executed and acknowledged by Seller conveying good, marketable fee simple title to the Property, free and clear of all liens and encumbrances, and subject to no Exceptions other than the Permitted Exceptions and in proper form for recording.

(ii) A standard owner’s affidavit as customarily required by title companies pertaining to mechanic’s liens and absence of tenants in occupancy of the Property. The owner’s affidavit shall also contain a covenant by Seller that is acceptable to the title company to insure over any gaps in time between the filing of the Deed and the actual recordation thereof.

(iii) A certificate to the effect that Seller’s representations and warranties set forth in Section 7 of this Agreement are true and correct in all material respects as of the Closing Date or updating the warranties set forth in Section 7 of this Agreement to reflect the facts existing as of the Closing Date.

(iv) A counterpart signature page to the settlement statement in a form that is mutually acceptable to both Purchaser and Seller (the “**Settlement Statement**”).

(v) Seller shall deliver to the Purchaser any other documents or instruments required hereunder or reasonably requested by Purchaser, Purchaser’s Title Company or Purchaser’s Lender in order to consummate the transactions contemplated herein provided such instruments are in form and substance reasonably acceptable to the Seller and do not result in an amendment to the terms of this Agreement.

(b) At Closing, Purchaser, in addition to any other documents required to be delivered under the terms of this Agreement, shall deliver the following:

(i) A counterpart executed copy of the Settlement Statement.

(ii) The Purchase Price, less the Deposit.

(iii) Purchaser shall deliver to the Seller any other document or instrument required hereunder or reasonably requested by the Seller or Purchaser’s Title Company in order to consummate the transactions contemplated herein, which document or instrument will be in form and substance reasonably acceptable to the Purchaser and the Seller.

(iv) A certificate to the effect that Buyer's representations and warranties set forth in Section 7 of this Agreement are true and correct in all material respects as of the Closing Date or updating the warranties set forth in Section 7 of this Agreement to reflect the facts existing as of the Closing Date.

(c) Utilities, including, without limitation, water, sewer and stormwater charges, and real estate and other taxes, shall be prorated as of the Closing Date.

(d) Seller shall pay the grantor's tax in connection with the recordation of the Deed. Purchaser shall be responsible for all other recordation costs and closing costs, including but not limited to, state and local recordation taxes in connection with the recordation of the Deed and any subdivision plat, all title insurance premiums, and other closing costs. Each party shall pay its respective attorneys' fees.

11. Possession. Possession of the Property shall be delivered to Purchaser on the Closing Date, free and clear of all leases, tenancies, and rights of occupancy, with demolition and grading complete in accordance with this Agreement.

12. Default.

(a) The occurrence of any of the following shall be an event of default by Purchaser under this Agreement:

(i) The filing by Purchaser of a voluntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtors' rights.

(ii) The consent by Purchaser to an involuntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtor's rights.

(iii) The entering of an order for relief against Purchaser or the appointment of receiver, trustee, or custodian for all or a substantial part of the property or assets of Purchaser in any involuntary proceeding, and the continuation of such order, judgment or decree unstayed for any period of thirty (30) consecutive days.

(iv) The failure of Purchaser to close on or before the Closing Date.

(v) The failure of Purchaser to perform or to observe any covenant, obligation, condition or requirement of this Agreement not specifically named as a default in this Section 12, and the continuation of such failure for thirty (30) days after written notice from Seller specifying the nature and extent of any such default, or, if such default cannot reasonably be cured within such thirty (30)-day period, the failure to cure such default within a reasonable time after the expiration of the thirty (30)-day period, in no event to exceed ninety (90) days after the written notice of default.

(b) The failure of Seller to perform or to observe any covenant, obligation, condition or requirement of this Agreement and the continuation of such failure for thirty (30) days after written notice from Purchaser specifying the nature and extent of any such default, or, if such default cannot reasonably be cured within such thirty (30)-day period, the failure to cure

such default within a reasonable time after the expiration of the first thirty (30)-day period, in no event to exceed ninety (90) days after the written notice of default.

13. Remedies.

(a) In the event Seller shall be in breach of or shall fail or refuse to perform its obligations under this Agreement (unless such refusal is attributable to the failure of a condition precedent to Seller's obligations as provided in Section 9(b)) and such breach or failure is not remedied after fifteen (15) days' written notice from Purchaser, then except as otherwise expressly set forth herein, Purchaser shall be entitled to all rights and remedies available to Purchaser at law or in equity, including without limitation specific performance of this Agreement, so long as such suit for specific performance is commenced within forty-five (45) days after the expiration of such 15-day cure period. If Purchaser is successful in any suit, Purchaser shall be entitled to recover its costs of suit, including reasonable attorney's fees.

