

**ORDINANCE NO. 2022- 60**

**AN ORDINANCE AUTHORIZING PURSUANT TO LOCAL LANDS AND BUILDINGS LAW N.J.S.A. 40A:12-13.2, THE SALE OF CERTAIN UNDEVELOPED PORTIONS OF REAL PROPERTY OF THE CITY OF VINELAND LOCATED AT BLOCK 7503, LOT 45.01.**

WHEREAS, the City of Vineland (hereinafter “the City”) is the owner of real property located at Block 7503, Lot 45.01, two portions of which, both prior to and upon a subdivision thereof, as set forth in a conceptual plan attached hereto as Exhibit A, (hereinafter “the Plan”) are not needed for public use, as has been determined by the City’s Director of Municipal Utilities, are each less than the minimum size required for development under the City’s land use ordinance, are without any capital improvements thereon and each being depicted on the Plan as Proposed Subdivided Portion A consisting of approximately 3.12 acres, subject to survey, and Proposed Subdivided Portion B consisting of approximately 2.67 acres, subject to survey (hereinafter collectively “the Property”) consisting of a combined total of approximately 5.79 acres, subject to survey; and

WHEREAS, the only owner of real property (Block 7503, Lots 33.01 and 35.03) that is contiguous to and of a size that will allow for development in connection with the Property; i.e. the two aforesaid parcels to be subdivided off Lot 45.01, is NEP REAL ESTATE OF VINELAND NJ URBAN RENEWAL, LLC (hereinafter “NEP”) to which the City, by this Ordinance, accords a right to prior refusal as provided by the Local Lands and Buildings Law, N.J.S.A. 40A:12-13.2, to purchase the Property; and

WHEREAS, the Plan contemplates that Subdivided Portion A of the Property shall be conveyed to and combined with Block 7503, Lot 35.03 and Subdivided Portion B of the Property shall be conveyed to and combined with Block 7503, Lot 33.01, without the creation of any new lots, and providing for NEP to exercise its right to prior refusal by purchasing the Property for a purchase price of \$55,000 per acre, as set forth in a proposed Real Estate Purchase Agreement, attached as Exhibit B; and

WHEREAS, upon advice of the City Economic Development Director, the sum of \$52,240.08 is due from the City to the Cumberland County Improvement Authority (“the Authority”) per a shared services agreement dated October 16, 2016, in connection with the development, in part, of certain properties of the City, said amount due to be paid to the Authority from the proceeds of the subject proposed sale of the Property; and

WHEREAS, upon advice of the City Economic Development Director, there is due from the City to the Vineland Revolving Loan Fund the sum of \$216,912.02, said sum to be paid to said Revolving Loan Fund from the proceeds of the subject proposed sale of the Property; and

WHEREAS, upon advice of the City Economic Development Director, the City has been selling industrial lands for \$50,000 per acre.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VINELAND:

1. Council deems it to be in in the best interests of the City to accord and does hereby accord to NEP the right to prior refusal to purchase the Property for a purchase price of \$55,000.00 per acre, said amount being \$5000 per acre above the current \$50,000 per acre price for which the City has been selling industrial lands, with said proceeds of sale, totaling approximately \$318,450, subject to survey, to be directed by the City Economic Development Director, to be utilized for the \$52,240.08 payment due aforesaid to the Cumberland County Improvement Authority and the \$216,912.02 payment aforesaid due to the City Revolving Loan Fund.

2. The Mayor and City Clerk be and they are hereby authorized to execute an agreement of sale in the form of Exhibit B attached.

Passed First Reading: \_\_\_\_\_

Passed Final Reading: \_\_\_\_\_

\_\_\_\_\_  
President of Council

Approved by the Mayor:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

# **Exhibit A**



BLOCK 7593  
 LOT 4501  
 30.88 ACRES  
 PROPOSED  
 25.19 ACRES

LAND TO ACQUIRE  
5.88 ACRES

33.0 ACRES

Portion B

Portion A

LOT 35.01

LOT 35.03

SHEET NUMBER  
1 OF 1

DATE	BY	REVISION

CONCEPTUAL PLAN  
 FOR  
 LANDS TO ACQUIRE  
 NEP REAL ESTATE OF VINELAND,  
 NJ URBAN RENEWAL, LLC.

