

**RESOLUTION APPROVING DEFEASANCE OF
VANGUARD LANDING PROMISSORY NOTE
BY SENTARA HEALTHCARE**

WHEREAS, the City of Virginia Beach Development Authority (the "Authority") was created pursuant to Chapter 643 of the Acts of Assembly of 1964, as amended (the "Act");

WHEREAS, pursuant to §10 of the Act, the City of Virginia Beach (the "City") "is authorized and empowered to make appropriations and to provide funds for the operation of the Authority and to further its purposes";

WHEREAS, on December 17, 2013 the Authority adopted a resolution authorizing a loan to Vanguard Landing, Inc., a Virginia non-profit corporation ("Vanguard Landing") to provide funding for Vanguard Landing's purchase of approximately 74.54 acres of property off Princess Anne Road, located south of the intersection of Princess Anne Road and Sandbridge Road (the "Property");

WHEREAS, Vanguard Landing proposed to develop the Property into a mixed-use facility consisting of residential, retail and commercial components for citizens with intellectual disabilities (the "Project");

WHEREAS, on February 13, 2014, the Authority made a loan in the amount of \$2,850,406.00 to Vanguard Landing (the "Loan") and Vanguard Landing acquired the Property;

WHEREAS, the Authority funded the Loan with appropriation from City Council for the purpose of making the Loan;

WHEREAS, the Loan is evidenced by a promissory note dated February 13, 2014 (the "Promissory Note") and secured by a deed of trust also dated February 13, 2014 and recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia, as Instrument No. 2014022000014460 (the "Deed of Trust");

WHEREAS, under the terms of the Promissory Note, Vanguard Landing was required to have completed construction of at least one (1) building at the Project on or before February 13, 2019, and (2) submit an annual written report of its progress towards obtaining necessary approvals for the Project;

WHEREAS, to date, Vanguard Landing has not commenced construction on any buildings for the Project and remains in default under the Promissory Note;

WHEREAS, Vanguard Landing has timely made all payments due under the Promissory Note, totaling \$728,032.48, and the current outstanding balance is \$2,122,373.52;

WHEREAS, Sentara Healthcare, a Virginia nonstock corporation (“Sentara”), has approached the Authority about defeasing the Authority’s interest in the Promissory Note for the discounted price of \$1,200,000, upon which the Promissory Note shall be immediately retired and the Deed of Trust shall be released;

WHEREAS, Sentara has represented that it recognizes the need for the Project, or a similar project allowed by the current zoning, on the Property and that its defeasance of the Promissory Note is contingent upon Sentara entering into an agreement with Vanguard Landing pursuant to which the Project will be required to be built; and

WHEREAS, the Authority believes that agreeing to the defeasance and retirement of the Promissory Note to Sentara will both increase the chance of success of the Project and best protect the interests of the Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

1. That the Authority hereby approves the defeasance and retirement of its interest in the Promissory Note and Deed of Trust upon payment by Sentara Healthcare to the Authority of the sum of \$1,200,000.
2. On receipt of the funds from Sentara, the Authority authorizes the transfer of the \$1,200,000 plus the \$728,032.48 already received from Vanguard Landing back to the City of Virginia Beach.
3. This Resolution shall be deemed null and void if Sentara has not reached agreement with Vanguard Landing as contemplated above within sixty (60) days of the date of this Resolution.
4. The Chair or Vice-Chair are hereby authorized to execute such documents as may be necessary to evidence the transactions referenced above, including but not limited to certificates of satisfaction and release of the Promissory Note and the Deed of Trust, so long as such documents are acceptable to the Chair or Vice-Chair, and are in a form deemed satisfactory by the City Attorney.

[SIGNATURES ON FOLLOWING PAGE]

Adopted this 18th day of April, 2023, by the City of Virginia Beach Development Authority.

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By: 
Secretary / Assistant Secretary

APPROVED AS TO CONTENT:


Economic Development

APPROVED AS TO LEGAL
SUFFICIENCY:


City Attorney

A RESOLUTION AUTHORIZING THE TERMINATION
OF THE INTERGOVERNMENTAL SUPPORT
AGREEMENT WITH THE UNITED STATES NAVY FOR
FUTURE BASE DESIGN AT NAS OCEANA

WHEREAS, in May 2005, the Virginia Beach City Council adopted the Hampton Roads Joint Land Use Study (the "JLUS") and directed City staff to take appropriate measures to implement the recommendations therein;

WHEREAS, during the JLUS process, the Navy and the City produced a Statement of Understanding dated March 15, 2005, in which, among other things, the parties agreed that the City would create a new process for Navy officials to review and comment earlier in the process on proposed development of property located within Air Installation Compatible Use Zones (AICUZ) and strengthen its working relationship with the Navy and create an ongoing, open dialogue to address the Navy's concerns about potential encroachment around NAS Oceana;

WHEREAS, since the completion of the JLUS, the City has established its YesOceana program to roll back encroachments and promote compatible land uses around NAS Oceana;

WHEREAS, the Navy has explored the potential renovation, redevelopment or other utilization of certain parcels of NAS Oceana property for further compatible development in partnership with the City, as part of the Navy's Future Base Design program (the "FBD");

WHEREAS, on January 6, 2022 the City of Virginia Beach Development Authority (the "Authority") and the Navy entered into an Intergovernmental Support Agreement ("IGSA") whereby the Authority would assist in the identification and attraction of potential users of NAS Oceana property consistent with the FBD;

WHEREAS, the purpose of the IGSA has been met and the parties mutually desire to terminate the IGSA as of the date of this Resolution to pursue future objectives relating to the FBD; and

WHEREAS, the Authority remains committed to FBD, the YesOceana program, and the continued successful operation of NAS Oceana's East Coast Master Jet Base in Virginia Beach and believes the termination of the IGSA will further those goals.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

That the Chair or Vice Chair is hereby authorized to execute a termination to the Intergovernmental Support Agreement.

Adopted this 18TH day of APRIL, 2023, by the City of Virginia Beach Development Authority.

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By 
Secretary/Assistant Secretary

APPROVED AS TO CONTENT:


Economic Development

APPROVED AS TO LEGAL
SUFFICIENCY:


City Attorney

A RESOLUTION APPROVING THE PROVISION
OF FAÇADE IMPROVEMENT GRANT

WHEREAS, the City of Virginia Beach Development Authority (the "Authority") was created pursuant to Chapter 643 of the Acts of Assembly of 1964, as amended (the "Act");

WHEREAS, one of the primary purposes of the Act is to enable development authorities "to promote industry and develop trade by inducing manufacturing, industrial, governmental and commercial enterprises to locate in or remain in the Commonwealth....";

WHEREAS, pursuant to §6 of the Act, the Authority has the power, *inter alia*, "to sell, exchange, donate and convey any or all of its facilities or other properties whether realty or personalty whenever the Authority shall find any such action to be in furtherance of the purposes for which the Authority was organized";

WHEREAS, pursuant to §7 of the Act, "the Authority may foster and stimulate the development of industry in the area within its jurisdiction... [and] may accept, and expend for the purposes stated above, money from any public or private source....";

WHEREAS, pursuant to §10 of the Act, the City of Virginia Beach (the "City") "is authorized and empowered to make appropriations and to provide funds for the operation of the Authority and to further its purposes";

WHEREAS, the economic development goals and objectives of the City include achieving a higher ratio of nonresidential to residential real estate assessments, investing in land and infrastructure to benefit future economic growth, and maximizing the return of economic development efforts through the development and implementation of programs and strategies that facilitate new business investment and encourage retention and expansion activities, thereby improving the overall quality of life in the City;

WHEREAS, pursuant to the authority and empowerment set forth in §10 of the Act, the Authority administers the Façade Improvement Grant (FIG) program (the "Program") to assist small, locally owned and operated business located in any commercial or industrial zoned area within the City of Virginia Beach (each business, an "Applicant");

WHEREAS, the Program is a matching grant program to reimburse businesses up to \$10,000 for the cost of impactful improvement to the exterior building, site and outdoor dining areas;

WHEREAS, a grant review committee (the "Grant Review Committee") evaluates and ranks each application submitted and makes recommendations to the Authority for consideration;

WHEREAS, the Grant Review Committee has reviewed and ranked the applications and recommends that the Authority approve a grant under the Program to the Applicant and in the amount as shown on Exhibit A attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

1. That the Authority hereby finds (a) that the provision of each grant will primarily serve the valid public purpose and will foster and stimulate economic development in the City; and (b) is in furtherance of the purposes for which the Authority was created.

2. That based on the recommendations of the Grant Review Committee, the Authority hereby approves a reimbursement grant under the Program to the Applicant and in the amount as specified on Exhibit A, attached hereto and made a part hereof.

4. That funds will be dispersed only after (a) completion of the improvements for which funds are authorized and (b) final inspection by staff to ensure consistency with the Program, including the expenditures as stated in the application.

6. The Authority may terminate this award and decline to pay any unpaid grant funds if the Applicant has not completed the improvements within six (6) months from the date of this Resolution unless the Recipient has requested an extension (not to exceed two months), prior to the expiration of the six-month period, which extension may be approved administratively at the discretion of the Director of Economic Development with the concurrence of the City Attorney.

Adopted this 18th day of April, 2023, by the City of Virginia Beach Development Authority.

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By: 
Secretary/Assistant Secretary

APPROVED AS TO CONTENT:


Economic Development

APPROVED AS TO LEGAL
SUFFICIENCY:


City Attorney

EXHIBIT A							
Applicant Representative	Total Grant Award	Applicant Name	Project Address	Type of Business	Property Owner Name	Façade Capital Investment	District
Krishna Loftus	\$ 10,000.00	CLR, Inc. DBA The Rainbow Cactus Company	475 S Lynnhaven Rd. Virginia Beach, 23452	Restaurant/Night Club	J.L. Herrell II & Associates	\$ 32,948.00	3
1	\$ 10,000.00					\$ 32,948.00	

A RESOLUTION APPROVING THE PROVISION
OF \$100,000 IN ECONOMIC DEVELOPMENT
INVESTMENT PROGRAM FUNDS TO
JAZZ SOLUTIONS INC.

WHEREAS, the City of Virginia Beach Development Authority (the "Authority") was created pursuant to Chapter 643 of the Acts of Assembly of 1964, as amended (the "Act");

WHEREAS, one of the primary purposes of the Act is to enable development authorities "to promote industry and develop trade by inducing manufacturing, industrial, governmental and commercial enterprises to locate in or remain in the Commonwealth...";

WHEREAS, pursuant to §6 of the Act, the Authority has the power, *inter alia*, "to sell, exchange, donate and convey any or all of its facilities or other properties whether realty or personalty whenever the Authority shall find any such action to be in furtherance of the purposes for which the Authority was organized";

WHEREAS, pursuant to §7 of the Act, "the Authority may foster and stimulate the development of industry in the area within its jurisdiction... [and] may accept, and expend for the purposes stated above, money from any public or private source...";

WHEREAS, pursuant to §10 of the Act, the City of Virginia Beach (the "City") "is authorized and empowered to make appropriations and to provide funds for the operation of the Authority and to further its purposes";

WHEREAS, the economic development goals and objectives of the City include achieving a higher ratio of nonresidential to residential real estate assessments, investing in land and infrastructure to benefit future economic growth, and maximizing the return of economic development efforts through the development and implementation of programs and strategies that facilitate new business investment and encourage retention and expansion activities, thereby improving the overall quality of life in the City;

WHEREAS, the City established the Economic Development Investment Program ("EDIP") as part of its overall effort to enhance the City's ability to accomplish these goals and objectives;

WHEREAS, pursuant to the authority and empowerment set forth in §10 of the Act, City Council authorized the transfer of funds in the EDIP account to the Authority and the provision of future EDIP appropriations to the Authority to enable the Authority to more effectively continue its efforts to foster and stimulate economic development by inducing businesses to locate or remain in the City;

WHEREAS, the Department of Economic Development (the "Department"), acting on behalf of the Authority, has induced JAZZ SOLUTIONS INC., a Virginia corporation (the "Recipient"), to expand its operations at 477 Viking Drive, Virginia Beach, Virginia 23462 (the "Property");

WHEREAS, the inducement includes an agreement to recommend the award to Recipient of \$100,000.00 in EDIP funds to underwrite a portion of costs associated with the expansion of the Recipient's operation at the Property;

WHEREAS, Recipient has represented in its application and the Director of Economic Development (the "Director"), upon review of the application submitted by Recipient, has determined and has advised the Authority it will meet at least one of the following performance criteria (the "Performance Criteria") within thirty-six (36) months after the date of this Resolution.

- (a) Tax Revenues: The net amount of direct tax revenues returned to the City as a result of the Recipient's operation will exceed the amount of EDIP Funds provided in thirty-six (36) months; and/or
- (b) Employment Opportunity: For every Three Thousand Thirty and 30/100 Dollars (\$3,030.30) of EDIP funds received, Recipient will create one (1) new "full-time equivalent" employment opportunity in its operation with an average annual salary of over \$75,001.00, excluding benefits.

WHEREAS, the Director of Economic Development, upon review of the application submitted by Recipient, has determined and has advised the Authority that one or more of the following criteria has been met: (i) the net amount of direct tax revenues returned to the City as a result of Recipient's operation will exceed the amount of EDIP funds provided in thirty-six (36) months, and/or (ii) for every Three Thousand Thirty and 30/100 Dollars (\$3,030.30) in EDIP funds provided to the Recipient will create at least one (1) new "full-time equivalent" employment opportunity in its operation, with an average annual salary of over \$75,001.00, excluding benefits.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

- 1. That the Authority hereby finds:
 - a. that the provision of \$100,000.00 in EDIP funds to JAZZ SOLUTIONS INC., a Virginia corporation (the "Recipient") will primarily serve the valid public purpose of fostering and stimulating economic development in the City; and
 - b. that the provision of the EDIP funds is in furtherance of the purposes for which the Authority was created; and
 - c. that it is unlikely the Recipient would locate its operations within the City without the stimulus of the EDIP award.
- 2. That the Authority hereby further finds that, based on the direct benefits to the City of Virginia Beach and its citizens resulting from the capital investment and employment opportunities to be generated by the Recipient as a result of its proposed location in Virginia Beach, the provision of \$100,000.00 in EDIP funds to the Recipient will only incidentally enure to the benefit of private interests.

3. That as of the date of this Resolution, the Recipient has not filled any of the new full-time job positions being incentivized by this EDIP award.

4. That based on these findings, the Authority hereby approves the provision of \$100,000.00 in EDIP funds to the Recipient to underwrite a portion of the costs associated with the location of the Recipient's operations in Virginia Beach.

5. That disbursement of EDIP Funds by the Authority shall be at the discretion of the Director of the Department of Economic Development of the City of Virginia Beach or his designee (the "Director"), who shall be authorized to require appropriate verification as to qualifying expenditures.

6. That disbursement of EDIP funds to the Recipient shall be on a pro-rata reimbursement basis upon presentation of original receipts for qualifying expenditures to the Director. At the sole discretion of the Director, disbursement may not be prior to the completion of the Performance Criteria. Disbursement of EDIP funds shall be from time to time, but not more frequently than once per month, until fully expended.

7. That as a condition of receiving EDIP Funds, each new job created must be maintained without interruption for thirty-six (36) months from the date of this Resolution (the "Performance Period") or the funds advanced for that new job may be subject to recapture as set forth in Section 8, below.

8. The Director may require the Recipient to enter into a Recapture Agreement approved by the Director to allow for the recapture of funds for any new job created that is subsequently terminated or eliminated by the Recipient. Such Recapture Agreement shall provide for the repayment by the Recipient of that portion of EDIP funds so disbursed prorated for the percentage of the Performance Criteria satisfied prior to the expiration of the Performance Period, and shall contain certain other provision as may be determined or required by the Director. Should an individual new job become vacant but Recipient is actively seeking a replacement employee, EDIP funds advanced for that new job shall not be subject to recapture.

9. As a further condition of receiving the EDIP Funds, the Recipient shall conduct operations in the New Locations (or such other locations in the City of Virginia Beach as may be agreed to by the Authority, including an Existing Location for which funds are awarded) for a minimum of five (5) years from the time of this award. Even if the requirement of paragraph 1 is met, for each year less than five that the Recipient conducts operations at the Property (or other agreed to location) upon written request from the Authority, the Recipient shall pay to the Authority, as EDIP recapture and not as a penalty, one-fifth (1/5) of the amount of the EDIP Funds provided. Such amount shall be paid within fifteen (15) business days after receipt of request from the Authority, and if not paid by such date, the amount due will bear interest at the rate of ten percent (10%) per annum from such date until paid, and such interest shall be payable by the Recipient in addition to the amount due as calculated above.

10. The Authority may terminate this award and decline to pay any unpaid funds if the Recipient has not satisfied the Performance Criteria and requested the full \$100,000.00 within thirty-six (36) months of the date of this Resolution.

Adopted this 18th day of April, 2023, by the City of Virginia Beach Development Authority.

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By: 
Secretary / Assistant Secretary

APPROVED AS TO CONTENT


Economic Development

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney

**RESOLUTION AUTHORIZING AND APPROVING THE AMENDMENT TO THE
CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY INDUSTRIAL
DEVELOPMENT REVENUE AND REFUNDING BOND (LIFENET HEALTH
PROJECT) SERIES 2010 AND THE EXECUTION OF RELATED DOCUMENTS**

WHEREAS, pursuant to Chapter 643 of the Acts of Assembly of 1964, as amended and supplemented by the Industrial Development and Revenue Bond Act, Chapter 49, Section 15.2 (the "Act") of the Code of Virginia of 1950, as amended (the "Virginia Code"), the City of Virginia Beach Development Authority, a political subdivision of the Commonwealth of Virginia (the "Authority"), is authorized to exercise all the powers set forth in the Act, which include, among other things, the power to make loans to organizations formed, described and operating in accordance with Section 501(c)(3) of the Internal Revenue Code of 1986, as Amended (the "Tax Code") such as LifeNet Health, a nonstock, not-for-profit Virginia corporation (the "Company") to finance qualified projects on a tax-exempt basis and to issue revenue bonds from time to time for such purposes and to pledge all or any part of revenues derived by the Authority in connection with any such loans to secure the payment of such revenue bonds; and

WHEREAS, at the request of the Company, the Authority (a) adopted a resolution on December 21, 2010 (the "2010 Bond Resolution") authorizing the issuance of its \$30,000,000 City of Virginia Beach Development Authority Industrial Development Revenue and Refunding Bond (LifeNet Health Project), Series 2010 (the "2010 Variable Rate Bond"), the proceeds of which were used to make a loan to the Company to finance or refinance the acquisition, construction and equipping of a new high technology science building for research and development and diagnostic testing, containing two floors and no less than 40,000 square feet, together with related site work and parking on a 6.53 acre parcel located adjacent and contiguous to the Company's primary place of business located at 1864 Concert Drive, Virginia Beach, Virginia 23453 (the "Existing Facility") and the current refunding of the outstanding principal balance of the Authority's Variable Rate Demand Revenue Bonds (LifeNet Project), Series 2004, which were issued to finance the Existing Facility and the costs of issuance of the 2010 Variable Rate Bond (the "Project"); and

WHEREAS, the Authority, the Company and SunTrust Bank, the predecessor in interest to Truist Bank (the "Bondholder") entered into a Bond Purchase and Financing Agreement dated as of December 15, 2010 (the "BPFA"), as amended by a First Amendment to Bond Purchase and Financing Agreement dated as of November 10, 2015, a Second Amendment to Bond Purchase and Financing Agreement dated as of December 19, 2018, and a Third Amendment to Bond Purchase and Financing Agreement dated as of April 1, 2021 (as so amended, the "Prior Amendments"); and

WHEREAS, to evidence its obligations related to the 2010 Variable Rate Bond, the Company executed and delivered to the Authority a Promissory Note dated December 21, 2010, in the original principal amount of \$17,910,000, and a Promissory Note dated December 21, 2010, in the original principal amount of \$12,090,000, which the Authority assigned to the Bondholder as security for the 2010 Variable Rate Bond (collectively, the "Existing Notes", together with the BPFA, the 2010 Variable Rate Bond and the Prior Amendments, as so amended, the "Existing Agreement"); and

WHEREAS, the parties now desire to amend certain terms of the BPFA, the 2010 Variable Rate Bond, and the Existing Notes as provided herein; and

WHEREAS, the amendment to the Existing Agreement will be reflected in the following documents that will hereafter be collectively referred to as the "Amendment Documents," which have been reviewed by Williams Mullen as bond counsel ("Bond Counsel") and presented to the Authority for its approval:

- (a) the Fourth Amendment to the Bond Purchase and Financing Agreement by and among the Authority, the Company and the Bondholder (the "Fourth Amendment") attached thereto as Exhibit A;
- (b) the Amended and Restated City of Virginia Beach Development Authority Industrial Development Revenue and Refunding Bond (LifeNet Health Project) Series 2010 (the "Amended and Restated Variable Rate Bond") attached hereto as Exhibit B; and
- (c) the First Amendment and Allonge to Promissory Note (\$17,910,000 Note) and the First Amendment and Allonge to Promissory Note (\$12,090,000 Note) both of which shall be collectively referred to as the "Amended Notes" attached hereto as Exhibit C.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY THAT:

1. The Amendment Documents are hereby authorized and approved. The Chair, Vice Chair, and any other officer of the Authority, any of whom may act alone (the "Authorized Official") are each hereby authorized and directed to execute the Amendment Documents.
2. Each of the Amendment Documents shall be in substantially the same forms as submitted to this meeting, which are hereby approved, with such completions, omissions, insertions and changes (including, without limitation, changes of the dates thereof) as may be approved by the Authorized Official executing them, his or her execution to constitute conclusive evidence of the approval of any such completions, omissions, insertions and changes. The execution, delivery and performance by the Authority of the Amendment Documents are hereby authorized and directed.
3. The Authorized Official is hereby authorized and directed to execute on behalf of the Authority, and to deliver the Amendment Documents and such other agreements, certificates, documents and instruments, and to do and perform such things and acts, as are authorized hereby or contemplated by the Amendment Documents, and, if required, the Secretary or any other officer of the Authority is authorized and directed to affix the seal of the Authority to the Amendment Documents and such other agreements, certificates, documents and instruments and to attest such seal. The signatures of the Authorized Official,

the Secretary (or any other officer of the Authority) and the seal of the Authority on the Amendment Documents may be by facsimile.

