



INTEROFFICE MEMORANDUM

TO: Planning Board
Board of Finance
Board of Representatives

FROM: David Martin, Mayor's Office, ext. 4152 *DM*

DATE: October 22, 2014

RE: The Housing Authority of the City of Stamford
Purchase and Sales Agreement – Colahan Street

Kindly place the subject Agreement on the agenda for your review and advise your recommendation(s).

Thank you.

Enc.



MAYOR
DAVID R. MARTIN



**CITY OF STAMFORD
OFFICE OF LEGAL AFFAIRS**

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October 22, 2014

To: Mayor David R. Martin

From: Burt Rosenberg, Asst. Corporation Counsel *BR*

Re: The Housing Authority of the City of Stamford
Purchase and Sales Agreement – Colahan Street

Attached are four copies of the above described Purchase and Sales Agreement, which I have approved as to form.

Colahan Street was discontinued by Resolution No. 3394 of the Board of Representatives on October 4, 2010. The adjacent property is the site of the Vidal Court Housing Complex, which the Housing Authority intends to further develop. The acquisition of the discontinued Colahan Street will facilitate the Housing Authority's development of Vidal Court.

Pursuant to Section 9-7 of the City Code, it is necessary for the Planning Board, Board of Finance and the Board of Representatives to approve the Purchase and Sales Agreement. Therefore, please forward the Agreement to the three boards, requesting their respective approval.

Thank you for your consideration.

Encl.

C: Kathryn Emmett, Director of Legal Affairs
Ernie Orgera, Director of Operations

PURCHASE AND SALES AGREEMENT

AGREEMENT made as of the _____ day of _____, between **THE CITY OF STAMFORD**, 888 Washington Boulevard, Stamford, Connecticut 06904 (hereinafter referred to as the **SELLER**, whether one or more), and **THE HOUSING AUTHORITY OF THE CITY OF STAMFORD**, 40 Clinton Avenue, Stamford, Connecticut 06901 (hereinafter referred to as the **BUYER**).

WHEREAS, **SELLER** is the owner of that certain parcel of real property situated in the City of Stamford, County of Fairfield, and State of Connecticut commonly known as Colahan Street, as more particularly set forth on Schedule A, attached hereto and incorporated herein by reference (the "Premises"); and

WHEREAS, **SELLER** desires to sell the Premises to **BUYER** and **BUYER** desires to purchase the Premises from **SELLER**, all in the manner and in accordance with and subject to the terms and conditions set forth in this Agreement.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **PROPERTY.** **SELLER**, in consideration of the purchase price hereinafter specified, hereby agrees to sell and convey, and the **BUYER** hereby agrees to purchase the real property commonly known as Colahan Street, Stamford, Connecticut, and specifically described in Schedule A attached hereto, subject to the encumbrances and exceptions to title set forth or referred to in paragraph 6(e) and Schedule A (legal description and exceptions, if any) attached hereto.

2. **CONSIDERATION.** The purchase price is **SEVENTY FOUR THOUSAND and 00/100 DOLLARS (\$74,000.00)** which the **BUYER** agrees to pay as follows:

- | | |
|---|--------------------|
| (a) As a part of the deposit to be paid upon execution of this Agreement by the Buyer; | \$0.00 |
| (b) Upon the delivery of the deed, by certified check or official bank check drawn on a bank which is a member of the New York Clearing House, or the proceeds of which are immediately available to SELLER at a local bank; | \$74,000.00 |
| TOTAL | \$74,000.00 |

Any deposit made hereunder shall be paid to **SELLER's** Purchasing Agent who shall hold the same subject to the terms and conditions hereof and release same to **SELLER** at the time of closing or to the party entitled thereto upon sooner termination of this Agreement.

Mortgage company checks or similar holding company checks, unless certified, **DO NOT** represent immediate funds and will not be accepted at the time of closing. Trustee checks are **NOT** acceptable funds for any payment required under Paragraph 2(b) of this Agreement. In the event **SELLER** or its attorney accepts **BUYER's** attorney's trustee check in lieu of other funds, **BUYER** agrees that no stop

payment order or direction will be issued with respect to such check(s). This provision shall survive the closing.

3. **DEED.** SELLER, on receiving the total purchase price, shall, at SELLER's cost and expense, execute, acknowledge, and deliver to BUYER, or BUYER's permitted assigns, the usual Connecticut form Quitclaim Deed in proper form, to convey to BUYER the fee simple of the Premises, free of all encumbrances except as hereinafter provided. SELLER shall thereupon complete and deliver to BUYER the conveyance tax forms.