REV.	DATE	CHANGE	BY

DATE

NE CONSULTING SERVICES, LLC  
 4081 110 ACQUA AVE  
 VINELAND, NJ 08361  
 (856) 693-1100  
 WWW.NECONSULTINGSERVICES.COM

**NE CONSULTING SERVICES**  
 CERTIFICATE OF A PROFESSIONAL ENGINEER  
 STATE OF NEW JERSEY

# **Exhibit B**

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# **REAL ESTATE PURCHASE AGREEMENT**

Dated: June \_\_\_\_\_, 2022

By and Among

**SELLER**

CITY OF VINELAND

**BUYER**

NEP REAL ESTATE OF VINELAND NJ URBAN RENEWAL, LLC

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**THIS REAL ESTATE PURCHASE AGREEMENT** (“REPA”) is by and between the **City of Vineland, a Municipal corporation of the State of New Jersey** (“Seller”) located at 640 E. Wood Street, Vineland, New Jersey 08360 and **NEP Real Estate of Vineland NJ Urban Renewal, LLC, a New Jersey limited liability company** (“Buyer”) located at 4081 S. Lincoln Avenue, Vineland, New Jersey 08361.

**PREAMBLE**

**WHEREAS**, Seller is the owner of certain land and premises located in the City of Vineland, County of Cumberland, State of New Jersey known as Block 7503, Lot 45.01 on the City of Vineland Tax Map; and

**WHEREAS**, the Lot 45.01 property, per City of Vineland Tax map and records is approximately 30.74 acres in size, enjoys approximately 1,196 feet of frontage along S. Lincoln Avenue and is partially improved with a City of Vineland cogeneration power substation commonly known or referred to as the Clayville Cogeneration Substation; and

**WHEREAS**, Buyer is a contiguous land owner to Lot 45.01, owning two contiguous parcels of real property known as Block 7503, Lots 33.01 and 35.03 on the City of Vineland Tax Map; and

**WHEREAS**, Buyer is desirous of purchasing approximately 5.80 +/- acres of vacant portions of the Lot 45.01 property (portions containing no capital improvements) as graphically depicted on **Exhibit A** hereto and referred to thereon as “**Proposed Subdivided Portion A**” and “**Proposed Subdivided Portion B**” (collectively hereinafter referred to as the “Property”);and

**WHEREAS**, Seller, in accordance with the provisions of N.J.S.A. 40A:12-13.2 is desirous of selling **Proposed Subdivided Portion A** and **Proposed Subdivided Portion B** to Buyer in accordance with the terms and conditions of this REPA.

**NOW THEREFORE**, in consideration of the mutual promises, covenants and conditions contained in the REPA, the parties agree as follows:

1. **RECITALS**: The recitals set forth above are incorporated herein by reference as if specifically set forth herein.
2. **AGREEMENT**: The Seller agrees to sell and the Buyer agrees to buy the Property for a purchase price of \_\_\_\_\_ per acre. The final purchase price shall be determined by multiplying the per acre price by the area to be purchased determined pursuant to Buyer’s Minor Subdivision Plan referred to in Section 3.b below.
  - a. The Property shall include the land and all of Seller’s rights in the land located in the City of Vineland, County of Cumberland and State of New Jersey, more particularly described as Block 7503, Part of Lot 45.01 on the City of Vineland Tax Map, said Part of Lot 45.01 being graphically depicted as Proposed Subdivided Portion A and Proposed Subdivided Portion B on Exhibit A hereto, being vacant portions of Lot 45.01 devoid of any capital improvements.
3. **MINOR SUBDIVISION**:
  - a. This REPA is contingent upon Buyer, at Buyer’s expense, applying for and obtaining final unappealable minor subdivision approval from the City of Vineland Planning Board and the Cumberland County Planning Board permitting the division of Lot 45.01 as graphically

depicted on Exhibit A (“Approval Process”). For purposes of this Agreement, “final unappealable” shall mean receipt by Buyer of resolutions of approval from the City of Vineland Planning Board and the Cumberland County Planning Board, containing terms and conditions acceptable to Buyer, with all time frames for appeal of said approvals having expired, and Buyer receiving from the City of Vineland Planning Department, subdivision deeds, in recordable form, containing the signatures of the Chairman and Secretary of the City of Vineland Planning Board.