4. The Authorized Official is hereby authorized and directed to execute and deliver on behalf of the Authority such other agreements, certificates, documents and instruments and to do and perform such other things and acts, as shall be necessary or appropriate to carry out the transactions authorized by this Resolution or contemplated by the Amendment Documents or such other agreements, certificates, documents and instruments. All of the foregoing previously done or performed on behalf of the Authority are in all respects hereby approved, ratified and confirmed.

5. Any authorization herein to execute a document shall include authorization to change the date of such document, record such document where appropriate and to deliver it to the other parties thereto.

6. All other acts of the officers of the Authority that are in conformity with the purposes and intent of this Resolution and in furtherance of the amendment to the Existing Agreement pursuant to the Amendment Documents are hereby approved and confirmed.

7. The Authority hereby confirms its acceptance of the designation of Williams Mullen, Richmond, Virginia to serve as Bond Counsel and its appointment of such firm to supervise the proceedings and approve the Amendment Documents.

8. All costs and expenses in connection with the Amendment Documents shall be paid by the Company.

9. The Company has agreed in the Fourth Amendment to indemnify and hold harmless the Authority, its officers, directors, employees and agents from and against all liabilities, obligations, claims, damages, penalties, losses, costs and expenses in any way connected with the Amendment Documents.

10. The Amended and Restated Variable Rate Bond shall be a limited obligation of the Authority and shall be payable solely out of revenues, receipts and payments specifically pledged therefor. Neither the directors, officers, agents or employees of the Authority, past, present and future, nor any person executing the Amended and Restated Variable Rate Bond or any other document associated with the modifications made to the Existing Documents by the Amendment Documents, shall be liable personally on any of the Amendment Documents. The Amended and Restated Variable Rate Bond shall not be deemed to constitute a general obligation debt or a pledge of the faith and credit of the Commonwealth of Virginia or any political subdivision thereof, including the Authority and the City of Virginia Beach, Virginia, and neither the Commonwealth of Virginia nor any such political subdivision thereof shall be liable thereon, nor in any event shall the Amended and Restated Variable Rate Bond be payable out of any funds or properties other than the funds and resources of the Company provided therefor. Neither the faith and credit nor the taxing power of the Commonwealth of Virginia, or any political subdivision thereof, shall be pledged to the payment of the principal of the Amended and Restated Variable Rate Bond or the interest thereon or other costs incident

thereto. The Amended and Restated Variable Rate Bond shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

11. This resolution shall take effect immediately upon its adoption.

Adopted: April 18, 2023

[Signature Page Follows]

READ AND ADOPTED: April 18, 2023

CERTIFICATE OF VOTES

A record of the roll-call vote by the City of Virginia Beach Development Authority, upon reading of a resolution titled " **RESOLUTION AUTHORIZING AND APPROVING THE AMENDMENT TO THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY INDUSTRIAL DEVELOPMENT REVENUE AND REFUNDING BOND (LIFENET HEALTH PROJECT) SERIES 2010 AND THE EXECUTION OF RELATED DOCUMENTS**" at a meeting of the Authority held on April 18, 2023 is set forth below:

	AYE	NAY	ABSTAIN	ABSENT
Lisa M. Murphy, Chair	X			
Joseph E. Strange, Vice-Chair	X			
Dr. William Brown	X			
William Brunke, Treasurer				X
Nneka Chiazor	X			
W. Taylor Franklin	X			
Penny Morgan				X
Ronnie L. Parker	X			
Michael J. Standing	X			
Guenter H. Weissenseel	X			

David L. Bernd, Secretary
Dated: April 18, 2023

X

(SEAL)

By: 
Name: Lisa Murphy
Chair / Vice Chair
City of Virginia Beach
Development Authority

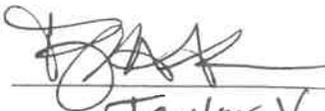
ATTEST:

By: 
Name: Taylor V. Adams
Secretary / Assistant Secretary

The undersigned Secretary of the City of Virginia Beach Development Authority hereby certifies that the foregoing is a true, correct, and complete copy of a Resolution adopted by the Authority's commissioners present and voting at a meeting duly called and held on April 18, 2023 in accordance with law, and that such Resolution has not been repealed, revoked, rescinded, or amended, but is in full force and effect as of the date hereof.

WITNESS my hand and the seal of the Authority this 18th day of April, 2023

**CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY**

By: 
Name: Taylor V. Adams
~~Secretary~~ / Assistant Secretary

APPROVED AS TO LEGAL
SUFFICIENCY:



City Attorney

(102389435.1)

EXHIBIT A

Fourth Amendment to Bond Purchase and Financing Agreement

FOURTH AMENDMENT TO BOND PURCHASE AND FINANCING AGREEMENT

THIS FOURTH AMENDMENT TO BOND PURCHASE AND FINANCING AGREEMENT (the "Amendment"), is dated as of April 15, 2023, among CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY, a political subdivision of the Commonwealth of Virginia (the "Authority"), LIFENET HEALTH, a Virginia nonstock, nonprofit corporation (the "Company"), and TRUIST BANK, a North Carolina banking corporation (successor by merger to SUNTRUST BANK, a Georgia banking corporation) (the "Bondholder").

A. The Authority, the Company and the Bondholder entered into a Bond Purchase and Financing Agreement dated as of December 15, 2010, as amended by a First Amendment to Bond Purchase and Financing Agreement dated as of November 10, 2015, a Second Amendment to Bond Purchase and Financing Agreement dated as of December 19, 2018, and a Third Amendment to Bond Purchase and Financing Agreement dated as of April 1, 2021 (as so amended, the "Existing Agreement"), pursuant to which the Authority issued its \$30,000,000 Industrial Development Revenue and Refunding Bond (LifeNet Health Project), Series 2010, dated December 21, 2010 (the "Existing Bond") for the benefit of the Company.

B. To evidence its obligations related to the Existing Bond, the Company issued to the Authority a Promissory Note dated December 21, 2010, in the original principal amount of \$17,910,000, and a Promissory Note dated December 21, 2010, in the original principal amount of \$12,090,000 (collectively, the "Existing Notes"), and the Authority (in accordance with the Existing Agreement) assigned the Existing Notes to the Bondholder as security for the Existing Bond.

C. The parties now desire to amend certain terms of the Existing Agreement, the Existing Bond and the Existing Notes as provided herein.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants contained herein, the receipt and sufficiency of which consideration are hereby mutually acknowledged, the Authority, the Company and the Bondholder hereby agree as follows:

1. Capitalized Terms; Effective Date. Capitalized terms used in this Amendment which are not otherwise defined herein shall have the meanings assigned thereto in the Existing Agreement, as amended by this Amendment. Except as expressly provided to the contrary herein, all amendments to the Existing Agreement set forth herein shall be effective as of the date of this Amendment.

2. Amendments to Existing Agreement. The Existing Agreement is hereby amended as follows:

(a) Amended Definitions. The definition of "Business Day" set forth in Section 1.1 of the Existing Agreement is amended and restated to read as follows:

""Business Day" shall mean any day other than a Saturday, Sunday, legal holiday or any other day on which the Bondholder is authorized or required to close; provided that when used in connection with the determination of Term SOFR (as

defined in the Bond), "Business Day" means a U.S. Government Securities Business Day (as defined in the Bond)."

(b) Bondholder References. All references to the "Bondholder" in the Existing Agreement are amended to be references to Truist Bank, a North Carolina banking corporation (successor by merger to SunTrust, a Georgia banking corporation).

(c) Amended and Restated Bond. The Existing Bond will be amended and restated as set forth in the Amended and Restated Bond (the "Restated Bond") in substantially the form attached as Exhibit A hereto. The Authority is authorized to execute and deliver the Restated Bond to the Bondholder. The Bondholder, the Company and the Authority hereby consent to the amendments set forth in the Restated Bond. All references to the "Bond" in the Existing Agreement (as amended by this Amendment), and in any of the other Bond Documents, shall be references to the Restated Bond.

(d) First Allonge to Promissory Note. Each of the Notes will be amended as set forth in each First Allonge and Amendment to Promissory Note executed by the Company (each, an "Allonge to Note") in substantially the forms attached as Exhibits B-1 and B-2 hereto. The Bondholder hereby consents to the amendments set forth in each Allonge to Note, and the Authority acknowledges and approves each Allonge to Note. All references to a "Note" or the "Notes" in the Existing Agreement (as amended by this Amendment) and in any of the other Bond Documents, shall be references to each of the Existing Notes as amended by each Allonge to Note.

3. Representations and Warranties. The Company hereby represents and warrants to the Bondholder that:

(a) The Company is in compliance with all of the terms, covenants and conditions of the Existing Agreement, and all of the terms, covenants and conditions of each of the other Bond Documents to which it is a party.

(b) There exists no Event of Default and no event has occurred or condition exists which, with the giving of notice or lapse of time, or both, would constitute an Event of Default.

(c) After giving effect to this Amendment, the representations and warranties contained in Section 2.2 of the Existing Agreement are, except to the extent that they relate solely to an earlier date, true with the same effect as though such representations and warranties had been made on the date hereof.

(d) The Company has full corporate power and authority to execute and deliver this Amendment and each Allonge to Note, to perform its obligations under the Existing Agreement (as amended by this Amendment) and each of the Notes (as amended by the applicable Allonge to Note), and to incur the obligations provided for herein and therein, all of which have been duly authorized by all proper and necessary corporate action.

(e) This Amendment, the Existing Agreement (as amended by this Amendment) and each of the Notes (as amended by the applicable Allonge to Note) constitute the valid and legally binding obligations of the Company, enforceable in accordance with their

respective terms, except as the enforceability hereof or thereof may be limited by bankruptcy, insolvency, or similar laws affecting creditors' rights generally or by general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(f) There are no actions, suits, proceedings or investigations pending or, so far as the officers of the Company know, threatened before any court or administrative agency that, in the opinion of such officers, would, if adversely determined, materially adversely affect (i) the financial condition or operations of the Company, or (ii) the ability of the Company to execute or deliver this Amendment or each Allonge to Note, or to carry out the terms of the Existing Agreement (as amended by this Amendment) and each of the Notes (as amended by the applicable Allonge to Note).

(g) If the Company is required to deliver to the Bondholder a beneficial ownership certification pursuant to the requirements of 31 C.F.R. § 1010.230, the information included in such beneficial ownership certification most recently provided to the Bondholder is true and correct in all respects.

4. Conditions. The effectiveness of this Amendment is subject to the following conditions precedent:

(a) The Authority, the Company and the Bondholder, as applicable, shall have executed and delivered this Amendment, the Restated Bond and each Allonge to Note.

(b) The Bondholder shall have received an opinion of counsel to the Company, in form and substance satisfactory to the Bondholder, to the effect that, among other things, the Company is duly organized and validly existing, and in good standing under the laws of the Commonwealth of Virginia and that the Existing Agreement (as amended by this Amendment) and each of the Notes (as amended by the applicable Allonge to Note) have been duly authorized, executed and delivered and constitute the legal, valid and binding obligations of the Company, subject to customary assumptions, qualifications and exclusions.

(c) The Bondholder shall have received an opinion of Bond Counsel, in form and substance satisfactory to the Bondholder, to the effect that, among other things, the amendment and restatement of the Existing Bond by the execution and delivery of the Restated Bond will have no adverse effect on the excludability of interest on the Restated Bond from gross income for federal income tax purposes, or on the status of the Restated Bond as a "qualified tax-exempt obligation" under the provisions of Section 265(b)(3)(B)(ii) of the Code.

5. No Other Amendments; Reaffirmation; No Novation; No Waiver; Reservation of Rights and Release.

(a) Except as expressly amended hereby, the terms of the Existing Agreement shall remain in full force and effect in all respects, and the Company hereby reaffirms its obligations under the Existing Agreement (as amended by this Amendment) and under each of the other Bond Documents to which it is a party (as each of such Bond Documents may have been affected by this Amendment, including without limitation the Notes). The Company acknowledges and agrees that (i) the execution and delivery of this Amendment and consummation of the transactions contemplated hereby do not reduce, discharge, release, impair or otherwise limit

any of the Company's obligations under the Existing Agreement (as amended by this Amendment) or any of the other Bond Documents to which it is a party, (b) the Company does not have any offset, counterclaim or defense of any kind to its obligations, covenants or agreements under the Existing Agreement (as amended by this Amendment) or any of the other Bond Documents to which it is a party, (c) nothing contained in this Amendment shall be deemed to constitute a waiver or release by the Bondholder of any default or Event of Default that may now or hereafter exist under the Existing Agreement (as amended by this Amendment) or any of the other Bond Documents, or of the Bondholder's right to exercise any and all of its rights and remedies thereunder, all of which rights and remedies are hereby reserved by the Bondholder, and (d) nothing contained in this Amendment shall be construed to constitute a novation with respect to the indebtedness described in the Existing Agreement (as amended by this Amendment) and the other Bond Documents.

(b) The Company, for itself and for its successors and assigns, hereby releases and forever discharges the Bondholder and the Bondholder's respective predecessors, successors, assigns, officers, managers, directors, employees, agents, attorneys, representatives and affiliates (collectively, the "Bondholder Group"), from any and all presently existing claims, demands, damages, liabilities, actions and/or causes of action of any nature whatsoever, including, without limitation, all claims, demands and causes of action for contribution and indemnity, whether arising at law or in equity, whether known or unknown, whether liability be direct or indirect, liquidated or unliquidated, whether absolute or contingent, foreseen or unforeseen, and whether or not heretofore asserted, which the Company may have or claim to have against any of the Bondholder Group arising out of facts or events in any way related to the Existing Agreement (as amended by this Amendment), any of the other Bond Documents, or the transactions contemplated thereby or hereby that exist on the date hereof or arise from facts or actions occurring prior hereto or on the date hereof.

6. References. All references in the Existing Agreement to "this Agreement," "herein," "hereunder" or other words of similar import, and all references to the "Bond Purchase and Loan Agreement" or similar words in the other Bond Documents, or any other document or instrument that refers to the Existing Agreement, shall be deemed to be references to the Existing Loan Agreement as amended by this Amendment.

7. Expenses. The Company hereby agrees to pay all out-of-pocket expenses incurred by the Bondholder and the Authority in connection with the preparation of this Amendment and the consummation of the transactions described herein, including, without limitation, the reasonable attorneys' fees and expenses of the Bondholder and the Authority.

8. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without reference to conflicts of law principles.

9. Counterparts; Effectiveness of Electronic Delivery. This Amendment may be executed in several counterparts, each of which shall be an original, and all of which together shall constitute but one and the same instrument. Delivery by any party to this Amendment of its signatures hereon through facsimile or other electronic image file (including .pdf) (i) may be relied

upon as if this Amendment were physically delivered with an original hand-written signature of such party, and (ii) shall be binding on such party for all purposes.

10. Successors. This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

11. Limited Obligations of the Authority. Anything contained in this Amendment or the Existing Agreement (as amended by this Amendment) to the contrary notwithstanding, any obligation for the payment of money the Authority may incur in connection with the Existing Agreement (as amended by this Amendment) or the Restated Bond shall not be deemed to constitute a debt, liability or general obligation of the Authority or a pledge of the faith and credit of the Commonwealth of Virginia or any political subdivision thereof, including the Authority and the City of Virginia Beach, Virginia, but shall be payable solely from the revenues and receipts derived by the Authority from or in connection with the loan made pursuant to the Existing Agreement (as amended by this Amendment), including payments received under the Notes.

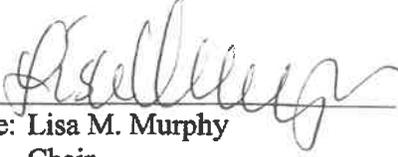
12. FINAL AGREEMENT. BY SIGNING THIS AMENDMENT, EACH PARTY REPRESENTS AND AGREES THAT: (A) THIS AMENDMENT REPRESENTS THE FINAL AGREEMENT BETWEEN OR AMONG THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF, (B) THIS AMENDMENT SUPERSEDES ANY COMMITMENT LETTER, TERM SHEET OR OTHER WRITTEN OUTLINE OF TERMS AND CONDITIONS RELATING TO THE SUBJECT MATTER HEREOF, UNLESS SUCH COMMITMENT LETTER, TERM SHEET OR OTHER WRITTEN OUTLINE OF TERMS AND CONDITIONS EXPRESSLY PROVIDES TO THE CONTRARY, (C) THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN OR AMONG THE PARTIES, AND (D) THIS AMENDMENT MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OR UNDERSTANDINGS OF THE PARTIES.

[Signatures begin on following page]

IN WITNESS WHEREOF, the Authority, the Company and the Bondholder have caused this Amendment to be executed, under seal, by their duly authorized officers, all as of the day and year first above written.

AUTHORITY:

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By:  (SEAL)
Name: Lisa M. Murphy
Title: Chair

COMPANY:

LIFENET HEALTH

By: _____ (SEAL)

Name: _____

Title: _____

BONDHOLDER:

**TRUIST BANK (successor
by merger to SUNTRUST BANK)**

By: _____ (SEAL)
Name: David J. Skolnick
Title: Senior Vice President

EXHIBIT A

FORM OF RESTATED BOND

[TO BE ATTACHED]

EXHIBIT B-1

FORM OF FIRST ALLONGE AND AMENDMENT TO PROMISSORY NOTE
(\$17,910,000 Note)

FIRST ALLONGE AND AMENDMENT TO PROMISSORY NOTE

The Promissory Note dated December 21, 2010, in the original principal amount of \$17,910,000 (the "Note"), executed by LIFENET HEALTH (the "Company"), and payable to CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY (the "Authority"), and subsequently assigned to TRUIST BANK (successor by merger to SUNTRUST BANK) (the "Bondholder"), to which this Allonge is appended, is hereby amended as of April 15, 2023, as follows:

1. References in the Note to the "Bond" are hereby amended to mean the Authority's Amended and Restated Industrial Development Revenue and Refunding Bond (LifeNet Health Project), Series 2010, dated the date hereof in the amended principal amount of \$19,390,000, as the same may be altered, amended, modified or supplemented from time to time.

2. References in the Note to the "Agreement" are hereby amended to mean the Bond Purchase and Financing Agreement dated as of December 15, 2020, among the Authority, the Company and the Bondholder, as the same may be altered, amended, modified or supplemented from time to time, including by a Fourth Amendment to Bond Purchase and Financing Agreement dated as of April 15, 2023.

Except as expressly set forth in this Allonge, the Note shall remain unchanged and in full force and effect. The outstanding principal balance of the Note as of the date of this Allonge is \$12,090,000.

[Signature Pages Follow]

IN WITNESS WHEREOF, the undersigned are signing this First Allonge and Amendment to Promissory Note, under seal, as of the day and year above first written.

COMPANY:

LIFENET HEALTH

By: _____ (SEAL)
Name: _____
Title: _____

[Signature Page to First Allonge and Amendment to Promissory Note (\$17,910,000 Note)]

ACKNOWLEDGED AND APPROVED:

BONDHOLDER:

TRUIST BANK (successor
by merger to SUNTRUST BANK)

By: _____ (SEAL)

Name: David J. Skolnick

Title: Senior Vice President

[Signature Page to First Allonge and Amendment to Promissory Note (\$17,910,000 Note)]

ACKNOWLEDGED AND APPROVED:

AUTHORITY:

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By:  (SEAL)

Name: Lisa M. Murphy

Title: Chair

[Signature Page to First Allonge and Amendment to Promissory Note (\$17,910,000 Note)]

EXHIBIT B-2

FORM OF FIRST ALLONGE AND AMENDMENT TO PROMISSORY NOTE
(\$12,090,000 Note)

FIRST ALLONGE AND AMENDMENT TO PROMISSORY NOTE

The Promissory Note dated December 21, 2010, in the original principal amount of \$12,090,000 (the "Note"), executed by LIFENET HEALTH (the "Company"), and payable to CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY (the "Authority"), and subsequently assigned to TRUIST BANK (successor by merger to SUNTRUST BANK) (the "Bondholder"), to which this Allonge is appended, is hereby amended as of April 15, 2023, as follows:

1. References in the Note to the "Bond" are hereby amended to mean the Authority's Amended and Restated Industrial Development Revenue and Refunding Bond (LifeNet Health Project), Series 2010, dated the date hereof in the amended principal amount of \$19,390,000, as the same may be altered, amended, modified or supplemented from time to time.

2. References in the Note to the "Agreement" are hereby amended to mean the Bond Purchase and Financing Agreement dated as of December 15, 2020, among the Authority, the Company and the Bondholder, as the same may be altered, amended, modified or supplemented from time to time, including by a Fourth Amendment to Bond Purchase and Financing Agreement dated as of April 15, 2023.

Except as expressly set forth in this Allonge, the Note shall remain unchanged and in full force and effect. The outstanding principal balance of the Note as of the date of this Allonge is \$7,300,000.

[Signature Pages Follow]

IN WITNESS WHEREOF, the undersigned are signing this First Allonge and Amendment to Promissory Note, under seal, as of the day and year above first written.

COMPANY:

LIFENET HEALTH

By: _____ (SEAL)
Name: _____
Title: _____

[Signature Page to First Allonge and Amendment to Promissory Note (\$12,090,000 Note)]

ACKNOWLEDGED AND APPROVED:

BONDHOLDER:

TRUIST BANK (successor
by merger to SUNTRUST BANK)

By: _____ (SEAL)

Name: David J. Skolnick

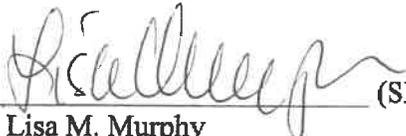
Title: Senior Vice President

[Signature Page to First Allonge and Amendment to Promissory Note (\$12,090,000 Note)]

ACKNOWLEDGED AND APPROVED:

AUTHORITY:

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By:  (SEAL)
Name: Lisa M. Murphy
Title: Chair

[Signature Page to First Allonge and Amendment to Promissory Note (\$12,090,000 Note)]

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EXHIBIT B

Amended and Restated Variable Rate Bond

THIS BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. NEITHER THIS BOND NOR ANY PARTICIPATION HEREIN MAY BE SOLD OR OFFERED FOR SALE IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE AUTHORITY THAT SUCH REGISTRATION IS NOT REQUIRED.