4. **CLOSING.** The deed shall be delivered at the offices of CITY OF STAMFORD Department of Legal Affairs, 888 Washington Boulevard, Stamford, Connecticut no later than **December 31, 2014**, or sooner by mutual agreement of the parties hereto.

5. INTENTIONALLY OMITTED.

6. **TITLE.** (a) If, upon the date for the delivery of the deed as hereinafter provided, SELLER shall be unable to deliver or cause to be delivered a deed or deeds conveying a good and marketable title to the Premises, subject only to the items set forth in Schedule A and Paragraph 6(e) hereof, then SELLER shall be allowed a reasonable postponement of closing not to exceed thirty (30) days within which to perfect title. If at the end of said time SELLER is still unable to deliver or cause to be delivered a deed or deeds conveying a good and marketable title to said Premises, subject as aforesaid, then BUYER may elect to accept such title as SELLER can convey, without modification of the purchase price, or may reject such title. Upon such rejection, this Agreement shall terminate, SELLER shall return the deposit to BUYER, and the parties hereto shall be released and discharged from all further claims and obligations hereunder.

(b) The title herein required to be furnished by SELLER shall be marketable, subject only to the items set forth in Schedule A and Paragraph 6(e) hereof, and the marketability thereof shall be determined in accordance with the Connecticut General Statutes and the Connecticut Standards of Title of the Connecticut Bar Association. Any and all defects in or encumbrances against the title which come within the scope of said General Statutes and/or Connecticut Standards of Title shall not constitute valid objections on the part of BUYER, if such Statutes or the Connecticut Standards of Title do not so provide, and provided SELLER furnishes any affidavits or other instruments which may be required by the applicable Statutes or Connecticut Standards of Title, and further provided title will be insurable at standard premiums by a title insurance company licensed in the State of Connecticut. Where the Statutes and Connecticut Standards of Title conflict or are found to be inconsistent, the Connecticut General Statutes shall control.

(c) BUYER acknowledges that it is acquiring the Premises in "as is" condition, and that any remediation to bring the Premises up to federal, state, and local building codes, rules, and regulations are the sole responsibility of BUYER. SELLER makes no representations as to whether the Premises conform to any governmental rules, codes, permits, regulations or limitations. SELLER represents that there are no violations of any restrictive covenant, agreement or condition subject to which title to the Premises is to be conveyed in accordance with the terms hereof. Between the date of this Agreement and the date of closing, SELLER will not do anything or allow anything to be done on or about the Premises which will result in any such violation. SELLER represents that SELLER has not received any notice of zoning or building violations and that there has been no attempt to enforce same against SELLER during the time in which SELLER has owned the Premises. SELLER represents that SELLER has no knowledge

of any special assessments levied or to be levied against the Premises which are not yet a lien on the Premises and has no knowledge of any existing improvements or work done on the Premises which may result in special taxes or assessments to be paid thereon.

(d) The Premises will be conveyed to and accepted by BUYER subject to:

(i) Any and all zoning and/or building restrictions, limitations, regulations, ordinances, and/or laws; any and all building lines; and all other restrictions, limitations, regulations, ordinances and/or laws imposed by any governmental authority and any and all other provisions of any governmental restrictions, limitations, regulations, ordinances and/or public laws, provided the Premises are not in violation of same at the time of closing.

(ii) Real Property Taxes on the Current Grand List and any and all existing tax payments, municipal liens and assessments, coming due on or after the date of closing; the BUYER shall by acceptance of the deed assume and agree to pay, any and all such tax payments, liens and assessments which may on or after the date hereof be assessed, levied against or become a lien on the Premises.

(iii) Any state of facts which a survey and/or physical inspection of the Premises might reveal, provided same do not render title unmarketable as determined under Paragraph 6(b) hereof (such exception is for purposes of this Agreement only and shall not be included in the deed, unless it was in the deed which SELLER received upon purchasing the property).

(iv) Common law, riparian or littoral rights of others and/or other rights, if any, in and to any natural watercourse or body of water flowing through or adjoining the Premises, and all statutory and other rights of others in and to any such watercourse or body of water.

(v) Any municipal assessment other than taxes (such as for sewers and the like) shall be assumed by BUYER at closing.

(vi) Such encumbrances as shown on Schedule A, if any.

7. **LIEN.** All sums paid on account of this Agreement and the reasonable expenses as set forth in Paragraph 6 or 11 hereof are hereby made liens on the Premises, but such liens shall not continue after default by BUYER under this Agreement.