- b. The parties acknowledge the graphic depiction of the proposed subdivision on Exhibit A is an approximation of the portions of Lot 45.01 to be purchased by Buyer. The final land area and dimensions shall be determined by virtue of Buyer’s Minor Subdivision Plan. Subdivided Portion A shall be conveyed to and combined with Block 7503, Lot 35.03. Subdivided Portion B shall be conveyed to and combined with Block 7503, Lot 33.01. No new lots shall be created by the proposed subdivision.
  - c. Upon execution of this REPA, Buyer, at Buyer’s sole cost and expense, shall commission a Minor Subdivision Plan from a surveyor licensed in the State of New Jersey. The Minor Subdivision Plan shall be drawn in accordance with the terms of this REPA. Within 60 days from the date of this REPA Buyer shall obtain the Minor Subdivision Plan and make application to the City of Vineland Planning Board and Cumberland County Planning Board.
  - d. All costs associated with the Minor Subdivision, including, without limitation, surveyor fees, application fees and legal fees for drafting, filing and prosecutions of the applications, shall be borne solely by Buyer.
4. **PAYMENT**: Buyer agrees to pay Seller the total purchase price, subject to adjustments, by cash, certified funds or title company escrow account check at the time of settlement.
  5. **ADJUSTMENTS AT SETTLEMENT**: The Buyer and Seller agree to adjust real estate taxes relating to the Property as of the settlement.
  6. **PHYSICAL CONDITION OF PROPERTY**:
    - a. **Preliminary Inspection**. The Buyer has preliminary inspected the Property and relies on that inspection and not upon any statements or promises by Seller or Seller's agents unless specifically written in this REPA.
    - b. **Inspections**. From the date of this Agreement until closing, Buyer and Buyer’s assignees shall have the right to conduct any and all inspections of the Property that Buyer desires to determine the condition of the Property, including without limitation, environmental testing, geo tech testing, perc testing, and any other testing Buyer desires. Buyer’s inspections are for Buyer’s informational purposes only to determine the condition of the Property; the Seller shall have no responsibility for any repairs. Seller agrees to provide Buyer access to the Property during the inspection period to complete the testing Buyer desires. All entry onto to the Property by Buyer and/or Buyer’s agents shall be at the sole risk and liability of Buyer. Buyer agrees to repair and/or restore promptly any damage to the Property caused by Buyer or Buyer’s representatives. Prior to making any entry upon the Property, Buyer will deliver to Seller an insurance certificate evidencing a minimum of One Million Dollars (\$1,000,000) of comprehensive general liability insurance and naming Seller as additional insured thereunder. Such certificate shall state that the insurance coverage may not be canceled or modified except upon ten (10) days' prior written notice to Seller. Buyer agrees to indemnify, defend and hold the Seller harmless from and against any and all loss, damage, liability, claim, cost, judgment or



injury resulting from the actions of Buyer, its representatives, agents or employees, in exercising its rights under this Section.

- c. **As Is Purchase.** At settlement the Buyer agrees to accept Property "as is" which means in its present condition and without any guarantees as to quality or condition unless specifically written in this REPA.
  - d. **Risk of Damage.** Seller agrees to deliver the Property at settlement in its present condition, except for reasonable wear and tear.
7. **CONTINGENCIES AND CONDITIONS:** Buyer's obligations under this REPA, including its obligation to purchase the property are expressly conditioned on the satisfaction and/or veracity at or before settlement of all the representations, conditions, promises and contingencies contained in this REPA which are for the benefit of the Buyer.
8. **QUALITY OF TITLE:**
- a. **Seller's Documents.** Seller agrees to transfer title to the Property by a recorded bargain and sale deed with covenants against grantor's acts. Seller shall also provide a customary affidavit of title, certified resolution authorizing the sale of the lands in accordance with N.J.S.A. 40A: 12-13.2, and the reasonable requirements of Buyer's title company.
  - b. **Title.** The title shall be free of restrictions, claims and rights of others. Title shall be "marketable", which means (i) a title free from reasonable doubts, (ii) a title that will not expose Buyer to the hazards and risks of litigation, and (iii) a title that is readily salable to a reasonable buyer. The title shall be insurable at regular rates by a reputable New Jersey licensed title insurance company.
  - c. **Survey/Restrictions.** Buildings, structures and improvements of adjoining lands shall not encroach on the Property. There shall be no easements over the Property.