THIS BOND HAS BEEN DESIGNATED AS, AND CONSTITUTES, A "QUALIFIED TAX-EXEMPT OBLIGATION" AS DESCRIBED IN SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

Originally dated December 21, 2010
Restated April ___, 2023

UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA

AMENDED AND RESTATED
CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY
INDUSTRIAL DEVELOPMENT REVENUE AND REFUNDING BOND
(LIFENET HEALTH PROJECT)
SERIES 2010

City of Virginia Beach Development Authority, a political subdivision of the Commonwealth of Virginia organized and existing under and by virtue of the laws of the Commonwealth of Virginia (the "Authority"), acknowledges itself indebted and for value received hereby promises to pay, solely from the source and as hereinafter provided, to Truist Bank (successor by merger to SunTrust Bank) or registered assigns or legal representatives (the "Bondholder"), at its address as it appears on the registration books kept by the Authority as Registrar the principal sum of NINETEEN MILLION THREE HUNDRED NINETY THOUSAND AND NO/100 DOLLARS (\$19,390,000.00), or so much thereof as may be advanced hereunder from time to time, together with interest thereon accruing from the date of issuance hereof until payment and, to the extent permitted by law, interest on any overdue installments of such interest, at the per annum rates of interest stated herein.

This Bond is an amendment and restatement of the Authority's Industrial Development Revenue and Refunding Bond (LifeNet Health Project), Series 2010 (the "Original Bond"), which was issued on December 21, 2010, in the original maximum principal amount of \$30,000,000 pursuant to the Agreement (as hereinafter defined). As such, this Bond continues to evidence the obligations of the Authority under the Agreement and is secured by an assignment of the Notes (as hereinafter defined) by the Authority to the Bondholder.

From the date hereof until December 15, 2035 (the "Maturity Date"), all amounts of principal outstanding on this Bond shall bear interest at the fluctuating per annum rate, as calculated by the Bondholder, equal to the Adjusted SOFR Rate (as hereinafter defined). Interest shall be calculated on the basis of a 360-day year and the actual number of days elapsed. Interest shall be due and payable on each Interest Payment Date. Any accrued interest under the Original

Bond that remains unpaid on the date hereof shall be due and payable on the first Interest Payment Date occurring after the date hereof.

Notwithstanding the foregoing or any other term or provision to the contrary herein:

(a) In the event the Bondholder determines in its sole discretion that the Bondholder cannot make, fund, or maintain a loan based upon the Benchmark (as hereinafter defined) due to illegality or the inability to ascertain or determine said rate on the basis provided for herein (an "Unavailability Period") and a Benchmark Transition Event (as hereinafter defined) has not occurred, then at the election of the Bondholder the Benchmark shall convert to the Alternative Benchmark Rate (as hereinafter defined) for purposes of calculating the Adjusted SOFR Rate on the then outstanding principal balance of this Bond and, thereafter, the Adjusted SOFR Rate shall adjust simultaneously with any fluctuation in the Alternative Benchmark Rate. In the event the Bondholder reasonably determines that the circumstances giving rise to the Unavailability Period have ended, at such time as determined by the Bondholder, the Benchmark will revert to the prior Benchmark (provided a Benchmark Transition Event has not occurred). The Bondholder shall provide written notice, which may be after the implementation of the Alternative Benchmark Rate as contemplated hereunder, to the Company of any Benchmark change that is made pursuant to this subparagraph (a). For avoidance of doubt, following conversion to the Alternative Benchmark Rate under this subparagraph (a), the reference to "Benchmark" in the definitions of "Adjusted SOFR Rate" shall be deemed and interpreted to mean the Alternative Benchmark Rate. The Spread and minimum rate, if any, shall continue to apply.

(b) In the event the Bondholder determines in its sole discretion that (i) there is a public announcement by the administrator of a Benchmark or a Relevant Governmental Body (as hereinafter defined) that such Benchmark will cease or has ceased to be published; (ii) a public announcement is made by the administrator of a Benchmark or any Relevant Governmental Body that the Benchmark is no longer representative; or (iii) a Relevant Governmental Body has determined that the Bondholder may no longer utilize the Benchmark for purposes of setting interest rates (each a "Benchmark Transition Event"); the Bondholder will have no obligation to make, fund or maintain a loan based on the Benchmark and on a date and time determined by the Bondholder, without any further action or consent of by the Authority or the Company or amendment to this Bond or any other Bond Document (as defined in the Agreement), the first available alternative set forth in the order below that can be determined by the Bondholder shall replace the Benchmark (the "Successor Rate"):

(x) the Relevant Governmental Body Recommended Rate (as hereinafter defined); or

(y) the Alternative Benchmark Rate.

In connection with the implementation of a Successor Rate, the Bondholder will have the right to make Conforming Changes (as hereinafter defined) from time to time and, notwithstanding anything to the contrary herein or in any other Bond Document, any amendments implementing such Successor Rate or Conforming Changes will become effective without any further action or consent of the Authority or the Company. Notwithstanding anything else herein, if at any time any Successor Rate as so determined would otherwise be less than zero percent (0%),

the Successor Rate will be deemed to be zero percent (0%). For avoidance of doubt, following the implementation of a Successor Rate, the reference to "Benchmark" in the definitions of "Adjusted SOFR Rate" shall be deemed and interpreted to mean the Successor Rate. The Spread and minimum rate, if any, shall continue to apply.

The Bondholder will notify (in one or more notices) the Company of the implementation of any Successor Rate. Any determination or decision that may be made by the Bondholder pursuant to this subparagraph (b), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in the Bondholder's sole discretion and without consent from the Authority or the Company.

For purposes of calculating interest due on this Bond, the following terms as used in this Bond shall have the following meanings:

"Adjusted SOFR Rate" means the rate of interest per annum equal to 67% of the sum of (i) the Benchmark (provided that if said rate would be less than 0%, then it shall be deemed to be 0%), plus (ii) the Term SOFR Adjustment, plus (iii) the Spread, which shall be adjusted with changes in the Benchmark. The Adjusted SOFR Rate shall adjust monthly on the first day of each Interest Period. Any change in the Adjusted SOFR Rate due to a change in the Benchmark shall be effective from and including the effective date of such change in the Benchmark without notice to the Authority or the Company (as hereinafter defined).

"Alternative Benchmark Rate" means a rate of interest per annum equal to the Prime Rate minus two and one-half percent (2.5%) which shall adjust daily with changes in the Prime Rate.

"Benchmark" means initially Term SOFR, and upon the Bondholder's determination under subparagraph (b) above, will thereafter be the then-current Successor Rate.

"Business Day" means any day other than a Saturday, Sunday, legal holiday or any other day on which the Bondholder is authorized or required to close.

"Conforming Changes" means, with respect to any Successor Rate, any technical, administrative or operational changes (including changes to the definitions such as "U.S. Government Securities Business Day", "Interest Period", timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions and other technical, administrative or operational matters) that the Bondholder decides may be appropriate to reflect the adoption and implementation of such Successor Rate and to permit the administration thereof by the Bondholder in a manner the Bondholder decides is reasonably necessary in connection with the administration of this Bond and the other Bond Documents.

"Determination Day" means that date which is (i) two U.S. Government Securities Business Days prior to the first day of the Interest Period if such day is a U.S. Government Securities Business Day or (ii) if the first day of the Interest Period is not a U.S. Government Securities Business Day then two U.S. Government Securities Business Days prior to the U.S.

Government Securities Business Day immediately preceding the commencement of the Interest Period.

“Interest Payment Date” means each June 15 and December 15, commencing June 15, 2023. If such day is not a Business Day, then the applicable Interest Payment Date shall be the next succeeding Business Day.

“Interest Period” means the one month period commencing on the first day of each month and each subsequent period shall commence on the first day of each month; provided that the first Interest Period shall commence on the day this Bond is issued or amended and end on the last day of the month in which this Bond is issued or amended.

“Prime Rate” means the interest rate announced by Truist Bank from time to time as its prime rate. Any change in the Prime Rate shall be effective as of the date such change is announced by Truist Bank.

“Relevant Governmental Body” means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

“Relevant Governmental Body Recommended Rate” means, in respect of any relevant day, the rate (inclusive of any spreads or adjustments which may be positive or negative) recommended as the replacement for the Benchmark by the Relevant Governmental Body (which rate may be produced by the Federal Reserve Bank of New York or another administrator).

“Spread” means 1.75% per annum.

“Term SOFR” means the Term SOFR reference rate for a one month tenor as administered by the Term SOFR Administrator and quoted by Bloomberg Finance L.P., or any quoting service or commonly available source utilized by the Bondholder on the Determination Day; provided that if as of 5:00 p.m. (New York time) on the Determination Day, Term SOFR for such tenor has not been published by the Term SOFR Administrator, then the rate used will be Term SOFR for such tenor as published by the Term SOFR Administrator for the immediately preceding U.S. Government Securities Business Day on which such rate was published on the Term SOFR Administrator’s website so long as such immediately preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Determination Day.

“Term SOFR Adjustment” means 0.1148% per annum.

“Term SOFR Administrator” means CME Group Benchmark Administration Limited or a successor administrator of the Term SOFR Reference Rate selected by the Bondholder in its sole discretion.

“U.S. Government Securities Business Day” means any day except for (i) a Saturday, (ii) a Sunday, or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

Upon the occurrence of an Event of Default, as that term is defined in Section 6.1 of the Agreement, this Bond is subject to mandatory prepayment in whole and shall be so prepaid in the manner described herein.

In the event any installment of interest or principal is not paid within seven (7) days after the installment is due, the Authority shall pay the Bondholder a late charge equal to 5% of the installment of interest or principal then due; provided, however, this late charge shall not apply to the failure of the Company to purchase this Bond on any Put Date.

This Bond is issued pursuant to a Bond Resolution duly adopted by the Authority on December 21, 2010, as supplemented on April 18, 2023 (collectively, the “Resolution”), and a Bond Purchase and Financing Agreement dated as of December 15, 2010 (as amended, restated or otherwise modified from time to time, the “Agreement”), among the Authority, LifeNet Health (the “Company”), and the Bondholder, for the purpose set forth in the Resolution and the Agreement. The Company’s obligations under the Agreement are evidenced, collectively, by its \$17,910,000 promissory note dated December 21, 2010, as amended, and its \$12,090,000 promissory note dated December 21, 2010, as amended, and each assigned to the Bondholder (the “Notes”).

This Bond is subject to optional prepayment in whole at any time or in part on any Interest Payment Date, by the Authority, at the direction of the Company, at a price equal to the principal amount prepaid, plus interest accrued to the prepayment date. All partial prepayments shall be in multiples of \$1,000 and shall be applied and credited against sinking fund installments of principal set forth in this Bond at the direction of the Company.

This Bond is subject to mandatory sinking fund redemption at a redemption price equal to 100% of the principal amount redeemed, plus accrued interest to the redemption date, on the Interest Payment Date occurring in December of each of the years 2023 to 2035, inclusive, in the following principal amounts specified:

<u>Year</u>	<u>Principal Amount</u>
2023	\$1,180,000
2024	1,230,000
2025	1,275,000
2026	1,320,000
2027	1,370,000
2028	1,420,000
2029	1,475,000
2030	1,535,000
2031	1,595,000
2032	1,655,000
2033	1,715,000
2034	1,775,000
2035 (final maturity)	1,845,000

On December 15, 2025 (the "Fifteenth Anniversary"), and December 15, 2030 (the "Twentieth Anniversary", and together with the Fifteenth Anniversary, each a "Put Date"), the Bondholder shall have the right, in its sole discretion, to sell ("put") this Bond to the Company and the Company shall thereafter be required to purchase this Bond from the Bondholder, at a purchase price equal to one hundred percent (100%) of the outstanding principal amount due hereon plus accrued interest to the Put Date. In order to exercise its right to put this Bond to the Company on the Put Date, the Bondholder shall give the Company and the Authority written notice of its intention to put this Bond to the Company at least one hundred eighty (180) days prior to the Put Date. This Bond is subject to mandatory redemption in whole on the date that is 180 days after a Put Date (the "Special Mandatory Redemption Date"), at a price of par plus accrued interest to the Special Mandatory Redemption Date, in the event the Company fails to purchase or cause the purchase of this Bond on the Put Date. In the event that the Company fails to purchase or cause the purchase of this Bond on the Put Date, the interest rate on this Bond shall automatically adjust to a fluctuating per annum rate, as calculated by the Bondholder, equal to the sum of the Benchmark plus two hundred and fifty (250) basis points, and the Company shall continue to pay all amounts due under the Agreement from the Put Date to the Special Mandatory Redemption Date, including without limitation, all amounts necessary to allow for the payment of any mandatory sinking fund redemption payments and interest on this Bond at the incremented interest rate of Benchmark plus two hundred and fifty (250) basis points. The Bondholder shall promptly notify the Authority of the Company's failure to purchase this Bond on any Put Date.

The principal of, late charge and interest on this Bond are limited obligations of the Authority payable solely from the revenues and receipts derived by the Authority from the Agreement and the Notes, which revenues and receipts have been pledged and assigned to secure payment thereof. The principal of, late charge and interest on this Bond shall not be deemed to constitute a debt or a pledge of the faith and credit of the Commonwealth of Virginia or any political subdivision thereof, including the Authority or the City of Virginia Beach, Virginia (the "City"). Neither the Commonwealth of Virginia nor any political subdivision thereof, including the Authority and the City, shall be obligated to pay the principal of, late charge or interest on this Bond or other costs incident thereto except from the revenues and receipts pledged and assigned therefor, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the Authority and the City, is pledged to the payment of the principal of, late charge or interest on this Bond or other costs incident thereto. No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of any present or future director, officer, employee or agent of the Authority in his individual capacity, and neither the directors of the Authority nor any officer or employee thereof executing this Bond on behalf of the Authority shall be liable personally on this Bond or be subject to any personal liability or accountability by reason of the issuance hereof.

NEITHER THE COMMISSIONERS OF THE AUTHORITY NOR ANY PERSONS EXECUTING THIS BOND SHALL BE LIABLE PERSONALLY ON THIS BOND BY REASON OF THE ISSUANCE THEREOF. THIS BOND SHALL NOT BE A DEBT OF THE CITY, THE COMMONWEALTH OF VIRGINIA OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE AUTHORITY), AND NEITHER THE CITY, THE COMMONWEALTH OF VIRGINIA OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE AUTHORITY) SHALL BE LIABLE THEREON, NOR

IN ANY EVENT SHALL THIS BOND BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE AUTHORITY SPECIFICALLY PLEDGED HERETO. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH OF VIRGINIA, OR ANY POLITICAL SUBDIVISION THEREOF, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF THIS BOND OR THE INTEREST HEREON OR OTHER COSTS INCIDENT HERETO. THIS BOND SHALL NOT CONSTITUTE AN INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION. THE AUTHORITY HAS NO TAXING POWER.

All payments made by or on behalf of the Company to the registered owner of this Bond pursuant to the Agreement or the Notes shall, to the extent of the sum or sums so paid, satisfy and discharge the limited liability of the Authority upon this Bond or the instruments securing this Bond, as the case may be.

The transfer of this Bond may be registered by the registered owner hereof in person or by his duly authorized attorney or legal representative at the office of the Authority, as Registrar, but only in the manner and subject to the limitations and conditions provided herein and in the Agreement. Upon any such registration of transfer, the Authority, as Registrar, shall give the Company notice of such transfer and the address at which payments hereunder are thereafter to be made. The Authority, as Registrar, shall treat the registered owner of this Bond as the person exclusively entitled to payment of principal, prepayment premium, if any, late charge and interest and the exercise of all other rights and powers of the owner.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, City of Virginia Beach Development Authority has caused this Bond to be executed in its name by its Chair, and its corporate seal to be hereunto affixed and attested by its Assistant Secretary, all as of the date first above written.

CITY OF VIRGINIA BEACH DEVELOPMENT
AUTHORITY

By: 
Chair / Vice Chair

(SEAL)

ATTEST:


Secretary / Assistant Secretary

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto the attached Bond and all rights thereunder, and hereby irrevocably constitutes and appoints attorney to transfer the attached Bond on the books kept for registration thereof, with full power of substitution in the premises.

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the attached Bond in every particular, without alteration or enlargement or any change whatever.

Transfer of Bond

The transfer of this Bond may be registered by the registered owner or his duly authorized attorney upon presentation hereof to the Authority, as Registrar, at its office in Virginia Beach, Virginia, who shall make note of such transfer in the books kept by it for that purpose and in the registration blank below.

<u>Date of Transfer</u>	<u>Name of New Registered Owner</u>	<u>Signature of Registrar</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

#147214560v4
243270.018

EXHIBIT C

Amended and Restated Promissory Notes

FIRST ALLONGE AND AMENDMENT TO PROMISSORY NOTE

The Promissory Note dated December 21, 2010, in the original principal amount of \$17,910,000 (the "Note"), executed by LIFENET HEALTH (the "Company"), and payable to CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY (the "Authority"), and subsequently assigned to TRUIST BANK (successor by merger to SUNTRUST BANK) (the "Bondholder"), to which this Allonge is appended, is hereby amended as of April 15, 2023, as follows:

1. References in the Note to the "Bond" are hereby amended to mean the Authority's Amended and Restated Industrial Development Revenue and Refunding Bond (LifeNet Health Project), Series 2010, dated the date hereof in the amended principal amount of \$19,390,000, as the same may be altered, amended, modified or supplemented from time to time.

2. References in the Note to the "Agreement" are hereby amended to mean the Bond Purchase and Financing Agreement dated as of December 15, 2020, among the Authority, the Company and the Bondholder, as the same may be altered, amended, modified or supplemented from time to time, including by a Fourth Amendment to Bond Purchase and Financing Agreement dated as of April 15, 2023.

Except as expressly set forth in this Allonge, the Note shall remain unchanged and in full force and effect. The outstanding principal balance of the Note as of the date of this Allonge is \$12,090,000.

[Signature Pages Follow]

IN WITNESS WHEREOF, the undersigned are signing this First Allonge and Amendment to Promissory Note, under seal, as of the day and year above first written.

COMPANY:

LIFENET HEALTH

By: _____ (SEAL)
Name: _____
Title: _____

[Signature Page to First Allonge and Amendment to Promissory Note (\$17,910,000 Note)]

ACKNOWLEDGED AND APPROVED:

BONDHOLDER:

**TRUIST BANK (successor
by merger to SUNTRUST BANK)**

By: _____ (SEAL)

Name: David J. Skolnick

Title: Senior Vice President

[Signature Page to First Allonge and Amendment to Promissory Note (\$17,910,000 Note)]

ACKNOWLEDGED AND APPROVED:

AUTHORITY:

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By:  (SEAL)

Name: Lisa M. Murphy

Title: Chair

[Signature Page to First Allonge and Amendment to Promissory Note (\$17,910,000 Note)]

FIRST ALLONGE AND AMENDMENT TO PROMISSORY NOTE

The Promissory Note dated December 21, 2010, in the original principal amount of \$12,090,000 (the "Note"), executed by LIFENET HEALTH (the "Company"), and payable to CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY (the "Authority"), and subsequently assigned to TRUIST BANK (successor by merger to SUNTRUST BANK) (the "Bondholder"), to which this Allonge is appended, is hereby amended as of April 15, 2023, as follows:

1. References in the Note to the "Bond" are hereby amended to mean the Authority's Amended and Restated Industrial Development Revenue and Refunding Bond (LifeNet Health Project), Series 2010, dated the date hereof in the amended principal amount of \$19,390,000, as the same may be altered, amended, modified or supplemented from time to time.

2. References in the Note to the "Agreement" are hereby amended to mean the Bond Purchase and Financing Agreement dated as of December 15, 2020, among the Authority, the Company and the Bondholder, as the same may be altered, amended, modified or supplemented from time to time, including by a Fourth Amendment to Bond Purchase and Financing Agreement dated as of April 15, 2023.

Except as expressly set forth in this Allonge, the Note shall remain unchanged and in full force and effect. The outstanding principal balance of the Note as of the date of this Allonge is \$7,300,000.

[Signature Pages Follow]

IN WITNESS WHEREOF, the undersigned are signing this First Allonge and Amendment to Promissory Note, under seal, as of the day and year above first written.

COMPANY:

LIFENET HEALTH

By: _____ (SEAL)

Name: _____

Title: _____

[Signature Page to First Allonge and Amendment to Promissory Note (\$12,090,000 Note)]

ACKNOWLEDGED AND APPROVED:

BONDHOLDER:

TRUIST BANK (successor
by merger to SUNTRUST BANK)

By: _____ (SEAL)

Name: David J. Skolnick

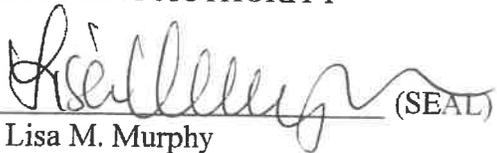
Title: Senior Vice President

[Signature Page to First Allonge and Amendment to Promissory Note (\$12,090,000 Note)]

ACKNOWLEDGED AND APPROVED:

AUTHORITY:

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By:  (SEAL)
Name: Lisa M. Murphy
Title: Chair

[Signature Page to First Allonge and Amendment to Promissory Note (\$12,090,000 Note)]

A RESOLUTION APPROVING THE PROVISION
OF \$192,600 IN ECONOMIC DEVELOPMENT
INVESTMENT PROGRAM FUNDS TO
POWER TRAIN INDUSTRIES, INC.