(b) In the event Purchaser shall be in breach of or shall fail or refuse to perform its obligations under this Agreement (unless such refusal is attributable to the failure of a condition precedent to Purchaser's obligations as provided in Section 9(a)) and such breach or failure is not remedied after fifteen (15) days' written notice from Seller, then Seller shall be entitled to all rights and remedies available to Seller at law or in equity. If Seller is successful in any suit, Seller shall be entitled to recover its costs of suit, including reasonable attorney's fees.

14. Condemnation. If before the Closing all or any portion of the Property is taken under the power of eminent domain by any governmental entity other than the City of Norfolk or is transferred in lieu of such taking and such taking or transfer materially interferes with Purchaser's contemplated development of the Property, Purchaser may, at its option, terminate this Agreement by notice to the Seller within thirty (30) days after Purchaser is notified of such taking or transfer. If Purchaser fails to terminate the Agreement within such 30-day period, Purchaser will be deemed to have waived such right.

15. Risk of Loss and Insurance. As of and after the Closing Date, the Purchaser shall bear the risk of loss on the Property. Prior to the Closing Date, Seller shall bear the risk of loss of the Property and any existing improvements. However, because improvements on the Property are to be demolished after Closing, any damage or destruction of all or any part of improvements on the Property prior to Closing in no way obligates the Seller to rebuild the improvements and shall not affect Purchaser's obligation to close or alter the Purchase Price.

16. Assignment. Except as otherwise expressly set forth herein, this Agreement may not be assigned or otherwise transferred without the express written consent of the Seller, except that Purchaser may assign this Agreement to either the Norfolk Redevelopment and Housing Authority or the Economic Development Authority of the City of Norfolk, provided such assignment is pursuant to a written assignment and assumption agreement in a form agreeable to Seller. Any purported assignment of this Agreement or of any right, title, or interest hereunder not in compliance with this Section 16 shall be void and of no force or effect. No permitted assignment by Purchaser shall relieve Purchaser of its obligations hereunder.

17. Notices. All notices or other communications required or desired to be given with respect to this Agreement shall be in writing and shall be deemed to have been delivered (a) three (3) business days following deposit with the U.S. Mail, sent by registered or certified mail, return receipt requested, and bearing adequate postage; (b) one (1) business day following deposit with a reputable overnight courier; (c) on delivery if hand-delivered; or (d) on delivery if sent by confirmed email (so long as a follow-up copy is also sent by one of the methods described in (a), (b) or (c). Upon a change of address by either party, such party shall give written notice of such change to the other party in accordance with this Section. Inability to deliver because of changed address or status of which no notice was given shall be deemed to be receipt of the notice sent, effective as of the date such notice would otherwise have been deemed received.

Seller:

With a
copy to: _____

Purchaser: City Manager
City of Norfolk
810 Union Street
1101 City Hall Building
Norfolk, VA 23510

With a
copy to: City Attorney
City of Norfolk
810 Union Street
900 City Hall Building
Norfolk, VA 23510

18. Governing Law; Venue. This Agreement shall be governed by, construed, and enforced under the laws of the Commonwealth of Virginia. In the event of a dispute between the parties with respect to the subject matter of this Agreement, venue shall be in the state courts in the City of Norfolk.

19. Entire Agreement. This Agreement sets forth the entire agreement and understanding between the parties with respect to the contemplated transaction and supersedes all prior agreements, arrangements, and understandings.

20. Non-Waiver. Failure of any party at any time or times to require performance of any provisions hereof shall in no manner affect the right to enforce the provision at a later time. No waiver by either party of any condition, or the breach of any term, covenant, representation or warranty contained in this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed a further or continuing waiver of any condition or covenant, representation or warranty of this Agreement.

21. Amendment; Modification. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

22. Relationship of Parties. This Agreement is not to be construed to create a partnership or joint venture between the parties.

23. Negotiated Document. The parties acknowledge that the provisions and language of this Agreement have been negotiated and agree that no provision of this Agreement shall be construed against any party by reason of such party having drafted such provision of this Agreement.

24. Headings. The captions and section headings are for convenience only and shall not be used in construing or enforcing any of the provisions of this Agreement.

25. Execution. This Agreement is executed under seal.

26. Survival. Except as otherwise expressly provided in this Agreement, all covenants, representations, and warranties made by the Seller or Purchaser shall survive the Closing for a period of three (3) months after Closing.