The following shall not be considered a violation of the foregoing parts of this paragraph:

- (1) Utility companies are permitted to have reasonable rights of way along streets to maintain pipes, poles and wires and shall have the right to maintain pipes, poles and wires serving the Property itself.
  - (2) Recorded agreements, covenants and restrictions which limit the use of the Property are permitted, unless they are presently violated; or unless they provide that the Property will be forfeited if they are violated; or unless they unreasonably limit the normal and reasonable use of the Property.
  - (3) Recorded Deed of Easement between the City of Vineland as Grantor, and Atlantic City Electric as Grantee, dated May 6, 2015 and recorded June 12, 2015 in the Clerk's Office of Cumberland County in Book 4129, Page 5003, Instrument No. 486032.
9. **SETTLEMENT:** A date for settlement cannot be made final at this time. Settlement shall be held at Buyer's title company within 15 days of Seller obtaining final unappealable minor subdivision approval, but in no event later than 6 months after the full execution of this REPA.
10. **POSSESSION:** At settlement Buyer will be given all of Seller's possession of the Property.

11. **SELLER'S REPRESENTATIONS AND WARRANTIES**: Seller makes the following statements to Buyer (called "Representations"). These representations are warranted to true and correct as of the date of this REPA, and shall be true and correct as of the date of settlement, and shall survive the closing of title.
- a. Seller is the legal owner of fee simple title to the Property and will deliver good and marketable title to the property to Buyer. Seller has full power and right to enter into and perform its obligations under this REPA. The execution and delivery of this REPA, and the consummation of the transactions contemplated herein by Seller, have been duly authorized by all necessary acts, do not require any governmental consents and will not violate any provision of any agreement or result in the breach of or constitute a default under any agreement to which Seller is a party or by which Seller is bound or under any permit, judgment, decree, order, statute, rule or regulation applicable to Seller or the Property.
  - b. There is no tenancy or other right of occupancy of the Property or any part thereof.
  - c. There are no violations of any federal, state, county or municipal law, ordinance, code, order, regulation or requirement affecting the Property. No notice of any such violation has been received by Seller.
  - d. There is no action, suit or other legal or administrative proceeding pending or threatened against Seller or affecting the Property.
  - e. There is no pending real estate tax appeal and no existing judgment affecting real estate taxes or assessments.
  - f. No assessments for public improvements have been made against the Property. No improvements have been commenced or completed prior to the date of this REPA which could result in an assessment for improvements or an additional assessment of real estate taxes. There is no pending assessment for municipal improvements applicable to the Property.
  - g. There are no mortgages or other liens upon the Property, nor are there any unpaid bills or claims which may give rise to a lien against the Property that, in either case, cannot (and will not) be extinguished through application of the Purchase Price payable at settlement.
  - h. There is no pending or threatened claim, action, complaint, notice of violation or proceeding by any governmental authority or third party respecting the Property arising out of any violation or alleged violation of any federal, state or municipal laws, ordinances, orders or requirements including without limitation any Environmental Law, and Seller is in compliance with all laws, statutes, ordinances, and regulations of the governmental authorities having jurisdiction over the Property, including Environmental Laws.
  - i. There are not presently, nor have there ever been, any aboveground or underground storage tanks on or under the Property.
  - j. There are no legal actions, suits, or other legal or administrative proceedings, pending or threatened against Seller or the Property, including any foreclosure action or similar proceeding. Seller does not owe the State of New Jersey, or any other governmental entity, any tax, including, but not limited to, disability, unemployment, franchise, social security, municipal or alcoholic beverage tax payments.
  - k. No persons other than Seller have any rights, inchoate or otherwise, in the Property, including (without limitation) rights to dower or curtesy or any other marital rights in the Property.

- l. No one other than Buyer has a contract, option or right of first refusal to purchase the Property or any part thereof.
- m. Seller is not a "foreign person" as such term is defined under Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended.

The representations and warranties contained herein shall be true as of the date of the date of this REPA, true at the time of settlement, and shall survive the closing of title and conveyance of the deed.

12. **NO BROKER**: There are no brokers or realtors entitled to a commission relating to this sale.