WHEREAS, the City of Virginia Beach Development Authority (the "Authority") was created pursuant to Chapter 643 of the Acts of Assembly of 1964, as amended (the "Act");

WHEREAS, one of the primary purposes of the Act is to enable development authorities "to promote industry and develop trade by inducing manufacturing, industrial, governmental and commercial enterprises to locate in or remain in the Commonwealth....";

WHEREAS, pursuant to §6 of the Act, the Authority has the power, *inter alia*, "to sell, exchange, donate and convey any or all of its facilities or other properties whether realty or personalty whenever the Authority shall find any such action to be in furtherance of the purposes for which the Authority was organized";

WHEREAS, pursuant to §7 of the Act, "the Authority may foster and stimulate the development of industry in the area within its jurisdiction... [and] may accept, and expend for the purposes stated above, money from any public or private source....";

WHEREAS, pursuant to §10 of the Act, the City of Virginia Beach (the "City") "is authorized and empowered to make appropriations and to provide funds for the operation of the Authority and to further its purposes";

WHEREAS, the economic development goals and objectives of the City include achieving a higher ratio of nonresidential to residential real estate assessments, investing in land and infrastructure to benefit future economic growth, and maximizing the return of economic development efforts through the development and implementation of programs and strategies that facilitate new business investment and encourage retention and expansion activities, thereby improving the overall quality of life in the City;

WHEREAS, the City established the Economic Development Investment Program ("EDIP") as part of its overall effort to enhance the City's ability to accomplish these goals and objectives;

WHEREAS, pursuant to the authority and empowerment set forth in §10 of the Act, City Council authorized the transfer of funds in the EDIP account to the Authority and the provision of future EDIP appropriations to the Authority to enable the Authority to more effectively continue its efforts to foster and stimulate economic development by inducing businesses to locate or remain in the City;

WHEREAS, the Department of Economic Development (the "Department"), acting on behalf of the Authority, has induced POWER TRAIN INDUSTRIES, INC., a Virginia corporation (the "Recipient"), to expand and relocating its operation to 464 Progress Lane, Virginia Beach, Virginia 23454 (the "Property");

WHEREAS, the inducement includes an agreement to recommend the award to Recipient of \$192,600.00 in EDIP funds to underwrite a portion of costs associated with the expansion and relocation of Recipient's operation at the Property;

WHEREAS, Recipient has represented in its application and the Director of Economic Development (the "Director"), upon review of the application submitted by Recipient, has determined and has advised the Authority it will meet at least one of the following performance criteria (the "Performance Criteria") within thirty-six (36) months after the date of this Resolution.

- (a) Tax Revenues: The net amount of direct tax revenues returned to the City as a result of the Recipient's operation will exceed the amount of EDIP Funds provided in thirty-six (36) months; and/or
- (b) Capital Investment: For every one dollar (\$1.00) of EDIP funds received, Recipient shall make a new capital investment of at least \$25.00; with the maximum award for this criteria to be limited to \$24,000 of the \$192,600 total award; and/or
- (c) Employment Opportunity: For every \$1,774.74 of EDIP funds received, Recipient will create and retain one (1) new "full-time equivalent" employment opportunity in its operation with an average salary of \$35,001.00 to \$50,000.00, excluding benefits, with the maximum award for this criteria to be limited to \$168,600.00 of the \$192,600.00 total award.

WHEREAS, the Director of Economic Development, upon review of the application submitted by Recipient, has determined and has advised the Authority that one or more of the following criteria has been met:

(i) the net amount of direct tax revenues returned to the City as a result of Recipient's expanded operation will exceed the amount of EDIP funds provided in thirty-six (36) months, and/or

(ii) For \$24,000.00 of the award: for every one dollar (\$1.00) in EDIP funds provided, Recipient will spend at least twenty-five dollars (\$25.00) in new capital investment, and/or

(iii) For the remaining \$168,600.00 of the award: for every One Thousand Seven Hundred Seventy-Four and 74/100 dollars (\$1,774.74) in EDIP funds provided to the Recipient will create and retain at least one (1) new "full-time equivalent" employment opportunity in its operation, with an average salary of \$35,001.00 to \$50,000.00, excluding benefits.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

1. That the Authority hereby finds:
 - (a) that the provision of \$192,600.00 in EDIP funds to POWER TRAIN INDUSTRIES, INC., a Virginia corporation (the "Recipient") will primarily serve the valid public purpose of fostering and stimulating economic development in the City; and
 - (b) that the provision of the EDIP funds is in furtherance of the purposes for which the Authority was created; and
 - © that it is unlikely the Recipient would expand its operation within the City without the stimulus of the EDIP award.
2. That the Authority hereby further finds that, based on the direct benefits to the City of Virginia Beach and its citizens resulting from the capital investment and employment opportunities to be generated by the Recipient as a result of its proposed expansion of its operation in Virginia Beach, the provision of \$192,600.00 in EDIP funds to the Recipient will only incidentally enure to the benefit of private interests.
3. That as of the date of this Resolution, the Recipient has not yet commenced construction of the proposed improvements or filled any of the new full-time job positions being incentivized by this EDIP award..
4. That based on these findings, the Authority hereby approves the provision of \$192,600.00 in EDIP funds to the Recipient to underwrite a portion of the costs associated with the expansion and relocation of the Recipient's operation in Virginia Beach, with \$24,000.00 of the award to be based on capital investment and \$168,600.00 based on creation of new employment opportunities.
5. That disbursement of EDIP Funds by the Authority shall be at the discretion of the Director of the Department of Economic Development of the City of Virginia Beach or his designee (the "Director"), who shall be authorized to require appropriate verification as to qualifying expenditures.
6. That disbursement of EDIP funds to the Recipient shall be on a pro-rata reimbursement basis upon presentation of original receipts for qualifying expenditures to the Director with not more than \$24,000.00 to be disbursed for capital investment and not more than \$168,600 to be dispersed for creation of employment opportunities.. At the sole discretion of the Director, disbursement may not be prior to the completion of the Employment Opportunity Performance Criteria. Disbursement of EDIP funds shall be from time to time, but not more frequently than once per month, until fully expended.
7. That as a condition of receiving EDIP funds related to the employment opportunities incentivized by this award, once a new full-time job is filled, it must be maintained without interruption for thirty-six (36) months from the date of this Resolution (the "Performance Period") or the funds advanced for that job may be subject to recapture as set forth in Section 8, below.

8. The Director may require the Recipient to enter into a Recapture Agreement approved by the Director to allow for the recapture of funds for any job incentivized that is subsequently terminated or eliminated by the Recipient. Such Recapture Agreement shall provide for the repayment by the Recipient of that portion of EDIP funds so disbursed prorated for the percentage of the Performance Criteria satisfied prior to the expiration of the Performance Period, and shall contain certain other provision as may be determined or required by the Director. Should an individual job be vacant but Recipient is actively seeking a replacement employee, EDIP funds advanced for that position shall not be subject to recapture.

9. As a further condition of receiving the EDIP Funds, the Recipient shall conduct operations in the building at the Property (or such other locations in the City of Virginia Beach as may be agreed to by the Authority) for a minimum of five (5) years from the time of this award. Even if the requirement of paragraph 1 is met, for each year less than five that the Recipient conducts operations at the Property (or other agreed to location) upon written request from the Authority, the Recipient shall pay to the Authority, as EDIP recapture and not as a penalty, one-fifth (1/5) of the amount of the EDIP Funds provided. Such amount shall be paid within fifteen (15) business days after receipt of request from the Authority, and if not paid by such date, the amount due will bear interest at the rate of ten percent (10%) per annum from such date until paid, and such interest shall be payable by the Recipient in addition to the amount due as calculated above.

10. The Authority may terminate this award and decline to pay any unpaid funds if the recipient has not requested the full \$192,600.00 within thirty-six (36) months of the date of this Resolution.

Adopted this 18th day of April, 2023, by the City of Virginia Beach Development Authority.

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By: 
Secretary/Assistant Secretary

APPROVED AS TO CONTENT:


Economic Development

APPROVED AS TO LEGAL
SUFFICIENCY:


City Attorney

A RESOLUTION APPROVING AN AMENDMENT TO
THE TERMS FOR THE SALE OF APPROXIMATELY
18.24 ACRES OF PROPERTY KNOWN AS THE
LONDON BRIDGE COMMERCE CENTER TO
LONDON BRIDGE DEVELOPMENT, LLC

WHEREAS, the City of Virginia Beach Development Authority (the "Authority") is the owner of property located at 130 London Bridge Road, Virginia Beach, Virginia (GPIN: 2407-04-8646), known as the London Bridge Commerce Center, as shown on Exhibit A, attached hereto (the "Property");

WHEREAS, on June 16, 2020, the Authority adopted a Resolution approving the sale of the Property to London Bridge Development, LLC (the "Developer"), attached hereto as Exhibit B (the "2020 Resolution");

WHEREAS, the Authority and Developer documented their agreement regarding the sale of the Property in a Purchase Agreement dated August 25, 2020, attached hereto as Exhibit C (the "Purchase Agreement");

WHEREAS, the purchase price for the Property as set forth in the 2020 Resolution and the Purchase Agreement was \$100,000 per acre for a total price of \$1,820,000;

WHEREAS, as contemplated by the 2020 Resolution, Developer is to construct, with funds appropriated by the City of Virginia Beach (the "City"), an access road from Potters Road to the Property (the "Access Road") within an easement held by the City on property owned by the United States Navy;

WHEREAS, the City of Virginia Beach appropriated \$3,895,100 for the construction of the Access Road, however, due to extraordinary costs associated with addressing stormwater issues for the Access Road, the parties now estimate the total cost of the Access Road will exceed \$5,395,100, with the Developer having already expended in excess of \$1,200,000 on stormwater design and engineering;

WHEREAS, to offset some of the unanticipated costs borne by Developer related to the Access Road, the Authority desires to give the Developer a credit against the purchase price in the amount of \$750,000;

WHEREAS, to offset costs associated with cleanup and trash removal on the Property, the Authority desires to further credit the Developer against the purchase price in the amount of \$50,000;

WHEREAS, given delays caused by the extended stormwater process, and the global pandemic, the Authority and Developer also desire to extend certain deadlines in the Purchase Agreement, namely (i) the Outside Settlement Date shall be extended from June 30, 2023 until April 30, 2024, and (ii) the joint termination right in Section 13(a) of the Purchase Agreement shall be extended from January 1, 2022 until January 1, 2024; and

WHEREAS, the Authority is of the opinion that the reduction of the purchase price by \$800,000, and the extension of deadlines in the Purchase Agreement are appropriate and will promote the successful development of the Property.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

1. The Chair or the Vice Chair of the Authority is hereby authorized to execute and deliver an amendment to the Purchase Agreement with the Purchaser for the purchase of the Property on the terms outlined above, and such other terms and conditions as may be satisfactory to and approved by the Chair or the Vice Chair, the Director of the City of Virginia Beach Department of Economic Development and the City Attorney.

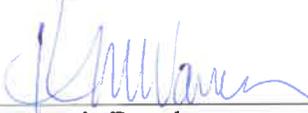
2. The Chair or the Vice Chair is hereby authorized to execute and deliver all such other documents and agreements and to take all such actions as such officers and City Attorney may deem necessary or desirable in connection with the sale of such Property as amended by this Resolution.

Adopted this 18TH day of April, 2023, by the City of Virginia Beach Development Authority.

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By  Secretary/Assistant Secretary

APPROVED AS TO CONTENT:


Economic Development

APPROVED AS TO LEGAL
SUFFICIENCY:


City Attorney

EXHIBIT A

(LEGAL DESCRIPTION)

ALL THAT certain lot, piece or parcel of land, with the buildings and improvements thereon, lying, situate and being in the City of Virginia Beach, Virginia, known, numbered and designated as PARCEL 3A-2A, as shown on that certain plat entitled, "RESUBDIVISION OF PROPERTY OWNED BY THE SEAY COMPANY, INC. AND SEAY FAMILY, LLC (M.B. 37, P. 4) (M.B. 127, P. 13A) (D.B. 1585, P. 575) VIRGINIA BEACH, VIRGINIA," dated January 17, 2006 and prepared by NDI, L.L.C., Basgier and Associates Division, Engineers-Surveyors-Planners, which said plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia as Instrument No. 20090121000056270.

IT BEING the same property conveyed to the City of Virginia Beach, a municipal corporation of the Commonwealth of Virginia, by Deed dated October 24, 2011 from 130 London Bridge LLC, a Virginia limited liability company, and recorded in the aforesaid Clerk's Office as Instrument No. 20111027001112530.

EXHIBIT B

[June 2020 Resolution]

A RESOLUTION APPROVING THE SALE OF
APPROXIMATELY 18.24 ACRES OF PROPERTY KNOWN
AS THE LONDON BRIDGE COMMERCE CENTER
TO LONDON BRIDGE DEVELOPMENT, LLC

WHEREAS, the City of Virginia Beach Development Authority (the "Authority") is the owner of property located at 130 London Bridge Road, Virginia Beach, Virginia (GPIN: 2407-04-8646), known as the London Bridge Commerce Center, as shown on Exhibit A, attached hereto (the "Property");

WHEREAS, the Authority issued its Request for Proposals seeking a qualified purchaser for the Property and, after reviewing all responsive proposals, determined that Central Drive Investment Partners II, LLC, a Virginia limited liability company, was best suited to purchase and develop the Property;

WHEREAS, Central Drive Investment Partners II, LLC, a Virginia limited liability company, is an affiliated entity of London Bridge Development, LLC, a Virginia limited liability company ("Purchaser") and the Authority desires to sell the Property to Purchaser for a price of \$100,000 per acre, pursuant to a Purchase Agreement, the substantive terms of which are summarized on Exhibit B attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

1. The Chair or the Vice Chair of the Authority is hereby authorized to execute and deliver a Purchase Agreement with the Purchaser for the purchase of the Property on the terms outlined on Exhibit B, and such other terms and conditions as may be satisfactory to and approved by the Chair or the Vice Chair, the Director of the City of Virginia Beach Department of Economic Development and the City Attorney.

2. The Chair or the Vice Chair is hereby authorized to execute and deliver all such other documents and agreements and to take all such actions as such officers and City Attorney may deem necessary or desirable in connection with the sale of such Property.

Adopted this 16th day of June, 2020, by the City of Virginia Beach Development Authority.

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By 
Secretary Assistant Secretary

APPROVED AS TO CONTENT:


Economic Development

APPROVED AS TO LEGAL
SUFFICIENCY:


City Attorney

EXHIBIT A

(LEGAL DESCRIPTION)

ALL THAT certain lot, piece or parcel of land, with the buildings and improvements thereon, lying, situate and being in the City of Virginia Beach, Virginia, known, numbered and designated as PARCEL 3A-2A, as shown on that certain plat entitled, "RESUBDIVISION OF PROPERTY OWNED BY THE SEAY COMPANY, INC. AND SEAY FAMILY, LLC (M.B. 37, P. 4) (M.B. 127, P. 13A) (D.B. 1585, P. 575) VIRGINIA BEACH, VIRGINIA," dated January 17, 2006 and prepared by NDI, L.L.C., Basgier and Associates Division, Engineers-Surveyors-Planners, which said plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia as Instrument No. 20090121000056270.

IT BEING the same property conveyed to the City of Virginia Beach, a municipal corporation of the Commonwealth of Virginia, by Deed dated October 24, 2011 from 130 London Bridge LLC, a Virginia limited liability company, and recorded in the aforesaid Clerk's Office as Instrument No. 20111027001112530.

EXHIBIT B

TERM-SHEET LONDON BRIDGE COMMERCE CENTER

Acting on behalf of the City of Virginia Beach (the "City"), on the City of Virginia Beach Development Authority (the "Authority") issued its Request for Proposals (the "RFP") seeking a developer to purchase and develop the approximately 18.24 acre parcel commonly known as the London Bridge Commerce Center (the "Property") in a manner beneficial to the City and consistent with the use restrictions imposed by the City Zoning Ordinance for property located in APZ-1 and all easements of record.

In 2011, the City acquired the Property as part of the APZ-1 Use and Acquisition Plan (CIP 9-060). At the time of acquisition, the Property was developed with three commercial buildings housing multiple tenants. The acquisition allowed the City to remove 22 non-conforming business uses from APZ-1 and insure only compatible uses going forward.

After reviewing all responsive proposals, the Authority determined that Central Drive Investment Partners II, LLC, a Virginia limited liability company (CDIP"), was best suited to accomplish the goals of the RFP and develop the Property. CDIP has represented that it intends to proceed via a related entity, London Bridge Development, LLC ("Developer").

Representatives of the Developer, City and Authority have discussed terms whereby Developer would develop the Property in phases as it identifies users for the Property. This Term-Sheet is intended to reflect the shared understanding of the parties and their respective commitments. This Term-Sheet is not intended to be a legally binding agreement, and all proposals outlined are subject to approval by the Developer, the Authority, and future appropriation by City Council if necessary.

Property: Approximately 18.24 acres, GPIN 2407-04-8646, located south of Interstate 264 along the east side of London Bridge Road in Virginia Beach, as shown on Exhibit 1, attached hereto.

**Owner/
Seller:** The City of Virginia Beach Development Authority

**Purchaser/
Developer:** London Bridge Developer, LLC, or an affiliated entity.

Price: \$100,000 per acre, for a total of approximately \$1,824,000

**Due
Diligence:** Purchaser to have 180 days from execution of purchase agreement to access Property for purpose of conducting studies and other due diligence.

Closing: The later of (i) 45 days from the date the City acquires the Access Easement (defined below), or (ii) Site Plan approval including all permits for development of the 18.24 acres.

Use: Property to only have uses allowed under the APZ-1 restrictions as set forth in Article 18 of the City Zoning Ordinance (Appendix A of the City of Virginia Beach Municipal Code) and as determined by the City's Zoning Administrator, and all easements of record.

Phasing: Up to eight (8) phases of at least one (1) building per phase. Developer may develop a phase on presentation to Authority of evidence of compliance from United States Navy of proposed use on that phase. Developer to have up to ten (10) years to develop all phases.

Existing

Conditions: Property located in APZ-1. Navy Easement recorded in Deed Book 1932, at page 761.

Prior to conveyance, the Authority to encumber Property with Petrochemical Restriction in form as set forth on Exhibit 2, attached hereto.

Access: Property to be accessed via (i) London Bridge Road, and (ii) via license to use a 75' ingress/egress easement across United States Navy property to Potters Road to be held by the City, as shown on Exhibit 3 (the "Access Easement"). The City would acquire the Access Easement for a maximum term of fifty (50) years via a public process with the Navy. A condition of the Navy's grant of the Access Easement is that the Petrochemical Restriction be placed on the Property for the benefit of the Navy. In addition, should the uses on the Property be deemed to be incompatible with APZ-1 or the Navy Easement as amended by the Petrochemical Restriction, then the City may terminate access to the Property via the Access Easement. [Once acquired from the Navy, City to be responsible for construction of access from Property to Potters road. This obligation is conditioned on (i) acquisition of Access Easement by the City from the Navy and (ii) appropriation of sufficient funds from the Virginia Beach City Council to construct the Road.

Infrastructure/

Stormwater: Except as set forth above for access to Potters Road, Developer shall be responsible for all infrastructure (including stormwater), utility and environmental expenses associated with the development of the Property. Stormwater will connect to regional BMP once easement/access is granted from the Navy.

Definitive

Documents: The parties recognize and agree that if the proposal outlined in this Term-Sheet moves forward, there will be negotiated and prepared a more detailed development agreement, that will contain additional terms, conditions and obligations to the terms stated herein.

Special

Terms: Due to the manner in which the Property was acquired (by the City via its BRAC program), all monies received by the Authority from the sale, less any expenses incurred by the Authority, are to be returned to the City.

EXHIBIT 1
(Term Sheet)

ALL THAT certain lot, piece or parcel of land, with the buildings and improvements thereon, lying, situate and being in the City of Virginia Beach, Virginia, known, numbered and designated as PARCEL 3A-2A, as shown on that certain plat entitled, "RESUBDIVISION OF PROPERTY OWNED BY THE SEAY COMPANY, INC. AND SEAY FAMILY, LLC (M.B. 37, P. 4) (M.B. 127, P. 13A) (D.B. 1585, P. 575) VIRGINIA BEACH, VIRGINIA," dated January 17, 2006 and prepared by NDI, L.L.C., Basgier and Associates Division, Engineers-Surveyors-Planners, which said plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia as Instrument No. 20090121000056270.

IT BEING the same property conveyed to the City of Virginia Beach, a municipal corporation of the Commonwealth of Virginia, by Deed dated October 24, 2011 from 130 London Bridge LLC, a Virginia limited liability company, and recorded in the aforesaid Clerk's Office as Instrument No. 20111027001112530.

**EXHIBIT 2
(TERM SHEET)**

Exempt from recordation
taxes under Sections 58.1-811(A)(3)
and 58.1-811(C)(4); Reimbursement
authorized under Section 25.1-418

All correspondence pertaining to this
Easement must include reference to:
FILE NO: EO-10371
CONTRACT NO: N40085-20-RP-XXXXX

Prepared by Department of the Navy
Naval Facilities Engineering Command,
Mid-Atlantic
9324 Virginia Avenue
Norfolk, VA 23511

GRANT OF EASEMENT

THIS INDENTURE, made this ____ day of _____, 20__, between the UNITED STATES OF AMERICA, the grantor, hereinafter called the GOVERNMENT, represented by the Commanding Officer, Naval Facilities Engineering Command, Mid-Atlantic acting by and through the Secretary of the Navy, and the CITY OF VIRGINIA BEACH, a municipal corporation of the Commonwealth of Virginia, hereinafter called the GRANTEE.

WHEREAS, the GOVERNMENT owns that certain real property identified as Naval Air Station Oceana, located in Virginia Beach, Virginia, hereinafter called the INSTALLATION; and

WHEREAS, the GRANTEE owns that certain property adjacent to the Installation known as the London Bridge Commerce Center (GPIN: 2407-04-8646) hereinafter LBCC, and has requested an easement for access across a portion of the INSTALLATION, hereinafter ACCESS EASEMENT, for the construction, installation, operation, maintenance, repair and replacement of a paved access road on, in, over, under, and across GOVERNMENT property, hereinafter called the EASEMENT AREA; and

WHEREAS, the Secretary of the Navy has found that the granting of such ACCESS EASEMENT on the terms and conditions hereinafter stated is not incompatible with the public interest.

NOW THEREFORE, this INDENTURE witnesseth that, in consideration of the ACCESS EASEMENT and the premises set forth herein, pursuant to the authority of 10 U.S.C. § 2667 and 2668, the GOVERNMENT hereby grants to the GRANTEE and its successors and assigns, for a period 50 years from the date hereof, a 75'-wide easement for the construction, installation, operation, maintenance, repair, and replacement of an access road, on, in, over, under and across INSTALLATION property in the EASEMENT AREA, containing 73,649 square feet, or 1.691 acres, more or less, and more specifically described in Exhibit "A" and shown in Exhibit "B" and Exhibit "C", attached hereto and made a part hereof.