8. **CONDITION OF PREMISES [THIS AGREEMENT IS NOT SUBJECT TO ANY INSPECTION CONTINGENCIES].** BUYER agrees that he/she/it has inspected said Premises, is satisfied with the physical condition thereof and agrees to accept at closing the Premises in their present condition, subject to the provisions of Paragraph 11 hereof. Neither SELLER nor SELLER's agents have made any representations or warranties as to said Premises on which BUYER has relied other than as expressly set forth in this Agreement. SELLER agrees that the condition of the Premises shall be the same on the date of closing of title as of the date hereof, subject to the provisions of Paragraph 11 hereof.

9. **BROKER(S).** The parties agree that no real estate brokers negotiated the sale of the Premises and that no real estate commissions shall be due to any party. Each party hereby agrees to indemnify and hold harmless the other party against any liability by reason of the claim of any broker or agent for a

commission on account of this sale, provided that it is adjudged by a court of competent jurisdiction that a commission is due by reason of such other broker or agent being the procuring cause of this sale, said indemnity to include all costs of defending any such claim, including reasonable attorney's fees. In the event of any such claim, the party having notice of such claim shall promptly notify the party without notice of same who shall have the right, but not the obligation, to assume the defense of such claim. The provisions of this paragraph shall survive the closing.

10. APPORTIONMENT. Real estate taxes, fire district taxes, sewer taxes, sewer assessments and sewer use charges or other municipal assessments, water charges, rents, service contracts, dues and ordinary assessments of private associations, and common charges, if any, shall be apportioned over the fiscal period for which levied. All adjustments shall be apportioned in accordance with the custom of the Bar Association of the community where the Premises are located based upon a 365 day year and the actual number of days in the month in which the closing occurs. Any errors or omissions in computing apportionment or other adjustments at closing shall be corrected within a reasonable time following the closing. The preceding paragraph shall survive the closing.

11. RISK OF LOSS. The risk of loss on the Premises until the time of the delivery of the deed is assumed by SELLER. Throughout the period between the date of this Agreement and the delivery of the deed, SELLER shall continue to carry its existing insurance on the Premises. In the event that such loss or damage does occur prior to the delivery of the deed, SELLER shall be allowed a reasonable time thereafter, not to exceed thirty (30) days from such loss or damage within which to repair or replace such loss or damage to BUYER's reasonable satisfaction. In the event SELLER does not repair or replace such loss or damage to BUYER's reasonable satisfaction within said time, BUYER shall have the option:

(a) Of terminating this Agreement, in which case SELLER shall return the deposit to BUYER and all claims and obligations between the parties hereto, by reason of this Agreement, shall be released and discharged; or

(b) Of accepting a deed conveying the Premises in accordance with all the other provisions of this Agreement upon payment of the aforesaid purchase price and of receiving an assignment of all insurance moneys recovered or to be recovered on account of such loss or damage, to the extent they are attributable to loss or damage to any property included in this sale together with the amount of the deductible withheld from payment.

SELLER shall not be responsible for loss or damage to trees or other plantings due to natural causes.

12. AFFIDAVITS. SELLER agrees to execute, at the time of closing of title, an affidavit, (a) verifying the non-existence of mechanics' and materialmen's lien rights, (b) verifying the non-existence of any tenants' rights, other than as set forth herein, (c) verifying the non-existence of any security interests in personal property and fixtures being sold with the Premises, (d) updating to the extent of SELLER's knowledge, any available survey, and (e) affirming that SELLER is not a "foreign person" pursuant to Internal Revenue Code Section 1445; together with any other affidavit reasonably requested by BUYER's lender or title company as to facts within SELLER's knowledge.

13. MAINTENANCE. The Premises shall be maintained by SELLER between the date of BUYER's signing hereof and the closing of title in the ordinary course, including, the raking of fallen leaves, the

removal of fallen trees and large branches (except in uncultivated areas), and the removal of snow and ice from walks and driveways.

14. DELIVERY OF PREMISES. SELLER agrees to deliver, simultaneously with the closing of title, exclusive possession of the Premises (except as may be otherwise provided herein). BUYER shall have the right to make a final inspection of the Premises prior to the closing of title.