27. Dates. If any period or date under this Agreement would expire or fall on a weekend or holiday, such period or date shall be extended until the first business day thereafter. The parties agree that the date this Agreement is binding and effective ("**Effective Date**") is the later of the dates each party caused this Agreement to be executed as evidenced in the signature blocks below; provided, however, that failure to enter a date next to a signature block by either party will not invalidate such signature and will be construed as a waiver of that party's right to dispute the Effective Date as determined by the date entered next to the other party's signature block. To the extent requested by either party, each party agrees to execute a written document confirming the Effective Date of the Agreement for purposes of determining other dates set forth in this Agreement.

28. Time is of the Essence. Time is of the essence in the performance of the parties' respective obligations set forth in this Agreement.

29. Successors; Assigns. This Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their respective successors and permitted assigns.

30. Severability. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision was not contained herein.

31. Brokers. Seller and Purchaser each represent and warrant that no broker to whom a commission, fee or other compensation is payable is or has been involved in or brought about the transaction contemplated by this Agreement. To the extent permitted by applicable law, Purchaser and Seller shall each indemnify, defend, and hold the others harmless from any and all claims, obligations, liabilities, costs or expense (including reasonable attorneys' fees) incurred as

a result of any claim for brokerage commissions, fees or other compensation by any person or entity who alleges having acted or dealt with the indemnifying party in connection with the Property or the transactions contemplated by this Agreement. The parties' obligations under this Section 31 shall survive the Closing and any termination of this Agreement.

32. Counterparts; Copies. This Agreement may be executed in one or more counterparts and each such counterpart shall be deemed to be an original. All counterparts so executed shall constitute one instrument and shall be binding on all parties to this Agreement notwithstanding that all parties are not signatories to the same counterpart. Any electronic signatures, whether digital or encrypted, of any of the parties are intended to authenticate this writing and to have the same force and effect as manual, wet ink signatures. For all purposes of this Agreement, "electronic signatures" means any electronic sound, symbol or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including but not limited to signatures delivered in .pdf format and by facsimile, email or other electronic transmissions.

33. Additional Documents, Further Assurances. In addition to the obligations required to be performed hereunder by the parties at the Closing, each party agrees to perform such other acts and to execute, acknowledge and deliver, subsequent to the Closing, such additional or corrective instruments, documents and other materials as the other party may reasonably request and as shall be necessary in order to effectuate the consummation of the transaction contemplated herein and to vest fee simple title to the Property in Purchaser. This Section 33 shall survive Closing and the execution and delivery of the Deed.

[Remainder of page intentionally left blank.]

[Signature Page to Purchase and Sale Agreement – 200, 206, & 210 W. Ocean View Avenue, Norfolk, VA – Level Realty, LLC (Seller) / City of Norfolk (Purchaser)]

WITNESS the following signatures and seals:

SELLER:

LEVEL REALTY, LLC, a Virginia limited liability company

By: _____

Name: _____

Title: _____

Date: _____

COMMONWEALTH/STATE OF _____
CITY/COUNTY OF _____, to-wit:

I, _____, a Notary Public in and for the City/County of _____, in the Commonwealth/State of _____, do hereby certify that _____, _____ of Level Realty, LLC, whose name is signed to the foregoing Purchase and Sale Agreement, has acknowledged the same before me in my City/County and Commonwealth/State aforesaid.

Given under my hand this ____ day of _____, 20__.

Notary Public

My commission expires: _____

Registration No.: _____

[Signatures continue on following page.]

[Continuation of Signature Pages to Purchase and Sale Agreement – 200, 206, & 210 W. Ocean View Avenue, Norfolk, VA – Level Realty, LLC (Seller) / City of Norfolk (Purchaser)]

PURCHASER:

CITY OF NORFOLK, a municipal corporation of the Commonwealth of Virginia

By: _____

Name: Dr. Larry H. Filer II

Title: City Manager

Date: _____

ATTEST:

City Clerk

**COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:**

I, _____, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, do hereby certify that Dr. Larry H. Filer II, City Manager of the City of Norfolk, and Richard A. Bull, City Clerk of the City of Norfolk, whose names as such are signed to the foregoing Purchase and Sale Agreement, have acknowledged the same before me in my City and State aforesaid.

Given under my hand this _____ day of _____, 20____.

Notary Public

My commission expires: _____

Registration no.: _____

Approved as to Form & Correctness:

Deputy City Attorney

[Signatures continue on following page.]

EXHIBIT A
Property