GPIN: 2406-55-7429 (INSTALLATION
2407-04-8646 (CITY LBCC)

FILE NO: EO-10238
CONTRACT NO: N40085-17-RP-00046

THIS ACCESS EASEMENT is granted subject to the following terms and conditions, which GRANTEE, by its acceptance hereof, specifically agrees to and consents to be bound by:

1. CONSIDERATION. The Fair Market Value of the subject ACCESS EASEMENT is XXX. In addition, GRANTEE is granting GRANTOR those certain USE RESTRICTIONS set forth below in paragraph 5. The parties agree the restrictions set forth in paragraph 5 have a Fair Market Value of YYY. In consideration of TBD (\$TBD.00), which is the difference between the Fair Market Value of the subject ACCESS EASEMENT and the benefit of the USE RESTRICTIONS described in paragraph 5, the parties hereto, intending to be legally bound hereby, have agreed to, and do hereby, effectuate the conveyance set forth below.

2. ACCESS BY GRANTEE. The GOVERNMENT grants to the GRANTEE the right to use the EASEMENT AREA, together with the necessary rights of ingress and egress authorized by the Installation Commanding Officer. The GRANTEE and its invitees and contractors agree to absorb all costs, including time and expenses, associated with gaining access to the Installation under the RAPIDGATE or similar program. Any parking that accompanies the use of, and any routes of access to and from, the EASEMENT AREA are subject to change at the sole discretion of the Installation Commanding Officer.

3. USE BY GOVERNMENT. The GOVERNMENT may use the EASEMENT AREA for any purpose that does not unreasonably interfere with the use and enjoyment by the GRANTEE of the rights granted by this Easement.

4. SUBJECT TO EXISTING AND FUTURE EASEMENTS. This EASEMENT is subject to all existing easements, if any, and all other outstanding rights, recorded and unrecorded, and to all such utility lines, roadways, or other improvements as may be located on, in, under, across, through and over the EASEMENT AREA, and to the right of the GOVERNMENT to grant such additional easements and rights of way on, in, under, across, through and over the EASEMENT AREA as it shall determine to be in the public interest, provided that such additional easements and rights of way will not unreasonably interfere with the GRANTEE's use of the EASEMENT AREA in accordance with this Easement.

5. USE RESTRICTIONS ON LBCC. As a condition of granting this ACCESS EASEMENT, the GRANTEE agrees the property being serviced by this ACCESS EASEMENT, identified as GPIN 2407-04-8646, and now, or formerly referred to as the LBCC, may not be used for the manufacturing, storage, handling or distribution of explosives, petrochemicals or petroleum and related products, including, but not limited to, petroleum bulk storage facilities for the duration of the ACCESS EASEMENT, except that nothing herein shall prohibit the storage and handling of petrochemicals, petroleum and related products incidental to the uses that are permitted within paragraph 2.e. of the Grant of Easement recorded in Deed Book 1932, beginning at page 761. The GRANTOR reserves the right to terminate the ACCESS EASEMENT should the property serviced by this Easement be used in a manner in violation of this paragraph. This use restriction is binding on the GRANTEE and its successors and assigns of the LBCC property.

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6. APPROVAL OF PLANS. All work performed by the GRANTEE, its agents or contractors, in connection with the operation and maintenance of the EASEMENT AREA, shall be performed at no cost to the GOVERNMENT. GRANTEE shall not construct any improvements on the EASEMENT AREA without written approval from the GOVERNMENT. Such plans shall include, without limitation, two (2) maintenance crossovers of the proposed access road to allow access to the INSTALLATION property, as shown on the Illustrative Site Plan attached hereto as "Exhibit C" and made part hereof.

7. RESTORATION. Upon completion of any work performed in or upon the EASEMENT AREA, GRANTEE, at its own expense, shall remove all equipment and unused or surplus materials, if any, and shall restore the EASEMENT AREA to the same, or as good a condition as existed prior to the initiation of such work, and in a manner satisfactory to the GOVERNMENT as determined by the Real Estate Contracting Officer, Naval Facilities Engineering Command, Mid-Atlantic, or his/her designated local representative.

8. PROTECTION AND MAINTENANCE OF EASEMENT AREA. The GRANTEE, at its own cost and expense, shall maintain the EASEMENT AREA in good condition at all times and shall promptly make all repairs that may be necessary for the preservation of the condition of the EASEMENT AREA and the continued operation and maintenance of the EASEMENT AREA.

9. DAMAGE TO THE EASEMENT AREA. GRANTEE, at its expense, shall repair or restore any damage to GOVERNMENT property that may occur during the construction, operation, maintenance, repair and replacement of the EASEMENT AREA in a manner satisfactory to the GOVERNMENT as determined by the Real Estate Contracting Officer, Naval Facilities Engineering Command, Mid-Atlantic or his/her designated local representative. To the extent permitted by law and subject to appropriation, GRANTEE, for itself and on behalf of its employees, authorized agents and contractors shall reimburse the GOVERNMENT for any and all actual costs, direct and indirect, incurred by the GOVERNMENT as a result of any damage to the EASEMENT AREA caused by their individual or collective actions.

10. APPLICABLE RULES AND REGULATIONS. The GRANTEE's rights hereunder shall be subject to such reasonable rules and regulations as may be prescribed by the GOVERNMENT to assure that the exercise of those rights will not unreasonably interfere with the GOVERNMENT's activities at the Installation. The GRANTEE shall adhere to all GOVERNMENT imposed security rules and regulations in the exercise of such rights.

11. INDEMNIFICATION. To the extent permitted by law and subject to appropriation, GRANTEE shall indemnify and defend the GOVERNMENT against, and hold the GOVERNMENT harmless from, any costs, expenses, liabilities, fines, suits, actions, damages, liability and cause of action arising or growing out of, or in any way connected with, the occupation or use of the EASEMENT AREA by the GRANTEE and its employees, agents, servants, guests, and invitees. However, this liability shall not extend to matters caused by the GOVERNMENT's negligent or willful acts. This provision shall survive the

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expiration or termination of this Easement and GRANTEE's obligations hereunder shall apply whenever the GOVERNMENT incurs costs or liabilities for the GRANTEE's actions.

12. GRANTEE'S RESPONSIBILITY. The GOVERNMENT shall not be responsible for damages to property or injuries to persons that may arise from, or be incident to, the use and occupation of the EASEMENT AREA by the GRANTEE, or for damages to the property or injuries to the persons of the GOVERNMENT's officers, agents, servants, or employees, or others who may be on the EASEMENT AREA at their invitation or the invitation of any one of them arising from or incident to governmental activities except as permitted under the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680.

13. ROAD CONNECTIONS / GOVERNMENT RESERVATION. The GOVERNMENT reserves the right to make whatever connections between the Road herein authorized and other roads on the Installation that the GOVERNMENT may consider necessary. It also reserves to itself easements for all purposes on, in, through, under, upon, across and over the ACCESS EASEMENT AREA; provided, however, that such reserved easements shall be used in a manner that will not unreasonably interfere with the use and enjoyment by the GRANTEE of the ACCESS EASEMENT rights granted herein.

14. ROAD SURFACE AND DESIGN. The road crossing surface and design shall be done in accordance with American Railway and Engineering and Maintenance-of-Way Association (AREMA).

15. ENVIRONMENTAL PROVISIONS.

a. GRANTEE shall comply with all applicable environmental laws, ordinances, rules, and regulations and all other Federal, state, and local laws, ordinances, regulations, and standards that are or may become applicable to GRANTEE's activities on the EASEMENT AREA.

b. GRANTEE shall be, at its sole cost and expense, solely responsible for obtaining any environmental permits required for its activities on the EASEMENT AREA.

c. GOVERNMENT's rights under this Easement specifically include the right for its representatives to inspect the EASEMENT AREA upon reasonable notice for compliance with environmental, safety, and occupational health laws and regulations, whether or not the GOVERNMENT is responsible for enforcing them. The inspections shall be made without prejudice to the right of duly constituted enforcement officials to make them. The GRANTEE shall have no claim on account of any entries against the United States or any of its officers, agents, employees, contractors, or subcontractors.

d. Storage, treatment, or disposal of toxic hazardous materials on the EASEMENT AREA is prohibited except as authorized by the GOVERNMENT in accordance with 10 U.S.C. § 2692.

e. The GRANTEE will not use Installation accumulation points for hazardous and other wastes or permit its hazardous wastes to be commingled with hazardous waste of the GOVERNMENT.

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f. The GRANTEE shall be solely responsible for the release, or substantial threat of a release, into the environment of any hazardous substance, pollutant or contaminant as the result of any activity under this Easement, and any preceding easements, licenses, or rights-of-way. Any reporting, containment, removal, or other remedial action relating to a release or threat of release required by law or regulation shall also be the responsibility of the GRANTEE.

g. The GRANTEE agrees to comply with the provisions of any health or safety plan in effect under the Installation Restoration Plan (IRP) or the Resource Conservation Recovery Act (RCRA) Corrective Action Program during the course of any of the above described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action will be, to the extent practicable, coordinated with representatives designated by the GOVERNMENT. The GRANTEE shall have no claim on account of any entries against the United States or its officers, agents, employees, contractors, or subcontractors. In addition, GRANTEE shall comply with all applicable Federal, state and local occupational safety and health regulations.

h. GRANTEE shall, to the extent permitted under applicable law and subject to appropriation, indemnify and hold harmless GOVERNMENT from, and defend GOVERNMENT against, any damages, costs, expenses, liabilities, fines, suits, actions, or penalties resulting from releases, discharges, emissions, spills, storage, treatment, disposal, or other acts or omissions by GRANTEE, its officers, employees, agents, contractors, licensees, or the invitees of any of them, giving rise to GOVERNMENT liability, civil or criminal, or responsibility under federal, state or local environmental laws. This Paragraph shall survive the expiration or termination of this Easement, and the GRANTEE's obligations under this Paragraph shall apply whenever the GOVERNMENT incurs costs or liabilities for GRANTEE's actions. However, this liability shall not extend to matters caused by the GOVERNMENT's negligent or willful acts.

i. The GRANTEE shall strictly comply with the hazardous waste permit, storage, handling, and disposal requirements under the Solid Waste Disposal Act or its state equivalent. The GRANTEE must provide at its own expense any hazardous waste storage facilities, complying with all laws and regulations that it may need for storage. Installation hazardous waste storage facilities will not be available to the GRANTEE.

j. GRANTEE shall manage the natural and cultural resources on the EASEMENT AREA in a manner that is consistent with the philosophies and supportive of the objectives of the Installation's Integrated Natural Resource Management Plan and Integrated Cultural Resource Management Plan. GRANTEE shall identify any activity that may affect Federally regulated resources (listed species, wetlands, waters of the United States, etc.) and provide information and mitigation that may be required to support consultation with the applicable regulatory agency.

k. GRANTEE shall, during the construction, installation, operation, maintenance, and repair of the AREA, upon inadvertently discovering Native American human remains, funerary objects, sacred objects, objects of cultural patrimony, as those terms are defined in 43.C.F.R. § 10.2(d), immediately notify by telephone the Installation Public Works Officer at (757) 433-3321,

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followed by written confirmation. The GRANTEE shall cease all activity in the area of the inadvertent discovery until directed otherwise by the Installation. Additionally, the GRANTEE shall take all reasonable efforts to protect any Native American human remains, funerary objects, sacred objects, objects of cultural patrimony, so discovered consistent with 43 C.F.R. § 10.2(d).

16. ENVIRONMENTAL CONDITION OF PROPERTY.

a. An Environmental Condition of Property (ECP) has been prepared as of the start date of this Easement to document the known environmental condition of the property. It is attached hereto as Exhibit "D" and made a part hereof. At the termination or expiration of this Easement, another ECP shall be prepared to note the environmental condition of the property at that time. A comparison of the two ECP documents shall be made to determine the extent, if any, of liability on the part of the GRANTEE.

b. For purposes of this Easement the following terms shall have the following meanings:

(1) "Toxic or Hazardous Materials" means all manner of substances, pollutants, contaminants, and waste to which Applicable Environmental Laws pertain, expressly including petroleum, petroleum products, and materials defined in 48 C.F.R. § 252.223-7006 (a)(ii) and (iii).

(2) "Contamination" means a level of Toxic or Hazardous Materials in the air, soil, or water (surface water or ground water), that exceeds levels allowed by Applicable Environmental Laws.

(3) "Applicable Environmental Laws" means:

(a) Federal, state, and local statutes, laws, ordinances, rules, and regulations, to which the GOVERNMENT is made subject by Federal law or to which the GRANTEE is made subject by Federal and state law;

(b) Executive Orders of the President of the United States;

(c) decisions of courts and administrative tribunals of competent jurisdiction;

(d) administrative orders of regulatory agencies of competent jurisdiction (involuntary or on consent); and

(e) regulations and directives of the Department of Defense, the Department of the Navy, and the Marine Corps (for Marine Corps installations only),

which pertain to the human environment (as defined in the National Environmental Policy Act of 1969); transportation of hazardous material; and human health and safety (including occupational safety).

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(4) Applicable Environmental Laws include, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.), the Hazardous Material Transportation Act (49 U.S.C. § 1801, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251, et seq.), the Clean Air Act (42 U.S.C. § 7401, et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601, et seq.), the Occupational Safety and Health Act (29 U.S.C. § 651, et seq.), and 10 U.S.C. § 2692, as amended.

(5) "Release" means any discharge, spill, emission, leaking, pumping, injection, excavation, deposit, disposal, leaching, or migration into the environment, accidental or otherwise, or introduction into the environment by any other means or method.

(6) "Remedial Action" means: investigating or monitoring the environmental condition of the EASEMENT AREA and clean-up, removal, response (including emergency response), and restoration of the EASEMENT AREA, as per Applicable Environmental Laws, due to the presence or suspected presence of Contamination or a Release or suspected Release of Toxic or Hazardous Materials.

c. If during the term of this Easement the GRANTEE becomes aware that a Release of Toxic or Hazardous Materials has occurred due to acts or omissions of the GRANTEE, its agents, or contractors, whether or not such Release results in Contamination of the EASEMENT AREA, the GRANTEE will give verbal notice to the GOVERNMENT within 24 hours of becoming aware of the Release, providing all relevant facts and circumstances. The GOVERNMENT may direct the GRANTEE to make a detailed written report of these facts and circumstances within a time certain.

d. The GRANTEE, at its sole expense, will promptly take all action necessary to comply with Applicable Environmental Laws pertaining to a Release described in subparagraph 15(b), including but not limited to: report the occurrence to appropriate Federal, state, or local regulatory authorities, if so directed by the GOVERNMENT; take timely and effective steps to minimize the Release and its impact on human health and the environment; and take Remedial Action. The GOVERNMENT may direct the GRANTEE to provide all information requested by the GOVERNMENT regarding such actions within a time certain.

e. The GRANTEE will ensure that all activities conducted on the EASEMENT AREA by the GRANTEE, its agents, or contractors are carried out in compliance with Applicable Environmental Laws. The GRANTEE will provide verbal notice to the GOVERNMENT within 24 hours of receiving any complaint, order, directive, claim, citation, or notice from any governmental authority or any other person or entity alleging noncompliance with or a violation of Applicable Environmental Laws on the EASEMENT AREA. The GRANTEE, at its sole expense, will promptly take all necessary action directed by Federal, state, or local regulatory authorities of competent jurisdiction to achieve or regain compliance with Applicable Environmental Laws. The GOVERNMENT may direct the GRANTEE to make a detailed written report, within a time certain, of the facts and circumstances underlying the alleged noncompliance or violation. Without limitation of the foregoing, the GOVERNMENT, in response to acts or omissions of the GRANTEE, its agents, or contractors may, in its discretion,

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take Remedial Action to remedy Contamination on the EASEMENT AREA or to achieve or regain compliance with Applicable Environmental Laws.

f. The GOVERNMENT may at any time inspect the EASEMENT AREA or cause the EASEMENT AREA to be inspected, to assess whether the operations of the GRANTEE, its agents, or contractors are in compliance with Applicable Environmental Laws. To assist in this evaluation, the GRANTEE, its agents, and contractors will provide to the GOVERNMENT, or another entity, as the GOVERNMENT may direct, for examination and copying, all relevant books, records, documents, and other material in their possession.

g. The GOVERNMENT, with good cause, may from time-to-time require the GRANTEE to conduct tests and analyses to assess whether the EASEMENT AREA are in compliance with Applicable Environmental Laws, and based on the results thereof, to so certify to the GOVERNMENT. Such tests and analyses shall be conducted in a manner satisfactory to the GOVERNMENT by recognized professionals approved by the GOVERNMENT. If the GOVERNMENT and the GRANTEE cannot reach agreement as to what tests and analyses shall be conducted, by whom, and when, the GOVERNMENT may perform such tests and analyses or cause such tests and analyses to be performed.

17. FAILURE TO INSIST ON COMPLIANCE. The failure of the GOVERNMENT to insist, in any one or more instances, upon performance of any of the terms, covenants or conditions of this Easement shall not be construed as a waiver or relinquishment of GOVERNMENT'S right to the future performance of any such terms, covenants or conditions and GRANTEE's obligations for their future performance shall continue in full force and effect.

18. FEDERAL FUNDS. This Easement does not obligate the GOVERNMENT to expend any appropriated funds.

19. ASSIGNMENT / TRANSFER OF RIGHTS. The GRANTEE may transfer or assign this Easement or any interest in it, or otherwise make any portion of, or rights in, the EASEMENT AREA available to any party with written notice provided pursuant to paragraph 24. If any assignment is made, with or without notice, the assignee shall be deemed to have assumed all of the obligations of the GRANTEE. However, in no event shall the GRANTEE be relieved of any of its obligations under this Easement, except for an extension of its term that begins after an assignment, and then only if the GOVERNMENT shall have consented to it.

20. TERMINATION.

a. If, at any time, the GOVERNMENT determines that the AREA, or any portion thereof, unduly interferes with any of its activities, the GOVERNMENT shall have the right to terminate this Easement, in whole or in part, to the extent necessary to eliminate the interference; However, unless the GOVERNMENT shall have determined that relocation is not feasible, it shall offer to convey to the GRANTEE, without charge, a substitute easement permitting the GRANTEE to relocate the AREA, or any portion thereof, on adjacent GOVERNMENT property, which

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relocation shall be accomplished at the GRANTEE's cost and expense. The substitute easement shall contain the same terms and conditions as those in this Easement, and shall bear the same expiration date, if any.

b. All or any part of this Easement may be terminated upon failure by the GRANTEE to comply with any of its terms and conditions; upon abandonment of the rights granted herein; or upon non-use of those rights for a period of two consecutive years. Additionally, the GOVERNMENT may terminate all or any part of this Easement in the interest of anti-terrorism force protection or national security.

21. ADMINISTRATIVE COSTS AT EXPIRATION/TERMINATION OF EASEMENT. At the termination or expiration of this Easement, at the GOVERNMENT'S discretion, GRANTEE shall be responsible for administrative costs associated with completing a final inspection of the premises and updating the Environmental Condition of Property Report.

22. SURRENDER. Upon any termination or expiration of this Easement, the GRANTEE, at its own expense and risk, shall promptly remove, to the extent required by the GOVERNMENT, improvements, fixtures, and equipment installed or constructed hereunder, and shall restore the EASEMENT AREA to the same or as good a condition as that which existed prior to the exercise by the GRANTEE of its rights hereunder. The restoration shall be done in a manner satisfactory to the Real Estate Contracting Officer, Naval Facilities Engineering Command, Mid-Atlantic, or his/her designated representative and in accordance with applicable laws and regulations. If the GRANTEE fails to remove the property as required by the GOVERNMENT, all improvements, chattels, and other items abandoned by the GRANTEE become GOVERNMENT property ninety (90) days following the date of termination or expiration. If the GOVERNMENT incurs any cost to remove the items abandoned by the GRANTEE, the GRANTEE shall reimburse the GOVERNMENT for any and all actual costs, direct and indirect, incurred by the GOVERNMENT.

23. STATEMENT OF COMPLIANCE. Pursuant to 10 U.S.C. § 2662(d):

a. This Easement is not subject to the requirements of this section; or,

b. This Easement is subject to the requirements of this section and said requirements have been met.

24. NOTICES. Unless otherwise agreed to in writing, notice shall be considered to be provided upon delivery to the respective party hereto. Any notice, approval of communication that is required to be given in writing hereunder may be served personally or mailed to:

To GRANTOR:

Commanding Officer Naval Air Station Oceana
1750 Tomcat Boulevard
Virginia Beach, Virginia 23460

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With a copy to:

Commanding Officer (ATTN: AM11-PM)
Naval Facilities Engineering Command, Mid-Atlantic
9324 Virginia Avenue
Norfolk, Virginia 23511-3095

To GRANTEE:

City Manager
2401 Courthouse Drive, Suite 234
Virginia Beach, VA 23456

With a copy to:

City Attorney's Office
ATTENTION: Rebecca D. Kubin
2401 Courthouse Drive, Suite 260
Virginia Beach, VA 23456

Each party is responsible for ensuring the other party is notified of their current address. Notice sent to the last provided address will be deemed properly given.

25. ADDITIONS, MODIFICATIONS AND DELETIONS. Prior to the execution of this EASEMENT, the following additions, modifications and deletions were made:

None.

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IN WITNESS WHEREOF, the parties hereto have caused this GRANT OF EASEMENT to be executed by their duly authorized representatives as of the day and year first written above.

UNITED STATES OF AMERICA

By: _____
AMANDA R. M. PACK
Real Estate Contracting Officer
Naval Facilities Engineering Command,
Mid-Atlantic

COMMONWEALTH OF _____
CITY/COUNTY OF _____

The foregoing document was acknowledged before me, this ____ day of _____,
20__ by _____.

NOTARY PUBLIC

My Commission Expires _____.
Registration No. _____.

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GRANTEE

**ACCEPTED ON BEHALF OF
THE CITY OF VIRGINIA BEACH:**

City Manager or his Designee or City Real Estate Agent

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to wit:

I, _____, a Notary Public in and for the City and State aforesaid, do hereby certify that _____, CITY MANAGER/ AUTHORIZED DESIGNEE OF THE CITY MANAGER PURSUANT TO §2-154 OF THE CITY CODE, whose name is signed to the foregoing agreement, bearing date the ____ day of _____, 20__, has acknowledged the same before me in my City and State aforesaid. He/She is personally known to me.