15. DEFAULT. If BUYER is in default hereunder, or, on or before the date of closing as set forth herein, indicates that BUYER is unable or unwilling to perform and SELLER stands ready to perform SELLER's obligations, SELLER's sole remedy shall be the right to terminate this Agreement by written notice to BUYER or BUYER's attorney and retain the down payment as reasonable liquidated damages for BUYER's inability or unwillingness to perform. It is the intention of the parties hereto freely to make advance provision on the date of this Agreement for such event in order (a) to avoid controversy, delay and expense, and (b) to specify now a reasonable amount agreeable to both for compensation to the SELLER for losses which may not be readily ascertainable or quantifiable, such as any of the following which might be necessary to place SELLER in the position SELLER would have been in had BUYER made timely performance: costs of carrying, maintaining, insuring and protecting the property; loss of interest income on the proceeds; loss of optimum market time, value and conditions; the uncertainty, delay, expense and inconvenience of finding a substitute buyer; additional expenses to meet obligations entered into in anticipation of performance. In such event and upon SELLER's written notice of termination, the Premises shall be free of any claims or interest of the BUYER therein by virtue of this Agreement. In no event shall the closing, or any extension thereof, take place later than three (3) weeks from the date of closing set forth in Paragraph 4 hereof, subject to the provisions of Paragraphs 6 and 11. In the event closing has not taken place by the end of said three (3) week period, through no fault of the non-delaying party, the delaying party shall be deemed in default. If Seller defaults hereunder, BUYER shall have such remedies as Buyer shall be entitled to at law or in equity, including, but not limited to, specific performance.

16. INTENTIONALLY OMITTED.

17. DELIVERY OF DOCUMENTS. SELLER shall deliver to BUYER prior to closing any documents, informational materials, building plans and any surveys in SELLER's possession pertaining to the Premises.

18. NOTICES. All notices under this Agreement shall be in writing and shall be delivered personally and receipted or shall be sent by facsimile transmission or registered or certified mail or by overnight courier or electronic mail, addressed to the attorney for the respective party. Notice signed by the respective attorneys shall be deemed sufficient within the meaning of this paragraph without the signature of the parties themselves.

Notices to SELLER shall be sent to:

Burt Rosenberg, Asst. Corporation Counsel
Department of Legal Affairs
City of Stamford
888 Washington Blvd.
Stamford, CT 06901

Phone: (203) 977-4085
Fax: (203) 977-5560
Email: BRosenberg@StamfordCT.gov

Notices to BUYER shall be sent to:

Jonathan Gottlieb
Rippowam Corporation
40 Clinton Avenue, Suite 101
Stamford, CT 06901
Phone: (203) 977-1400 ext. 3405
Fax: (203) 977-8522
Email: JGottlieb@CharterOakCommunities.org

With a copy to:

Rebecca B. Brown, Esq.
Shipman & Goodwin LLP
300 Atlantic Street
Stamford, CT 06901
Phone: (203) 324-8196
Fax: (203) 324-8199
Email: rbrown@goodwin.com

19. ASSIGNMENT. This Agreement and BUYER'S rights hereunder may not be assigned by BUYER without the written consent of SELLER and any purported assignment without such written consent shall be void and of no effect. Consent of SELLER to an assignment shall not be unreasonably withheld, conditioned, or delayed. Upon any effective assignment of BUYER's rights hereunder, BUYER and BUYER's assignee shall be jointly and severally liable hereunder, unless otherwise agreed by SELLER.

20. IRS REPORTING COMPLIANCE. Unless otherwise required by law or as set forth in a separate designation agreement, BUYER shall cause BUYER's attorney to comply with any reporting requirements of the Internal Revenue Service as to this transaction. The provisions of this paragraph shall survive the closing.

21. ACCEPTANCE OF DEED. The delivery and acceptance of the deed herein described shall be deemed to constitute full compliance with all the terms, conditions, covenants and representations contained herein, or made in connection with this transaction, except as may herein be expressly provided and except for the warranties of title.

22. REPRESENTATIONS. Unless otherwise specified in writing to the contrary, none of the representations made in this Agreement or any addenda attached hereto shall survive delivery of the deed and all representations by SELLER are made to the best of SELLER's knowledge and belief. Further, said representations shall be as true and accurate at the time of closing as they were as of the date hereof. Except in the event of an intentional misrepresentation, if BUYER discovers any representation to be untrue or inaccurate, the remedy of the parties shall be those available to them in the event of a valid defect in or objection to title.

23. **EFFECT.** This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and permitted assigns of the respective parties.

24. **COSTS OF ENFORCEMENT.** Except as otherwise expressly provided herein, in the event of any litigation brought to enforce any material provision of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and court costs from the other party.

25. **GENDER.** In all references herein to any parties, persons, entities or corporations, the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within Agreement may require.