13. **DEFAULT**:

a. **Seller's Default**. It shall be a default by Seller if Seller:

- (1) Fails to transfer the Property to Buyer at settlement in accordance with the terms of this REPA;
- (2) Fails to comply with the written requirements of this REPA; or
- (3) Fails to deliver title of the quality described in this REPA;

If Seller defaults, Buyer may take action to compel Seller to comply (sue for specific performance); or Buyer may claim any damages or losses Buyer has suffered.

b. **Buyer's Default**. It shall be a default by Buyer if Buyer:

- (1) Fails to complete settlement as required by the terms of this REPA; or
- (2) Fails to comply with the written requirements of this REPA;

If Buyer defaults, Seller may take action to compel Buyer to comply (sue for specific performance); or Seller may claim any damages or losses Seller has suffered

c. **Cancellation**. This REPA is intended to be legally binding as to all parties. However, if a provision of this REPA gives a party or parties the right to cancel the REPA under certain conditions, the party canceling must give written notice of cancellation to the other party within any time limits specified. Upon such cancellation, Seller and Buyer shall be released from all further liability to each other. If a cancellation period expires, the party shall have no right to cancel after the expired cancellation period.

d. **Cure Of Default**: The parties mutually agree to confer in good faith and attempt to cure any defects or defaults in order to facilitate the sale and purchase of the Property. This shall require either party to promptly notify the other in writing of any problems discovered and to grant reasonable extensions of time to the other party to correct the problems.

14. **COSTS AND LIENS AT SETTLEMENT**: At settlement Seller shall pay for the following settlement costs: transfer taxes, lien payoffs and cancellations, taxes/assessments due, utilities due, one-half title company settlement fee, recording fee for Seller remainder parcel minor subdivision deed, and Seller's attorney's fees.

Buyer shall pay for the following settlement costs at the time of settlement in addition to the balance of the purchase price: survey costs, title report and insurance, one-half title company settlement fee, Buyer

attorney's fees, and recording fees for conveyancing deeds. All minor subdivision deed preparation to complete the transaction is the responsibility of Buyer.

15. **MISCELLANEOUS PROVISIONS:**

- a. **Notices.** All notices or cancellations given under this REPA must be in writing. They may be given by:
  - (1) Personal delivery to the other party or to the attorney for the other party, or
  - (2) Certified mail, return receipt requested, addressed to the other party at the address written at the beginning of this REPA or to the attorney for the other party. Notices given by certified mail shall be effective when mailed, or
  - (3) Facsimile or email transmission to the other party and the other party's counsel, with the sending party retaining a confirmation that the facsimile or email transmittal was sent and received.
- b. **Assignment.** Buyer may not transfer the Buyer's rights under this REPA.
- c. **Recording of REPA.** This REPA shall not be recorded.
- d. **Complete Agreement.** This REPA is the entire agreement between the parties. This REPA replaces and cancels any previous agreements or negotiations between the parties. This REPA can only be changed by an agreement in writing signed by all parties. Seller has not made any other REPA to sell the Property to anyone else. This REPA shall be interpreted according to the laws of the State of New Jersey.
- e. **Parties Liable.** This REPA is binding upon all parties who sign it and all who succeed to their rights and responsibilities.
- f. **Merger.** At settlement all of the promises and obligations contained in this REPA shall be merged into and replaced by the settlement papers and the transfer of title, unless otherwise set forth herein. The only exception to this shall be material violations, material misrepresentations, material concealments and material undisclosed violations of this REPA.
- g. **Counterparts.** This REPA or modifications to may be signed in one or more copies. All such signed copies shall be considered an original agreement, including copies transmitted by email or FAX, any one of which shall constitute an original of this REPA. When email or facsimile copies have been executed by all parties, they shall have the same effect as if the signatures of each copy were upon the same document and copies of such documents shall be deemed valid as originals. The parties agree that all such signatures may be transferred to a single document upon the request of any party.

***SIGNATURES ON NEXT PAGE***

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**THIS REPA** is signed, sealed and agreed to by the undersigned on the date noted below.

**Witnessed or Attested by:**

**SELLER:**

**City of Vineland**

\_\_\_\_\_  
**As to Seller**

\_\_\_\_\_  
**Honorable Anthony Fanucci, Mayor**

**Date:** \_\_\_\_\_

**BUYER:**

**NEP Real Estate of Vineland NJ Urban  
Renewal, LLC**

\_\_\_\_\_  
**As to Buyer**

**By:** \_\_\_\_\_  
**John Ruga, Manager**

**Date:** \_\_\_\_\_