GIVEN under my hand the ____ day of _____, 20__.

NOTARY PUBLIC

My Commission Expires: _____
Notary Registration Number: _____

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

Public Works/Real Estate

City Attorney

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EXHIBIT "A"

LEGAL DESCRIPTION

| FILE NO: EO-10238
CONTRACT NO: N40085-17-RP-00046

EXHIBIT "B"
PLAT

FILE NO: EO-10238
CONTRACT NO: N40085-17-RP-00046

EXHIBIT "C"
ILLUSTRATIVE SITE PLAN

FILE NO: EO-10238
CONTRACT NO: N40085-17-RP-00046

EXHIBIT "D"
ENVIRONMENT CONDITION OF PROPERTY CHECKLIST

EXHIBIT C

[Purchase Agreement]

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this "Agreement") is made as of the 25th day of August, 2020, by and among the **CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY**, a political subdivision of the Commonwealth of Virginia ("Authority" or "Landowner"), and **LONDON BRIDGE DEVELOPMENT, LLC**, a Virginia limited liability company, or its permitted assigns ("Purchaser" or "Developer").

RECITALS:

A. As a part of its Oceana and Interfacility Traffic Area Conformity and Acquisition Program (the "BRAC Program"), the City of Virginia Beach (the "City") purchased approximately 18.24 acres of property located at 130 London Bridge Road (GPIN 2407-04-8646), formerly known as the London Bridge Commerce Center (the "Property").

B. To facilitate the sale and redevelopment in conformity with the BRAC Program, the City authorized the transfer of the Property to the Authority in 2015.

C. The Authority issued its Requests for Proposals seeking a qualified developer to purchase and develop the Property in a manner consistent with the restrictions impacting the Property as described below, and, after reviewing all responsive proposals, determined that an affiliated entity of Purchaser was best suited to acquire and develop the Property.

D. Purchaser proposes to construct up to eight (8) structures on the Property for commercial uses consistent with the uses permitted on the Property (the "Project") with each structure to be completed in a separate phase of development.

E. This Agreement sets forth the rights and obligations of the parties.

WITNESSETH:

That for and in consideration of the sum of TEN DOLLARS (\$10.00), the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landowner hereby agrees to sell, and Purchaser hereby agrees to purchase, certain real property and any improvements thereon described herein pursuant to and in accordance with the following terms and provisions.

1. **PROPERTY.** Purchaser agrees to purchase from Landowner, and Landowner agrees to sell to Purchaser, the real property situate, lying and being in the City of Virginia Beach, Virginia, together with any improvements thereon, being approximately Eighteen and 24/100 (18.24) acres located at 130 London Bridge Road (GPIN 2407-04-8646) as shown on Exhibit A, attached hereto and defined above as the "Property", pursuant to the specific terms of this Agreement.

2. **PURCHASE PRICE.** The purchase price (the "Purchase Price") for the Property shall be ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) per acre, totaling

approximately ONE MILLION EIGHT HUNDRED TWENTY-FOUR THOUSAND AND NO/100 DOLLARS (\$1,824,000.00), and is payable as follows:

a. A deposit (the "Deposit") of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00), in cash or by certified check or wired funds, shall be paid by Purchaser to Landowner upon execution of this Agreement and shall be applied to the Purchase Price at the time of Settlement hereunder unless refunded to Purchaser in accordance with the terms hereof or applied in accordance with the terms of this Agreement; and

b. Payment of balance of the Purchase Price in cash, by certified check, cashier's check, wire transfer, or other immediately available form of funds due and payable at Settlement as defined in Paragraph 3 below.

3. **TITLE.** Landowner agrees to deliver to Purchaser, at Settlement, a deed with Special Warranty and with English Covenants of Title and to convey title to the Property, in fee simple, free and clear of all liens, encumbrances and restrictions, subject however, to all recorded easements and regulations of record both as of the date hereof that are acceptable (or deemed acceptable) to Developer in accordance with Paragraph 14 of this Agreement, and specifically including: (i) APZ-1 restrictions as set forth in Article 18 of the City Zoning Ordinance (Appendix A of the City of Virginia Beach Municipal Code) and as determined by the City's Zoning Administrator (the "APZ-1 Restrictions"), (ii) an existing easement recorded in the Virginia Beach Circuit Court Clerk's Office at Deed Book 1932, Page 761 in favor of the United States Navy (the "Navy Easement") ,and (iii) an easement to be established in favor of the Navy limiting petrochemicals on the Property as set forth on Exhibit B (the "Petrochemical Restriction" and collectively with the APZ-1 Restrictions, Navy Easement, and any other easements of records that are acceptable (or deemed acceptable) to Developer in accordance with Paragraph 14 of this Agreement, collectively, the "Permitted Encumbrances").

4. **NAVY EASEMENT/ POTTER'S ROAD ACCESS.** Prior to and as a condition of Settlement, the City shall have obtained a seventy-five (75) foot+/- wide access easement across property owned by the United States Navy (the "Navy") from Potters Road to the Property in the general location and on terms as shown on Exhibit D (the "Access Easement"). The Purchaser shall have the a license to utilize the Access Easement to access the Property (the "Potters Road Access") with the specific condition, understanding and agreement that (i) the term of the Access Easement is fifty (50) years unless extended by the Navy in its sole discretion, and (ii) should the Navy determine that the Petrochemical Restriction has been violated at the Property or the Property has been put to a use that is incompatible with the Navy Easement or the APZ-1 Restrictions (as such exist as of the date of Settlement), the Navy has the right, in its sole discretion, to immediately terminate the Access Easement with no further compensation owed to any party. The City and Authority shall bear all costs related to the construction of the Potters Road Access and have currently appropriated \$2,095,000 via CIP 9-021 for that purpose. The proposed scope and construction schedule for the Potters Road Access is set forth on Exhibit E, attached hereto. Other than the costs related to the Potters Road Access, Developer shall be responsible for all infrastructure (including stormwater, but only to the extent described below in this section), utility and environmental expenses associated with the development of the Property. A regional

stormwater management pond has been constructed on adjacent property (“BMP”) and it is the intention of the parties that the BMP will serve as a component of the overall stormwater management system serving the Property. Prior to and as a condition to Settlement, Purchaser and Authority will work together, and agree on the terms and conditions of appropriate declaration or easement documents, that provide for connection of stormwater drainage to the BMP once the Potters Road Access is granted from the Navy. For the avoidance of doubt, Purchaser will be responsible for payment of costs related to installation of the requisite connection pipes and infrastructure related to such connection and Authority will be responsible for working with the Navy and the City to plan, coordinate and obtain all requisite approvals, easements, and connection rights related to stormwater connection and such other matters as may be reasonably appropriate to address in such documents for the overall benefit of the Property related to the stormwater connection to the BMP.

5. APPROVALS.

5.1. “Submission Date” shall mean the date on which the Developer shall submit all initial or preliminary (but not final) architectural plans, specifications, site plans, surveys, and other documentation required for the City of Virginia Beach to issue the Governmental Approvals (defined below) necessary for the Construction Commencement (defined below). The Developer agrees that the Submission Date will occur no later than 300 days after the date hereof. Authority agrees to cooperate with, and assist, Developer’s efforts, to obtain the Government Approvals and in connection therewith, Authority, as the owner of the Property agrees to execute any such applications and other documents as may be requested by Developer and/or any permitting governmental authorities in connection with the Government Approvals.

a. “Governmental Approvals” shall mean and include all site plan approvals, architectural plan approvals, issuance of building permits, Chesapeake Bay Preservation Board plan approvals, Department of Environmental Quality permits, U.S. Army Corps of Engineers permits, permits required from federal, state, or local governments or agencies having regulatory jurisdiction over so-called “wetlands” or “hardwood swamps”, and other such permits and approvals which may be required or deemed necessary to permit the immediate development and construction of the Project on the Property.

b. Future Phase Approvals. Developer, or Developer’s successors and assigns, shall have the continuing obligation until all phases of the Project are complete to obtain the written approval of the Authority confirming that the proposed use for each future phase of the Project is consistent with the uses allowed by the Permitted Encumbrances. Authority will promptly respond to all requests of Developer related to such approvals.

6. SETTLEMENT.

6.1 The following conditions shall be satisfied or waived by Purchaser prior to closing and settlement of the Property (“Settlement”):

a. Purchaser shall have confirmed that Purchaser’s intended use of the Property is allowed under the zoning and Permitted Encumbrances (the “Intended Use”).

b. Purchaser shall have obtained all approvals and permits required for the immediate development and construction of the Project on the Property substantially as depicted on Exhibit C attached hereto and the construction as described in this Agreement.

c. Purchaser shall have submitted, and obtained approval from the City in its capacity as a municipal corporation of, its site plan for the first phase of its Project.

d. Title to the Property shall be good and marketable and insurable by a title insurance company acceptable to Purchaser without exception other than the Permitted Encumbrances.

e. The City has (i) acquired the Access Easement (and such easement is of record in the land records), and (ii) appropriated sufficient funds for the Potters Road Access in a manner and on a construction schedule reasonably acceptable to Purchaser.

f. The Authority and the Purchaser have caused the appropriate easement or declaration documents evidencing connection of stormwater drainage to the BMP from the Property to be recorded.

6.1A. In the event that any one or more of the conditions described in Paragraph 6.1 is not satisfied in Purchaser's discretion, or waived by Purchaser in writing on or prior to the Settlement Date, then Purchaser shall have the option to (a) extend the Settlement Date for a period of time sufficient to permit the above-referenced conditions to be satisfied in Purchaser's condition, or (b) waive the above-referenced conditions and proceed to Settlement, or (c) terminate this Agreement and receive a full refund of the Deposit.

6.2. The following conditions shall be satisfied or waived by Landowner prior to Settlement:

a. The proposed use for the first phase of the Project has been deemed consistent with the Permitted Encumbrances.

b. The City has acquired the Access Easement and appropriated sufficient funds for the Potters Road Access in a manner and on a construction schedule reasonably acceptable to Purchaser.

6.3 Provided that all conditions listed in Paragraph 6.1 have been satisfied or waived by Purchaser and subject to the extension provisions of Paragraph 6.1A of this Agreement, Settlement shall occur the later of (i) forty-five (45) days from the date the City acquires the Access Easement, or (ii) thirty (30) days from the date Developer has obtained all Governmental Approvals for development of the first phase of the Project.

Notwithstanding anything to the contrary in this Agreement, either party may terminate this Agreement by providing written notice to the other party if Settlement has not occurred on or before June 30, 2023, and in such event Landowner shall refund the Deposit to Purchaser and the parties shall have no further obligations to each other except as provided for in this Agreement.

7. **PRORATIONS.** Real property taxes, insurance, rentals, revenues, utilities and other expenses affecting the Property shall be prorated and adjusted between Purchaser and Landowner as of the date of Settlement. For purposes of calculating prorations, Purchaser shall be deemed to hold title to the Property, and therefore be entitled to the income and be responsible for the expenses, as of the date of Settlement. Notwithstanding the foregoing, any and all special assessments due and payable and/or any liens on the Property as of the Settlement, shall be paid by Landowner, without adjustment or proration. Further notwithstanding the foregoing, Landowner shall be responsible for payment of all "rollback" or other special use taxes assessed against the Property. Landowner shall make payment of such taxes on the date of Settlement, and, if such taxes are not assessed and due and owing until after Settlement, Landowner shall remain liable for payment of such taxes.

8. **DELIVERY OF DOCUMENTS BY LANDOWNER.** Landowner hereby covenants and agrees to deliver or cause to be delivered to Purchaser or Purchaser's counsel at least two (2) business days prior to Settlement the following documents and instruments:

a. A special warranty deed conveying good, marketable fee simple title to the Property, free of all liens and encumbrances except for Permitted Encumbrances. Landowner shall be responsible for obtaining the release of the Property from all monetary liens, including the liens of any deeds of trust, judgments, mechanics liens, or items of similar nature.

b. A certification duly executed by Landowner setting forth Landowner's address and federal tax identification number and certifying that Landowner is a "United States Person" and that Landowner is not a "foreign person" in accordance with and/or for the purpose of the provisions of Sections 7701 and 1445 (as may be amended) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.

c. Such proof of Landowner's authority and authorization to enter into this Agreement and consummate the transactions contemplated hereby, and such proof of the power and authority of the individual(s) executing and/or delivery any instruments, documents or certificates on behalf of Landowner to act for and bind Landowner as may be reasonably required by Purchaser or its title company (the "Title Company").

d. An Owner's Affidavit in form and substance satisfactory to the Title Company and Landowner to enable the Title Company to issue its policies of title insurance without exception for mechanics' and/or materialmen's liens, assessments, parties in possession and matters typically addressed in Owner's Affidavits.

e. Any other documents or instruments, subject to Landowner's reasonable approval, as may be reasonably required by the Title Company, Purchaser and/or any lender that may make a loan to Purchaser to consummate the transaction in accordance with this Agreement.

9. **DELIVERY OF DOCUMENTS BY PURCHASER.** Purchaser hereby covenants and agrees to deliver or cause to be delivered to Landowner, on or prior to Settlement, the following documents and instruments:

a. The Purchase Price calculated in accordance with and in the manner provided in Paragraph 2 hereof, and Purchaser's share of closing costs and prorations.

b. Such proof of Purchaser's authority and authorization to enter into this Agreement and consummate the transactions contemplated hereby, and such proof of the power and authority of the individual(s) executing and/or delivering any instruments, documents or certificates on behalf of Purchaser to act for and bind Purchaser as may be reasonably required by the Title Company.

10. **COSTS AND EXPENSES.** In addition to any other items set forth in this Agreement, Landowner shall pay all expenses of preparation for the Deed, any Grantor's taxes on the Deed, any recording tax or fees customarily paid by a seller, all expenses, if any, for the removal of all monetary liens affecting title or the Property, and all expenses, if any, for the removal of any other title defects, if Landowner agrees to remove such other title defects. Purchaser shall pay all other normal and customary costs of closing, including but not limited to, all title insurance premiums associated with the issuance of the title policy, survey costs and the fees and taxes for recordation of the Deed. Purchaser and Landowner each shall pay their own attorney's fees and costs and shall each pay fifty percent of any fee or cost charged by an escrow agent, if any.

11. **POSSESSION; CONDITION.** Possession of the Property shall be delivered as of the date of Settlement, free and clear of any tenancies. Except as set forth in this Agreement, and subject to the representations and warranties of Authority in this Agreement, the Property shall be conveyed "AS IS," "WHERE IS" and "WITH ALL FAULTS."

12. **DUE DILIGENCE PERIOD.**

a. At all reasonable times prior to Settlement, Purchaser, its agents, employees, representatives and contractors, at Purchaser's sole risk, cost and expense, shall have the right, after the execution of this Agreement:

(i) To enter upon the Property to perform such surveys, soil and other tests, inspections and examinations of the Property as Purchaser deems advisable; and

(ii) To make investigations with regard to title to the Property, matters of survey, utilities availability, zoning and building code and other applicable governmental requirements (including but not limited to those requirements or restrictions imposed by the United States of America or the United States Navy, if any) with regard to the Property and the Intended Use.

For such purposes, Purchaser, its agents, employees, representatives and contractors may enter upon the Property and do all things necessary in connection therewith, provided that the same do not materially affect the Property. Neither Purchaser nor any of its agents, employees, representatives or contractors shall suffer or cause to be created any lien or encumbrance arising from Purchaser's, its agents', employees', representatives', or contractors' activity upon the Property and Purchaser shall repair any damage to the Property resulting from such activity.

Purchaser shall indemnify, defend and hold Landowner harmless from and against all costs, loss, damage and expenses, including reasonable attorney's fees, arising out of Purchaser's, its agents', employees', representatives' or contractors' activities upon the Property pursuant to this Paragraph 12. The obligations and indemnification set forth in this Paragraph 12, shall survive Settlement or termination of this Agreement.

b. Purchaser shall have until One Hundred Eighty (180) days after full execution of this Agreement (the "Due Diligence Period"), to conduct any and all title examinations, surveys, soil tests, engineering studies, environmental studies, market studies, site inspections and/or studies which Purchaser deems necessary or relevant in connection with the acquisition of the Property. Purchaser, upon written notice to Landowner, may waive all or any portion of the Due Diligence Period.

c. If the results of any inspection or investigation are deemed unsatisfactory to Purchaser, in Purchaser's sole discretion, Purchaser shall have the right to terminate this Agreement by giving Landowner written notice thereof on or before the expiration of the Due Diligence Period. If Purchaser terminates this Agreement pursuant to this Paragraph 12.c., Landowner shall return the Deposit to Purchaser, and neither party shall have any further liability to the other under this Agreement, except as expressly provided herein. Notwithstanding the foregoing, if any environmental report reveals the presence of hazardous or toxic materials Purchaser may request that Landowner remove or remediate same at Landowner's expense. In the event any removal as described within this paragraph has not been completed by the Settlement Date, then, at Purchaser's option, (a) the Settlement Date may be extended to permit the removal of such material or (b) Purchaser may terminate this Agreement with no further obligations of the parties, except as otherwise provided in this Agreement.

d. Within thirty (30) days from the execution of this Agreement, Landowner shall provide Purchaser with copies of any and all existing documents that Landowner has in its possession relating to the Property, including, but not limited to, any existing title insurance policies, surveys, environmental reports and soils tests and reports. Purchaser shall have the right to photocopy any of the foregoing items that Purchaser deems relevant in connection with Purchaser's decision to purchase the Property.

13. COMPLETION MILESTONES.

a. Settlement shall occur as provided in Paragraph 6 of this Agreement. In any event, either party shall have the right to terminate this Agreement if Settlement has not occurred by January 1, 2022. If either party terminates this Agreement pursuant to this Paragraph 13.a., Landowner shall return the Deposit to Purchaser, and neither party shall have any further liability to the other under this Agreement, except as expressly provided herein.

b. Construction (as evidenced by issuance of a building permit and commencement of construction activities pursuant to approved plans) shall commence not later than ninety (90) days after Settlement ("Construction Commencement"). The Construction Commencement Date may be extended up to ninety (90) days by Purchaser on written notice to Landowner if such delays or moratoriums are caused by circumstances outside the reasonable control of Purchaser.

c. If, not due to a reason or reasons outside the Purchaser's control, Purchaser has not commenced construction by Construction Commencement, Landowner shall have the right to reacquire the Property for the Purchase Price.

d. After Construction Commencement, Purchaser shall diligently pursue completion of the improvements for which the building permit has been issued.

e. All deadlines set forth in this paragraph shall be subject to extension for force majeure or for such reasonable time as is necessary for any construction lender for the Project to obtain possession of the Property by foreclosure or otherwise and recommence construction.

14. **TITLE; ABILITY TO CURE.** During the Due Diligence Period, Purchaser may order (1) a title insurance commitment (the "Title Commitment") from the Title Company; (2) copies of existing easements, restrictions and other matters currently of record affecting title to the Property (the "Title Exceptions"); and (3) a physical survey of the Property (the "Survey") from a surveyor acceptable to Purchaser. Prior to the end of the Due Diligence Period, Purchaser shall provide Landowner with written notice (the "Title Notice") of any matters outlined in the Title Commitment, the Title Exceptions and the Survey that are unacceptable to Purchaser and which must be resolved by Landowner (hereinafter referred to as "Title Objections") to the satisfaction of Purchaser. Not later than ten (10) days after receipt of the Title Notice, Landowner shall provide Purchaser with written notice (the "Landowner Notice") of those Title Objections that Landowner will correct (and the manner in which such Title Objections will be corrected) and those Title Objections that Landowner will not correct. In the event the contents of the Landowner Notice are not acceptable to Purchaser, Purchaser shall have the right to terminate this Agreement by providing Landowner with written notice given within ten (10) days after receipt of the Landowner Notice. Unless Purchaser terminates this Agreement pursuant to the preceding sentence, if any Title Objections are made by Purchaser, Landowner shall have a reasonable time to cure the objections and to show good and marketable title. In the event that Landowner advises that Landowner will correct any Title Objections and Landowner is unable to correct such Title Objections prior to Settlement, Purchaser may, at its option, (a) terminate this Agreement by providing Landowner with written notice, (b) extend the time for Landowner to cure the title defects, or (c) waive any item and proceed to Settlement without a reduction in the Purchase Price. If Purchaser terminates this Agreement pursuant to the provisions of this Paragraph 14, Purchaser shall recover the Deposit and all funds deposited by it on account of this Agreement and the parties shall have no further rights and obligations under this Agreement except that Purchaser's obligation under Paragraph 12. shall survive such termination. Such rights shall be exclusive of any other rights or remedies of Purchaser. Any deeds of trust, deed to secure debt, mortgage, judgments or other monetary liens affecting the Property shall not be Permitted Encumbrances and shall be satisfied by Landowner on or prior to Settlement. The title matters that Purchaser does not object to in the Title Notice and any Title Objections that are resolved to the satisfaction of Purchaser at or before Settlement shall be deemed to be Permitted Encumbrances.

15. **FAILURE TO PERFORM.** If after satisfaction or waiver of the conditions in Paragraph 6.1 Purchaser fails or refuses to pay the balance of the Purchase Price and to accept title as herein provided at the time of Settlement, Landowner shall be entitled to rescind this Agreement

and to retain the Deposit as its sole remedy for the breach of this Agreement by Purchaser. If after satisfaction or waiver of the conditions in Paragraph 6.2 Authority fails to complete Settlement, Purchaser, as its sole remedy, may elect to (a) receive reimbursement of the Deposit and reimbursement of its out-of-pocket costs incurred related to diligence and feasibility matters under this Agreement or (b) exercise the remedy of specific performance.

16. **NON-ASSIGNMENT**. This Agreement shall not be assigned, hypothecated, or otherwise disposed of without the prior written consent of Landowner except that Purchaser may assign this Agreement to an entity having at least materially common ownership with Purchaser. If such assignment is made, Purchaser shall not be relieved of responsibility hereunder unless the assignee fully assumes all obligations of Purchaser under this Agreement pursuant to a written assignment and assumption agreement. No assignment of this Agreement by Purchaser shall be effective without the written approval and acceptance of Landowner on the instrument of assignment, which approval and acceptance will not be unreasonably withheld, delayed or conditioned.