26. **COUNTERPARTS / FACSIMILE / ELECTRONIC MAIL.** This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and all of which when taken together shall constitute one and the same Agreement. The Parties hereto agree that this Agreement may be transmitted between them or their respective attorneys by facsimile or electronic mail. The Parties intend that faxed or .pdf signatures constitute original signatures and that an Agreement containing the signatures (original or facsimile or .pdf) of all the parties is binding on the parties once sent via facsimile or via electronic mail to the opposing counsel.

27. **ENTIRE AGREEMENT.** All prior understandings, agreements, representations and warranties, oral and written, between SELLER and BUYER are merged in this Agreement. This Agreement completely expresses the agreement of the parties, and has been entered into by the parties after discussion with their respective attorneys and after full investigation, neither party relying upon any statement made by anyone else that is not set forth in this Agreement. Neither this Agreement nor any provision hereof may be waived, changed or cancelled except by a written instrument signed by both parties.

28. **CAPTIONS.** The captions preceding the paragraphs in this Agreement are for ease of reference only and shall be deemed to have no effect whatsoever on the meaning or construction of the provisions of this Agreement.

29. **GOVERNMENT APPROVAL CONTINGENCIES.**

- (a) Pursuant to Section 9-6 of the City of Stamford's Code of Ordinance, this Agreement is contingent upon the approval of the Planning Board, the Board of Finance, the Board of Representatives and the Mayor.
- (b) The obligation of BUYER to purchase the Premises is contingent upon and subject to the approval of the acquisition by BUYER's Board of the Commissioners.

30. **SEVERABILITY.** The invalidity or unenforceability of any one or more provisions of this Agreement shall not render any other provision invalid or unenforceable. In lieu of any invalid or unenforceable provision, there shall be added automatically a valid and enforceable provision as similar in terms to such invalid or unenforceable provision as may be possible.

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IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands and seals,
the day first above written.

SELLER:

CITY OF STAMFORD

By: _____
David R. Martin
Mayor

BUYER:

THE HOUSING AUTHORITY OF THE CITY OF
STAMFORD

By: _____
Vincent J. Tufo
Executive Director & CEO

Approved as to Form
Corporation Counsel

By RL

Date 10-22-14

Schedule A
Legal Description

All that certain piece, parcel or tract of land, being a right of way shown as "Colahan Street (To be Discontinued) (Area – 3168 SF) on a certain map entitled "General Location Survey Depicting Discontinuance of Colahan Street Stamford Connecticut Prepared for Housing Authority of the City of Stamford" and attached to Resolution No. 3394 Approval of Director of Administration's Final Report Dated August 26, 2010 Concerning the Discontinuance of Colahan Street Stamford, Connecticut and Directing that Such Discontinuance be Carried Out, which Resolution was recorded on October 27, 2010 in Book 9992 at page 82 of the Stamford Land Records.

Said Premises are described as follows:

Beginning at a point on the northerly side of Stillwater Avenue at its intersection with the easterly side of land commonly known as #207 Stillwater Avenue and #1 Colahan Street; running thence along said Stillwater Avenue S 63° 40' 30" E a distance of 30.63 feet to the westerly side of land commonly known as #201 Stillwater Avenue; running thence along said #201 Stillwater Avenue N 37° 58' 30" E a distance of 105.37 feet to the southerly side of Lot A-1; running thence along said Lot A-1 N 62° 49' 30" W a distance of 30.54 feet to the aforesaid easterly side of #207 Stillwater and #1 Colahan Street; running thence along said #207 Stillwater Avenue and #1 Colahan Street S 37° 58' 30" W a distance of 105.83 feet to the Point of Beginning.

Said Premises are conveyed subject to:

1. Any and all ordinances, municipal regulations, or public or private laws, inclusive of the zoning and planning laws, rules, and regulations as established in a for the City of Stamford.
2. Any and all real property taxes becoming due and payable after delivery of the deed.
3. Any assessments or use fees of governmental authority for municipal or public improvements becoming due and payable after delivery of the deed.
4. Resolution No. 3394 Approval of Director of Administration's Final Report Dated August 26, 2010 Concerning the Discontinuance of Colahan Street Stamford, Connecticut and Directing that Such Discontinuance be Carried Out, recorded October 27, 2010 in Book 9992 at page 82 of the Stamford land records.
5. Rights of others in accordance with Sec. 13a-55. Right-of-way of property owners bounding a discontinued or abandoned highway or a highway any portion of which is discontinued or abandoned. Property owners bounding a discontinued or abandoned highway, or a highway any portion of which has been discontinued or abandoned, shall have a right-of-way for all purposes for which a public highway may be now or hereafter used over such discontinued or abandoned highway to the nearest or most accessible highway, provided such right-of-way has not been acquired in conjunction with a limited access highway.