17. **RIGHT TO REPURCHASE**. Landowner has the right to repurchase the Property in accordance with the provisions of Paragraph 13.

18. **NO WAIVER OF REMEDIES**. No waiver by either party of any breach by the other party, or any extension of the due date of any payment hereunder, or the acceptance by Landowner of the payment after its due date shall in any way operate as a waiver of any breach or failure thereafter occurring; and the same shall not thereafter affect the right of either party to declare a forfeiture hereunder or pursue any other remedy afforded to it by the terms of this Agreement, at law or in equity, by reason of any subsequent act or omission of the party that has breached this Agreement.

19. **ENVIRONMENTAL CONSIDERATIONS**. Authority represents and warrants that, to the best of Landowner's knowledge, (a) there exists no hazardous or toxic substance, pollutants or contaminants, or hazardous waste, including, but not limited to, asbestos, lead based paint, PCB's and urea formaldehyde on the Property and no such material has been generated, released, stored, or deposited over, beneath, from, or on the Property, from any source whatsoever, in concentrations or quantities in violation of applicable law; and (b) there is not and has not been located on the Property an underground storage tank used to store hazardous substances, pollutants or contaminants, hazardous waste or petroleum products. However, it shall be the responsibility of Purchaser to determine whether or not there are any adverse environmental conditions, hazardous waste conditions, status protected as wetlands or endangered species which would prevent the Intended Use. Except to the extent that the representations and warranties of Authority in the preceding sentences of this Paragraph 19 prove to be false or misleading, or to the extent such claim or cause of action results or arises from any willful misconduct or gross negligence of Authority, Purchaser releases Landowner of and from and waives any claim or cause of action Purchaser may have against Landowner, under any federal, state or local law, ordinance, rule or regulation now existing or hereafter enacted or promulgated, relating to environmental matters or conditions in, on, under, about or migrating from or unto the Property, or by virtue of any common law right related to environmental conditions or matters in, or under, about or migrating from or onto the Property.

19A. **AUTHORITY'S REPRESENTATIONS AND WARRANTIES.** In addition to the representations and warranties made in Paragraph 19 above, Authority represents and warrants to Purchaser that the following are true, accurate and complete in all material respects as of the date hereof and will be true, accurate and complete in all material respects as of Settlement:

(a) Authority has not received written notice of any violations of law or municipal ordinances, orders, or requirements noted or issued by any governmental department or authority having jurisdiction over or affecting the Property.

(b) All bills and claims for labor performed and materials furnished to or for the benefit of the Property for all periods prior to the Settlement Date have been (or prior to the Settlement Date will be) paid in full, and there are not now, nor shall there be on the Settlement Date, mechanics' liens or materialmen's liens, whether or not perfected, on or affecting any portion of the Property, and if there shall be any such liens, Authority shall obtain the release of the same or cause a bond to be posted on or before the Settlement Date. In connection therewith, Authority agrees, at Settlement, to execute any affidavits and/or customary indemnity agreements which may be required by Purchaser's title insurance company in order for Purchaser to obtain from such title insurance company an owner's policy of title insurance covering the Property without exception for mechanics' liens or rights of parties in possession.

(c) There is no pending or threatened in writing condemnation or similar proceeding affecting the Property or any part thereof.

(d) Authority has the power to enter into this Agreement and to consummate the transaction contemplated herein and the execution of this Agreement, the consummation of the transaction contemplated herein does not violate any agreement, contract, or other instrument to which Authority is a party or is bound, and Authority is the owner of the Property.

(e) Authority has not received any written notice of any legal action, suit, zoning or rezoning action, or other legal or administrative proceeding.

(f) There are no contracts, commitments, proffers, rights of first refusal, obligations, leases or other agreements of any kind that relate to the Property.

(g) There are no rights of first refusal or leases that relate to the Property.

Authority's representations and warranties in Paragraph 19 and in this Paragraph 19A survive Settlement.

20. **RISK OF LOSS.** The risk of any loss of or damage to the Property prior to Settlement shall be borne by Landowner. In the event, prior to Settlement, the Property or any portion thereof is damaged other than by Purchaser or Purchaser's employees, contractors or agents, then Purchaser, at its option, may either (a) terminate this Agreement, in which event the Deposit shall be refunded to Purchaser and neither party shall have further rights against, or liability or obligations to, the other party hereunder, or (b) purchase the Property in accordance with the terms and provisions of this Agreement.

21. **NOTICES.** Any notice to be given under this Agreement to Landowner shall be deemed given if and when deposited in the United States Postal Service, certified mail, postage prepaid, addressed to Landowner at:

City of Virginia Beach
Attn: City Manager
Municipal Center, Bldg. 1
2401 Courthouse Drive
Virginia Beach, VA 23456

with a copy to:
City of Virginia Beach City Attorney's Office
Municipal Center, Bldg. 1, Room 260
2401 Courthouse Drive
Virginia Beach, VA 23456

and any notice to be given under this Agreement to Purchaser shall be deemed given if and when deposited in the United States Postal Service, certified mail, postage prepaid, addressed to Purchaser at:

London Bridge Development, LLC
588 Central Drive
Virginia Beach, VA 23454

with a copy to:
Williams Mullen
Attn: Cartwright R. Reilly
222 Central Park Avenue, Suite 1700
Virginia Beach, VA 23462

22. **SEVERABILITY.** Should any one or more of the provisions contained in this Agreement or in any of the documents or instruments delivered pursuant hereto be declared invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of any of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

23. **APPLICABLE LAW /VENUE.** This Agreement is executed under seal and shall be governed by and construed, interpreted and enforced in accordance with the laws of the Commonwealth of Virginia, notwithstanding its choice of law rules. The venue for any dispute relating to the subject matter of this Agreement shall be the court of competent jurisdiction in the City of Virginia Beach.

24. **SUCCESSORS BOUND.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and permitted assignees.

25. **DEED NOT MERGED INTO AGREEMENT.** It is understood and agreed that whether or not it is specifically so provided herein, any provision of this Agreement which by its nature and effect is required to be kept, observed, or performed after the settlement, delivery and recording of the deed hereunder shall not be merged therein, but shall be and remain binding upon and for the benefit of the parties until fully observed, kept or performed.

26. **MODIFICATION.** This Agreement constitutes the entire agreement between the parties and may not be modified or amended except by written instrument executed by the parties.

27. **SMALL BUSINESS SUPPLIER DIVERSITY (SBSD) PROGRAM.** The Developer shall comply with the requirements of Exhibit F attached hereto, setting forth requirements for SBSB certified small business participation efforts that shall be undertaken in connection with the Development. The Developer shall be responsible for collecting and submitting to the City the Subcontractor Participation Plan and required documentation as described in Exhibit F and for conducting the information session for subcontractors described in Exhibit F.

28. **CONTINUING PROVISIONS.** The covenants and agreements in Paragraphs 4, 13, 17, 18, 19, 19A, 21 through 28 herein shall survive Settlement.

29. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, including facsimile and pdf counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument; provided, however, this Agreement shall not be effective until it is executed by all parties.

30. **CONDEMNATION.** Authority agrees to give Developer prompt notice of any actual or threatened taking of all or any portion of the Property by condemnation or eminent domain prior to the Settlement Date hereunder. In the event that prior to Settlement hereunder there shall occur a taking by condemnation or eminent domain of all or any portion of the Property or a proposed conveyance to a condemning authority in lieu of condemnation, then Developer, at its option, and by written notice to Authority within ten (10) days after receipt of notice from Authority of the actual or threatened taking, may either (i) terminate this Agreement by delivery of notice thereof to Authority, and thereupon the Deposit and any accrued interest thereon shall be returned to Developer and the parties hereto shall have no further rights or obligations hereunder, or (ii) proceed to Settlement hereunder, in which event Authority shall assign to Developer at Settlement all interest of Authority in and to any condemnation proceeds that may be payable to Authority on account of such condemnation and thereupon Developer and Authority jointly shall control all negotiations and proceedings undertaken with the condemning authority with respect to the Property. If Developer fails to provide written notice to Authority within such 10-day period of its intent to terminate the Agreement, then Developer will be deemed to have waived such right.

*[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY –
SIGNATURE PAGES FOLLOW]*

IN WITNESS WHEREOF, the parties have executed this Purchase Agreement as of the date first above specified.

LONDON BRIDGE DEVELOPMENT, LLC,
a Virginia limited liability company

By: [Signature] (SEAL)
Name: William R. DeSteph
Title: Manager

~~Commonwealth~~
STATE OF Virginia
CITY OF Virginia Beach, to-wit:

I, Susan B. Fariss, a Notary Public in and for the City and State aforesaid, do hereby certify that William R. DeSteph, as Manager of London Bridge Development, LLC, whose name, as such, is signed to the foregoing Purchase Agreement, has acknowledged the same before me this 11th day of August, 2020, and that he/she is personally known to me or produced Virginia driver's license as identification.

Susan B. Fariss
NOTARY PUBLIC

My Commission Expires: 01-31-2024
My Registration Number: 192960



[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY -
SIGNATURES CONTINUE ON FOLLOWING PAGES]

**CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY,**
a political subdivision of the
Commonwealth of Virginia

By: [Signature]
Name: Dorothy Wood
Title: Chair Vice-Chair

Attest:
[Signature]
Secretary / Assistant Secretary



STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, Vicki L. Kelley, a Notary Public in and for the City and State
aforesaid, do hereby certify that Dorothy L. Wood, Chair / Vice-Chair of the City of
Virginia Beach Development Authority, whose name as such is signed to the foregoing
Agreement, has acknowledged the same before me this 25th day of August,
2020.

[Signature]
NOTARY PUBLIC

My Commission Expires: 2/29/2024
My Registration Number: 7702945

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, Vicki L. Kelley, a Notary Public in and for the City and State
aforesaid, do hereby certify that Taylor V. Adams, Secretary / Assistant Secretary of the
City of Virginia Beach Development Authority, whose name as such is signed to the foregoing
Agreement, has acknowledged the same before me this 25th day of August,
2020.

[Signature]
NOTARY PUBLIC

My Commission Expires: 2/29/2024
My Registration Number: 7702945



APPROVED AS TO CONTENT:



Dept. of Economic Development

**APPROVED AS TO LEGAL
SUFFICIENCY:**



City Attorney

EXHIBIT A
[Property Description]

ALL THAT certain lot, piece or parcel of land, with the buildings and improvements thereon, lying, situate and being in the City of Virginia Beach, Virginia, known, numbered and designated as PARCEL 3A-2A, as shown on that certain plat entitled, "RESUBDIVISION OF PROPERTY OWNED BY THE SEAY COMPANY, INC. AND SEAY FAMILY, LLC (M.B. 37, P. 4) (M.B. 127, P. 13A) (D.B. 1585, P. 575) VIRGINIA BEACH, VIRGINIA," dated January 17, 2006 and prepared by NDI, L.L.C., Basgier and Associates Division, Engineers-Surveyors-Planners, which said plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia as Instrument No. 20090121000056270.

IT BEING the same property conveyed to the City of Virginia Beach, a municipal corporation of the Commonwealth of Virginia, by Deed dated October 24, 2011 from 130 London Bridge LLC, a Virginia limited liability company, and recorded in the aforesaid Clerk's Office as Instrument No. 20111027001112530.

EXHIBIT B

[Petrochemical Restriction]

(see attached)

EXHIBIT B

Exempt from recordation
taxes under Sections 58.1-811(A)(3)
and 58.1-811(C)(4); Reimbursement
authorized under Section 25.1-418

All correspondence pertaining to this
Easement must include reference to:
FILE NO: EO-10371
CONTRACT NO: N40085-20-RP-XXXXXX

Prepared by Department of the Navy
Naval Facilities Engineering Command,
Mid-Atlantic
9324 Virginia Avenue
Norfolk, VA 23511

GRANT OF EASEMENT

THIS INDENTURE, made this _____ day of _____, 20____, between the UNITED STATES OF AMERICA, the grantor, hereinafter called the GOVERNMENT, represented by the Commanding Officer, Naval Facilities Engineering Command, Mid-Atlantic acting by and through the Secretary of the Navy, and the CITY OF VIRGINIA BEACH, a municipal corporation of the Commonwealth of Virginia, hereinafter called the GRANTEE.

WHEREAS, the GOVERNMENT owns that certain real property identified as Naval Air Station Oceana, located in Virginia Beach, Virginia, hereinafter called the INSTALLATION; and

WHEREAS, the GRANTEE owns that certain property adjacent to the Installation known as the London Bridge Commerce Center (GPIN: 2407-04-8646) hereinafter LBCC, and has requested an easement for access across a portion of the INSTALLATION, hereinafter ACCESS EASEMENT, for the construction, installation, operation, maintenance, repair and replacement of a paved access road on, in, over, under, and across GOVERNMENT property, hereinafter called the EASEMENT AREA; and

WHEREAS, the Secretary of the Navy has found that the granting of such ACCESS EASEMENT on the terms and conditions hereinafter stated is not incompatible with the public interest.

NOW THEREFORE, this INDENTURE witnesseth that, in consideration of the ACCESS EASEMENT and the premises set forth herein, pursuant to the authority of 10 U.S.C. § 2667 and 2668, the GOVERNMENT hereby grants to the GRANTEE and its successors and assigns, for a period 50 years from the date hereof, a 75'-wide easement for the construction, installation, operation, maintenance, repair, and replacement of an access road, on, in, over, under and across INSTALLATION property in the EASEMENT AREA, containing 73,649 square feet, or 1.691 acres, more or less, and more specifically described in Exhibit "A" and shown in Exhibit "B" and Exhibit "C", attached hereto and made a part hereof.

GPIN: 2406-55-7429 (INSTALLATION
2407-04-8646 (CITY LBCC)

FILE NO: EO-10238
CONTRACT NO: N40085-17-RP-00046

THIS ACCESS EASEMENT is granted subject to the following terms and conditions, which GRANTEE, by its acceptance hereof, specifically agrees to and consents to be bound by:

1. CONSIDERATION. The Fair Market Value of the subject ACCESS EASEMENT is XXX. In addition, GRANTEE is granting GRANTOR those certain USE RESTRICTIONS set forth below in paragraph 5. The parties agree the restrictions set forth in paragraph 5 have a Fair Market Value of YYY. In consideration of TBD (\$TBD.00), which is the difference between the Fair Market Value of the subject ACCESS EASEMENT and the benefit of the USE RESTRICTIONS described in paragraph 5, the parties hereto, intending to be legally bound hereby, have agreed to, and do hereby, effectuate the conveyance set forth below.
2. ACCESS BY GRANTEE. The GOVERNMENT grants to the GRANTEE the right to use the EASEMENT AREA, together with the necessary rights of ingress and egress authorized by the Installation Commanding Officer. The GRANTEE and its invitees and contractors agree to absorb all costs, including time and expenses, associated with gaining access to the Installation under the RAPIDGATE or similar program. Any parking that accompanies the use of, and any routes of access to and from, the EASEMENT AREA are subject to change at the sole discretion of the Installation Commanding Officer.
3. USE BY GOVERNMENT. The GOVERNMENT may use the EASEMENT AREA for any purpose that does not unreasonably interfere with the use and enjoyment by the GRANTEE of the rights granted by this Easement.
4. SUBJECT TO EXISTING AND FUTURE EASEMENTS. This EASEMENT is subject to all existing easements, if any, and all other outstanding rights, recorded and unrecorded, and to all such utility lines, roadways, or other improvements as may be located on, in, under, across, through and over the EASEMENT AREA, and to the right of the GOVERNMENT to grant such additional easements and rights of way on, in, under, across, through and over the EASEMENT AREA as it shall determine to be in the public interest, provided that such additional easements and rights of way will not unreasonably interfere with the GRANTEE's use of the EASEMENT AREA in accordance with this Easement.
5. USE RESTRICTIONS ON LBCC. As a condition of granting this ACCESS EASEMENT, the GRANTEE agrees the property being serviced by this ACCESS EASEMENT, identified as GPIN 2407-04-8646, and now, or formerly referred to as the LBCC, may not be used for the manufacturing, storage, handling or distribution of explosives, petrochemicals or petroleum and related products, including, but not limited to, petroleum bulk storage facilities for the duration of the ACCESS EASEMENT, except that nothing herein shall prohibit the storage and handling of petrochemicals, petroleum and related products incidental to the uses that are permitted within paragraph 2.e. of the Grant of Easement recorded in Deed Book 1932, beginning at page 761. The GRANTOR reserves the right to terminate the ACCESS EASEMENT should the property serviced by this Easement be used in a manner in violation of this paragraph. This use restriction is binding on the GRANTEE and its successors and assigns of the LBCC property.

FILE NO: EO-10238
CONTRACT NO: N40085-17-RP-00046

6. APPROVAL OF PLANS. All work performed by the GRANTEE, its agents or contractors, in connection with the operation and maintenance of the EASEMENT AREA, shall be performed at no cost to the GOVERNMENT. GRANTEE shall not construct any improvements on the EASEMENT AREA without written approval from the GOVERNMENT. Such plans shall include, without limitation, two (2) maintenance crossovers of the proposed access road to allow access to the INSTALLATION property, as shown on the Illustrative Site Plan attached hereto as "Exhibit C" and made part hereof.

7. RESTORATION. Upon completion of any work performed in or upon the EASEMENT AREA, GRANTEE, at its own expense, shall remove all equipment and unused or surplus materials, if any, and shall restore the EASEMENT AREA to the same, or as good a condition as existed prior to the initiation of such work, and in a manner satisfactory to the GOVERNMENT as determined by the Real Estate Contracting Officer, Naval Facilities Engineering Command, Mid-Atlantic, or his/her designated local representative.

8. PROTECTION AND MAINTENANCE OF EASEMENT AREA. The GRANTEE, at its own cost and expense, shall maintain the EASEMENT AREA in good condition at all times and shall promptly make all repairs that may be necessary for the preservation of the condition of the EASEMENT AREA and the continued operation and maintenance of the EASEMENT AREA.

9. DAMAGE TO THE EASEMENT AREA. GRANTEE, at its expense, shall repair or restore any damage to GOVERNMENT property that may occur during the construction, operation, maintenance, repair and replacement of the EASEMENT AREA in a manner satisfactory to the GOVERNMENT as determined by the Real Estate Contracting Officer, Naval Facilities Engineering Command, Mid-Atlantic or his/her designated local representative. To the extent permitted by law and subject to appropriation, GRANTEE, for itself and on behalf of its employees, authorized agents and contractors shall reimburse the GOVERNMENT for any and all actual costs, direct and indirect, incurred by the GOVERNMENT as a result of any damage to the EASEMENT AREA caused by their individual or collective actions.

10. APPLICABLE RULES AND REGULATIONS. The GRANTEE's rights hereunder shall be subject to such reasonable rules and regulations as may be prescribed by the GOVERNMENT to assure that the exercise of those rights will not unreasonably interfere with the GOVERNMENT's activities at the Installation. The GRANTEE shall adhere to all GOVERNMENT imposed security rules and regulations in the exercise of such rights.

11. INDEMNIFICATION. To the extent permitted by law and subject to appropriation, GRANTEE shall indemnify and defend the GOVERNMENT against, and hold the GOVERNMENT harmless from, any costs, expenses, liabilities, fines, suits, actions, damages, liability and cause of action arising or growing out of, or in any way connected with, the occupation or use of the EASEMENT AREA by the GRANTEE and its employees, agents, servants, guests, and invitees. However, this liability shall not extend to matters caused by the GOVERNMENT's negligent or willful acts. This provision shall survive the expiration or termination of this Easement and GRANTEE's obligations hereunder shall apply whenever the GOVERNMENT incurs costs or liabilities for the GRANTEE's actions.

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12. GRANTEE'S RESPONSIBILITY. The GOVERNMENT shall not be responsible for damages to property or injuries to persons that may arise from, or be incident to, the use and occupation of the EASEMENT AREA by the GRANTEE, or for damages to the property or injuries to the persons of the GOVERNMENT's officers, agents, servants, or employees, or others who may be on the EASEMENT AREA at their invitation or the invitation of any one of them arising from or incident to governmental activities except as permitted under the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680.

13. ROAD CONNECTIONS / GOVERNMENT RESERVATION. The GOVERNMENT reserves the right to make whatever connections between the Road herein authorized and other roads on the Installation that the GOVERNMENT may consider necessary. It also reserves to itself easements for all purposes on, in, through, under, upon, across and over the ACCESS EASEMENT AREA; provided, however, that such reserved easements shall be used in a manner that will not unreasonably interfere with the use and enjoyment by the GRANTEE of the ACCESS EASEMENT rights granted herein.

14. ROAD SURFACE AND DESIGN. The road crossing surface and design shall be done in accordance with American Railway and Engineering and Maintenance-of-Way Association (AREMA).

15. ENVIRONMENTAL PROVISIONS.

a. GRANTEE shall comply with all applicable environmental laws, ordinances, rules, and regulations and all other Federal, state, and local laws, ordinances, regulations, and standards that are or may become applicable to GRANTEE's activities on the EASEMENT AREA.

b. GRANTEE shall be, at its sole cost and expense, solely responsible for obtaining any environmental permits required for its activities on the EASEMENT AREA.

c. GOVERNMENT's rights under this Easement specifically include the right for its representatives to inspect the EASEMENT AREA upon reasonable notice for compliance with environmental, safety, and occupational health laws and regulations, whether or not the GOVERNMENT is responsible for enforcing them. The inspections shall be made without prejudice to the right of duly constituted enforcement officials to make them. The GRANTEE shall have no claim on account of any entries against the United States or any of its officers, agents, employees, contractors, or subcontractors.

d. Storage, treatment, or disposal of toxic hazardous materials on the EASEMENT AREA is prohibited except as authorized by the GOVERNMENT in accordance with 10 U.S.C. § 2692.

e. The GRANTEE will not use Installation accumulation points for hazardous and other wastes or permit its hazardous wastes to be commingled with hazardous waste of the GOVERNMENT.

f. The GRANTEE shall be solely responsible for the release, or substantial threat of a release, into the environment of any hazardous substance, pollutant or contaminant as the result of any

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activity under this Easement, and any preceding easements, licenses, or rights-of-way. Any reporting, containment, removal, or other remedial action relating to a release or threat of release required by law or regulation shall also be the responsibility of the GRANTEE.

g. The GRANTEE agrees to comply with the provisions of any health or safety plan in effect under the Installation Restoration Plan (IRP) or the Resource Conservation Recovery Act (RCRA) Corrective Action Program during the course of any of the above described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action will be, to the extent practicable, coordinated with representatives designated by the GOVERNMENT. The GRANTEE shall have no claim on account of any entries against the United States or its officers, agents, employees, contractors, or subcontractors. In addition, GRANTEE shall comply with all applicable Federal, state and local occupational safety and health regulations.

h. GRANTEE shall, to the extent permitted under applicable law and subject to appropriation, indemnify and hold harmless GOVERNMENT from, and defend GOVERNMENT against, any damages, costs, expenses, liabilities, fines, suits, actions, or penalties resulting from releases, discharges, emissions, spills, storage, treatment, disposal, or other acts or omissions by GRANTEE, its officers, employees, agents, contractors, licensees, or the invitees of any of them, giving rise to GOVERNMENT liability, civil or criminal, or responsibility under federal, state or local environmental laws. This Paragraph shall survive the expiration or termination of this Easement, and the GRANTEE's obligations under this Paragraph shall apply whenever the GOVERNMENT incurs costs or liabilities for GRANTEE's actions. However, this liability shall not extend to matters caused by the GOVERNMENT's negligent or willful acts.

i. The GRANTEE shall strictly comply with the hazardous waste permit, storage, handling, and disposal requirements under the Solid Waste Disposal Act or its state equivalent. The GRANTEE must provide at its own expense any hazardous waste storage facilities, complying with all laws and regulations that it may need for storage. Installation hazardous waste storage facilities will not be available to the GRANTEE.

j. GRANTEE shall manage the natural and cultural resources on the EASEMENT AREA in a manner that is consistent with the philosophies and supportive of the objectives of the Installation's Integrated Natural Resource Management Plan and Integrated Cultural Resource Management Plan. GRANTEE shall identify any activity that may affect Federally regulated resources (listed species, wetlands, waters of the United States, etc.) and provide information and mitigation that may be required to support consultation with the applicable regulatory agency.

k. GRANTEE shall, during the construction, installation, operation, maintenance, and repair of the AREA, upon inadvertently discovering Native American human remains, funerary objects, sacred objects, objects of cultural patrimony, as those terms are defined in 43.C.F.R. § 10.2(d), immediately notify by telephone the Installation Public Works Officer at (757) 433-3321, followed by written confirmation. The GRANTEE shall cease all activity in the area of the inadvertent discovery until directed otherwise by the Installation. Additionally, the GRANTEE shall take all reasonable efforts to protect any Native American human remains, funerary objects, sacred objects, objects of cultural patrimony, so discovered consistent with 43 C.F.R. § 10.2(d).

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16. ENVIRONMENTAL CONDITION OF PROPERTY.

a. An Environmental Condition of Property (ECP) has been prepared as of the start date of this Easement to document the known environmental condition of the property. It is attached hereto as Exhibit "D" and made a part hereof. At the termination or expiration of this Easement, another ECP shall be prepared to note the environmental condition of the property at that time. A comparison of the two ECP documents shall be made to determine the extent, if any, of liability on the part of the GRANTEE.

b. For purposes of this Easement the following terms shall have the following meanings:

(1) "Toxic or Hazardous Materials" means all manner of substances, pollutants, contaminants, and waste to which Applicable Environmental Laws pertain, expressly including petroleum, petroleum products, and materials defined in 48 C.F.R. § 252.223-7006 (a)(ii) and (iii).

(2) "Contamination" means a level of Toxic or Hazardous Materials in the air, soil, or water (surface water or ground water), that exceeds levels allowed by Applicable Environmental Laws.

(3) "Applicable Environmental Laws" means:

(a) Federal, state, and local statutes, laws, ordinances, rules, and regulations, to which the GOVERNMENT is made subject by Federal law or to which the GRANTEE is made subject by Federal and state law;

(b) Executive Orders of the President of the United States;

(c) decisions of courts and administrative tribunals of competent jurisdiction;

(d) administrative orders of regulatory agencies of competent jurisdiction (involuntary or on consent); and

(e) regulations and directives of the Department of Defense, the Department of the Navy, and the Marine Corps (for Marine Corps installations only),

which pertain to the human environment (as defined in the National Environmental Policy Act of 1969); transportation of hazardous material; and human health and safety (including occupational safety).

(4) Applicable Environmental Laws include, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.), the Hazardous Material Transportation Act (49 U.S.C. § 1801, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251, et seq.), the Clean Air Act (42 U.S.C. § 7401, et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601, et seq.), the Occupational Safety and Health Act (29 U.S.C. § 651, et seq.), and 10 U.S.C. § 2692, as amended.

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(5) "Release" means any discharge, spill, emission, leaking, pumping, injection, excavation, deposit, disposal, leaching, or migration into the environment, accidental or otherwise, or introduction into the environment by any other means or method.

(6) "Remedial Action" means: investigating or monitoring the environmental condition of the EASEMENT AREA and clean-up, removal, response (including emergency response), and restoration of the EASEMENT AREA, as per Applicable Environmental Laws, due to the presence or suspected presence of Contamination or a Release or suspected Release of Toxic or Hazardous Materials.

c. If during the term of this Easement the GRANTEE becomes aware that a Release of Toxic or Hazardous Materials has occurred due to acts or omissions of the GRANTEE, its agents, or contractors, whether or not such Release results in Contamination of the EASEMENT AREA, the GRANTEE will give verbal notice to the GOVERNMENT within 24 hours of becoming aware of the Release, providing all relevant facts and circumstances. The GOVERNMENT may direct the GRANTEE to make a detailed written report of these facts and circumstances within a time certain.

d. The GRANTEE, at its sole expense, will promptly take all action necessary to comply with Applicable Environmental Laws pertaining to a Release described in subparagraph 15(b), including but not limited to: report the occurrence to appropriate Federal, state, or local regulatory authorities, if so directed by the GOVERNMENT; take timely and effective steps to minimize the Release and its impact on human health and the environment; and take Remedial Action. The GOVERNMENT may direct the GRANTEE to provide all information requested by the GOVERNMENT regarding such actions within a time certain.

e. The GRANTEE will ensure that all activities conducted on the EASEMENT AREA by the GRANTEE, its agents, or contractors are carried out in compliance with Applicable Environmental Laws. The GRANTEE will provide verbal notice to the GOVERNMENT within 24 hours of receiving any complaint, order, directive, claim, citation, or notice from any governmental authority or any other person or entity alleging noncompliance with or a violation of Applicable Environmental Laws on the EASEMENT AREA. The GRANTEE, at its sole expense, will promptly take all necessary action directed by Federal, state, or local regulatory authorities of competent jurisdiction to achieve or regain compliance with Applicable Environmental Laws. The GOVERNMENT may direct the GRANTEE to make a detailed written report, within a time certain, of the facts and circumstances underlying the alleged noncompliance or violation. Without limitation of the foregoing, the GOVERNMENT, in response to acts or omissions of the GRANTEE, its agents, or contractors may, in its discretion, take Remedial Action to remedy Contamination on the EASEMENT AREA or to achieve or regain compliance with Applicable Environmental Laws.

f. The GOVERNMENT may at any time inspect the EASEMENT AREA or cause the EASEMENT AREA to be inspected, to assess whether the operations of the GRANTEE, its agents, or contractors are in compliance with Applicable Environmental Laws. To assist in this evaluation, the GRANTEE, its agents, and contractors will provide to the GOVERNMENT, or another entity, as the GOVERNMENT may direct, for examination and copying, all relevant books, records, documents, and other material in their possession.

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g. The GOVERNMENT, with good cause, may from time-to-time require the GRANTEE to conduct tests and analyses to assess whether the EASEMENT AREA are in compliance with Applicable Environmental Laws, and based on the results thereof, to so certify to the GOVERNMENT. Such tests and analyses shall be conducted in a manner satisfactory to the GOVERNMENT by recognized professionals approved by the GOVERNMENT. If the GOVERNMENT and the GRANTEE cannot reach agreement as to what tests and analyses shall be conducted, by whom, and when, the GOVERNMENT may perform such tests and analyses or cause such tests and analyses to be performed.

17. FAILURE TO INSIST ON COMPLIANCE. The failure of the GOVERNMENT to insist, in any one or more instances, upon performance of any of the terms, covenants or conditions of this Easement shall not be construed as a waiver or relinquishment of GOVERNMENT'S right to the future performance of any such terms, covenants or conditions and GRANTEE'S obligations for their future performance shall continue in full force and effect.

18. FEDERAL FUNDS. This Easement does not obligate the GOVERNMENT to expend any appropriated funds.

19. ASSIGNMENT / TRANSFER OF RIGHTS. The GRANTEE may transfer or assign this Easement or any interest in it, or otherwise make any portion of, or rights in, the EASEMENT AREA available to any party with written notice provided pursuant to paragraph 24. If any assignment is made, with or without notice, the assignee shall be deemed to have assumed all of the obligations of the GRANTEE. However, in no event shall the GRANTEE be relieved of any of its obligations under this Easement, except for an extension of its term that begins after an assignment, and then only if the GOVERNMENT shall have consented to it.

20. TERMINATION.

a. If, at any time, the GOVERNMENT determines that the AREA, or any portion thereof, unduly interferes with any of its activities, the GOVERNMENT shall have the right to terminate this Easement, in whole or in part, to the extent necessary to eliminate the interference; However, unless the GOVERNMENT shall have determined that relocation is not feasible, it shall offer to convey to the GRANTEE, without charge, a substitute easement permitting the GRANTEE to relocate the AREA, or any portion thereof, on adjacent GOVERNMENT property, which relocation shall be accomplished at the GRANTEE'S cost and expense. The substitute easement shall contain the same terms and conditions as those in this Easement, and shall bear the same expiration date, if any.

b. All or any part of this Easement may be terminated upon failure by the GRANTEE to comply with any of its terms and conditions; upon abandonment of the rights granted herein; or upon non-use of those rights for a period of two consecutive years. Additionally, the GOVERNMENT may terminate all or any part of this Easement in the interest of anti-terrorism force protection or national security.

FILE NO: EO-10238
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21. ADMINISTRATIVE COSTS AT EXPIRATION/TERMINATION OF EASEMENT. At the termination or expiration of this Easement, at the GOVERNMENT'S discretion, GRANTEE shall be responsible for administrative costs associated with completing a final inspection of the premises and updating the Environmental Condition of Property Report.

22. SURRENDER. Upon any termination or expiration of this Easement, the GRANTEE, at its own expense and risk, shall promptly remove, to the extent required by the GOVERNMENT, improvements, fixtures, and equipment installed or constructed hereunder, and shall restore the EASEMENT AREA to the same or as good a condition as that which existed prior to the exercise by the GRANTEE of its rights hereunder. The restoration shall be done in a manner satisfactory to the Real Estate Contracting Officer, Naval Facilities Engineering Command, Mid-Atlantic, or his/her designated representative and in accordance with applicable laws and regulations. If the GRANTEE fails to remove the property as required by the GOVERNMENT, all improvements, chattels, and other items abandoned by the GRANTEE become GOVERNMENT property ninety (90) days following the date of termination or expiration. If the GOVERNMENT incurs any cost to remove the items abandoned by the GRANTEE, the GRANTEE shall reimburse the GOVERNMENT for any and all actual costs, direct and indirect, incurred by the GOVERNMENT.

23. STATEMENT OF COMPLIANCE. Pursuant to 10 U.S.C. § 2662(d):

- a. This Easement is not subject to the requirements of this section; or,
- b. This Easement is subject to the requirements of this section and said requirements have been met.

24. NOTICES. Unless otherwise agreed to in writing, notice shall be considered to be provided upon delivery to the respective party hereto. Any notice, approval of communication that is required to be given in writing hereunder may be served personally or mailed to:

To GRANTOR:

Commanding Officer Naval Air Station Oceana
1750 Tomcat Boulevard
Virginia Beach, Virginia 23460

With a copy to:

Commanding Officer (ATTN: AM11-PM)
Naval Facilities Engineering Command, Mid-Atlantic
9324 Virginia Avenue
Norfolk, Virginia 23511-3095

FILE NO: EO-10238
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To GRANTEE:

City Manager
2401 Courthouse Drive, Suite 234
Virginia Beach, VA 23456

With a copy to:

City Attorney's Office
ATTENTION: Rebecca D. Kubin
2401 Courthouse Drive, Suite 260
Virginia Beach, VA 23456

Each party is responsible for ensuring the other party is notified of their current address. Notice sent to the last provided address will be deemed properly given.

25. ADDITIONS, MODIFICATIONS AND DELETIONS: Prior to the execution of this EASEMENT, the following additions, modifications and deletions were made:

None.

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IN WITNESS WHEREOF, the parties hereto have caused this GRANT OF EASEMENT to be executed by their duly authorized representatives as of the day and year first written above.

UNITED STATES OF AMERICA

By: _____
AMANDA R. M. PACK
Real Estate Contracting Officer
Naval Facilities Engineering Command,
Mid-Atlantic

COMMONWEALTH OF _____
CITY/COUNTY OF _____

The foregoing document was acknowledged before me, this ____ day of _____,
20__ by _____.

NOTARY PUBLIC

My Commission Expires _____
Registration No. _____.

FILE NO: EO-10238
CONTRACT NO: N40085-17-RP-00046

GRANTEE

**ACCEPTED ON BEHALF OF
THE CITY OF VIRGINIA BEACH:**

City Manager or his Designee or City Real Estate Agent

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to wit:

I, _____, a Notary Public in and for the City and State aforesaid, do hereby certify that _____, CITY MANAGER/ AUTHORIZED DESIGNEE OF THE CITY MANAGER PURSUANT TO §2-154 OF THE CITY CODE, whose name is signed to the foregoing agreement, bearing date the ___ day of _____, 20___, has acknowledged the same before me in my City and State aforesaid. He/She is personally known to me.

GIVEN under my hand the ___ day of _____, 20___.

NOTARY PUBLIC

My Commission Expires: _____
Notary Registration Number: _____

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

Public Works/Real Estate

City Attorney

FILE NO: EO-10238
CONTRACT NO: N40085-17-RP-00046

EXHIBIT "A"

LEGAL DESCRIPTION

FILE NO: EO-10238
CONTRACT NO: N40085-17-RP-00046

EXHIBIT "B"
PLAT

FILE NO: EO-10238
CONTRACT NO: N40085-17-RP-00046

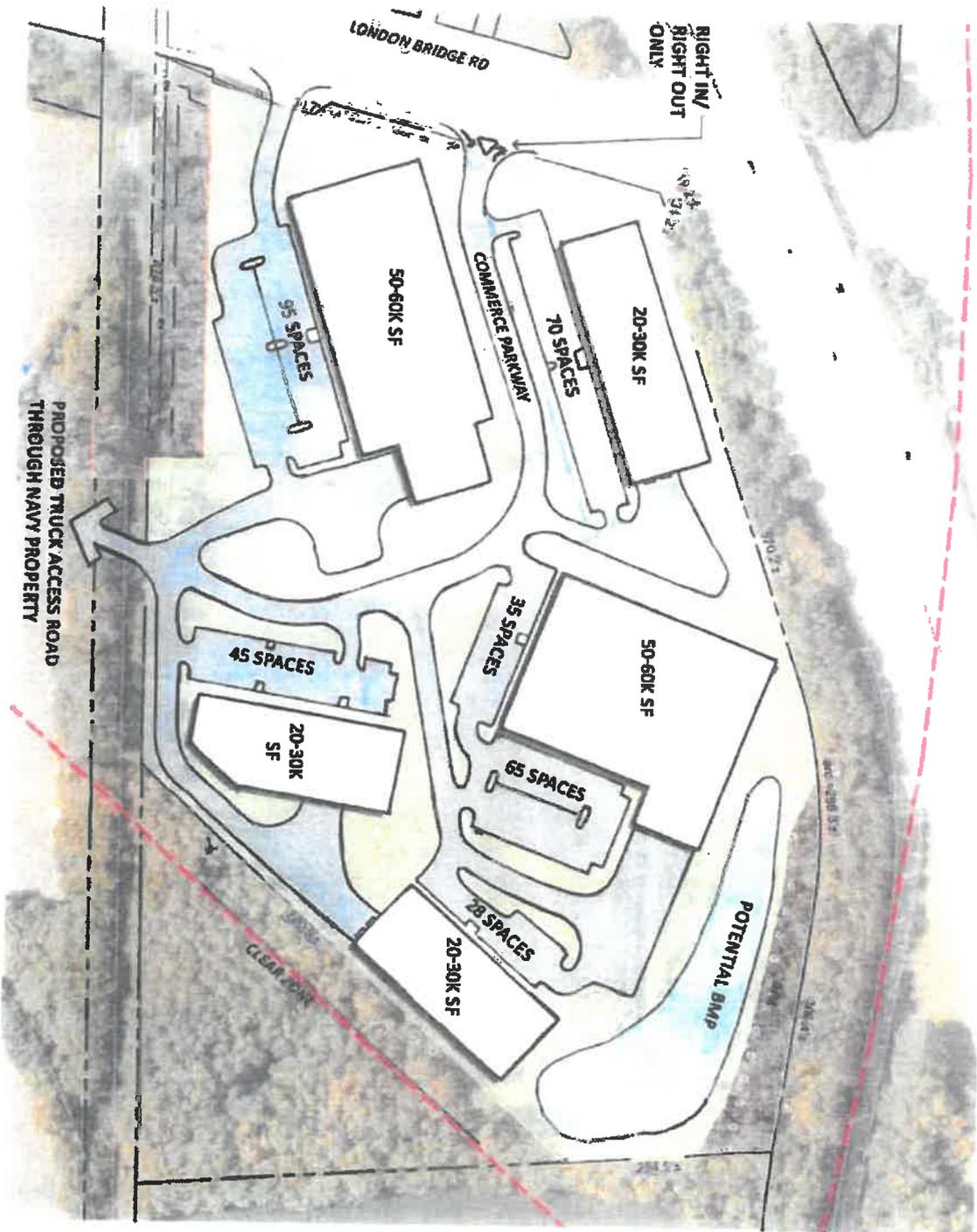
EXHIBIT "C"
ILLUSTRATIVE SITE PLAN

FILE NO: EO-10238
CONTRACT NO: N40085-17-RP-00046

EXHIBIT "D"
ENVIRONMENT CONDITION OF PROPERTY CHECKLIST

EXHIBIT C
[Conceptual Site Plan]

(see attached)



VIRGINIA BEACH
ECONOMIC DEVELOPMENT

4525 Main Street, Suite 700
Virginia Beach, Virginia 23462
757-385-6464 | 800-688-4587 | Fax 757-409-9894
Yea@VirginiaBeach.com | Email ecd@vbgov.com

**OFFICE WAREHOUSE
CONCEPTUAL LAYOUT
7.30.19**



EXHIBIT D
[Access Easement]

(see attached)

EXHIBIT E

(Potters Road Access Construction Schedule After Access Easement Acquired)

- **Topography and Design: completed within 60 Days- After Access Easement Acquired**
- **Contract Advertisement-Bid Opening: 30 Days- After Topography and Design Complete**
- **Bid Opening-Contract Execution: 45 Days after bid opening**
- **Bid Execution-Pre-Construction: 14 Days**
- **Pre-Construction-Notice to Proceed: 14 Days after contract execution**
- **Construction completed: 150 Days from Notice to Proceed**

***Note all timelines are estimates based on available information and may vary**

EXHIBIT F
[SBSD Requirements]

The Code of the City of Virginia Beach provides requirements for SBSD-certified small business enhancement. *See*, City Code § 2-224.1 *et seq.* The Parties agree that these requirements will apply to this Agreement.

The Developer is required to submit a SBSD-certified Subcontracting Participation Plan (the "Plan"), attached hereto, detailing, at a minimum:

- Whether the contractor intends to utilize any subcontractors;
- What, if any, SBSD-certified business subcontractors the contractor intends to utilize;
- The work to be performed by each SBSD-certified business;
- The estimated dollar amount to be paid to each SBSD-certified business, performing work as a subcontractor;

The Developer is required to meet with the City Department of Finance, Purchasing Division to review the Developer's Subcontracting Participation Plan prior to the Developer soliciting or bidding out any subcontracting work.

The Developer is required to include additional small, woman and minority owned (SWAM) contractors identified by the Finance Department in Developer's outreach and solicitations.

The Plan must either (i) provide for at least 50% of the value of the subcontracted work to be provided by a SBSD-certified business; or (ii) provide detailed documentation showing, with specificity, the efforts undertaken by the prospective contractor to meet the 50% usage requirement. Any determination of whether such efforts meet the requirements of the City Code shall be made by the City Department of Finance, Purchasing Division.

In addition, the Virginia Beach City Council has established an aspirational goal of 10% for minority participation.

The Plan shall become a part of the underlying agreement. The Developer may update the Plan, in the event that unforeseen circumstances arise with relation to any SBSD-certified business identified for participation. Such circumstances include, but are not limited to: unforeseen closure, or other circumstance which renders the SBSD-certified business inoperable; failure of the SBSD-certified business to perform the contracted scope of work as specified in the executed subcontract agreement; consistent non or poor performance of the specified scope of work as negotiated.

The Developer will be required to provide the Authority monthly updates as to payments made to the subcontractors listed on the Plan, via the Monthly SBSD-certified Subcontractor Payment Data Sheet, attached hereto. Prior to final payment, each contractor shall submit a report

documenting its efforts undertaken in compliance with the Plan. A contractor may delay monthly payment and will not receive final payment under a contract until he submits documentation of actual SBSB-certified business usage. The report shall include, at a minimum:

- a. A statement detailing all SBSB-certified subcontractors utilized;
- b. A list of all SBSB-certified subcontractors utilized;
- c. A brief description of the work performed by each SBSB-certified subcontractors;
- d. The amount paid to each SBSB-certified subcontractor; and
- e. Supply monthly updates as to payments made to its SBSB-certified subcontractors via the CVAB – E form (attached for reference); failure to do so could impact your receipt of payment.

Prior to engaging any subcontractors, Developer shall require its prime contractor to conduct an information session to highlight subcontracting opportunities. The Authority shall promote this information session by informing the City's Minority Business Council and utilizing the City's existing notification system of Small, Woman-owned, Minority-owned, and Service Disabled Veteran-owned businesses.