

**OFFER TO PURCHASE/
PURCHASE AGREEMENT**

The City of Rochester Hills (“Purchaser”), a Michigan municipal corporation, of 1000 Rochester Hills Drive, Rochester Hills, Michigan 48309, agrees to purchase from Daniel Shuler and Kathleen Barbara Ott (collectively “Seller”), of 3308 South Blvd. W., Rochester Hills 48309, the following real property (the “Property”), upon the following terms and conditions:

1. **Property Description.** The real property consisting of a 7.09 acre parcel of real property (depicted in Exhibit A) located at 3308 South Blvd. W., Rochester Hills, Oakland County, Michigan, Parcel I.D. No. 70-15-31-400-016, more particularly described as:

Part of the Southeast 1/4 of Section 31, Town 3 North, Range 11 East, described as follows: Part of the West 1/2 of the Southeast 1/4 of Section 31, Town 3 North, Range 11 East, beginning at the Southwest corner of the Southeast 1/4 of Section 31; thence North 0 degrees 06 minutes East 990.0 feet along the North-South 1/4; thence due East 369.9 feet; thence South 1 degree 57 minutes West 990.5 feet to a point on the South Section line; thence due West along the South Section line to the point of beginning. EXCEPT: part of the Southeast 1/4 of Section 31, Town 3 North, Range 11 East, beginning at a point distant North 89 degrees 46 minutes 35 seconds East 157.92 feet from the South 1/4; thence North 89 degrees 46 minutes 35 seconds East 180.00 feet; thence North 01 degrees 43 minutes 35 seconds East 230.00 feet; thence South 89 degrees 46 minutes 35 seconds West 180.00 feet; thence South 01 degrees 43 minutes 35 seconds West 230.00 feet to the point of beginning.

together with all appurtenances, drains and sewers, and oil, gas, and mineral rights, and subject to existing building and use restrictions, rights-of-way and easements of record, and zoning ordinances.

2. **Purchase Price.** Purchaser shall have the right to purchase the Property for One Million Eight Hundred Thousand Dollars (\$1,800,000.00), payable by cash, cashier’s or certified check or electronic transfer of funds at closing in consideration and exchange for a warranty deed from Seller conveying good and marketable title to Purchaser.

3. **Earnest Money Deposit.** Purchaser shall, upon Seller’s acceptance of the Offer to Purchase, deposit with Liberty Title Agency Fifty Thousand Dollars (\$50,000.00) to be held in escrow as an earnest money deposit that shall be applied against the purchase price at closing.

4. Evidence of Title. Purchaser will obtain a commitment for title insurance wherein the title insurance company agrees to issue a standard ALTA owner's title insurance policy in an amount not less than the purchase price, insuring title to be in good and marketable condition free and clear of any mortgages, lines of credit, security interests, liens, encumbrances, encroachments, leases or rights of parties in possession of any kind or nature to the date of closing, subject only to existing building and use restrictions, rights-of-way and easements of record, and zoning ordinances. Upon closing, Purchaser shall pay for and order a title insurance policy consistent with the commitment, which Purchaser shall have updated to the date of closing. Purchaser shall have ten (10) days from the date it has received the Title Commitment and copies of related recorded restrictions and exceptions to deliver a letter to Seller objecting to any matter disclosed by the Title Commitment, or disclosed by the Survey if Purchaser obtains a Survey. If Purchaser does not deliver an objection letter with such period, Purchaser shall be deemed to have accepted the condition of title disclosed in that Title Commitment and Survey, subject to Seller satisfying each "Requirement" in the Title Commitment at or prior to closing. If Purchaser delivers such notice within such period and the Purchaser indicates in its objection letter that the objections cannot be cured, then such objection letter shall constitute a termination of the Agreement, whereupon the Deposit shall be immediately returned to Purchaser and neither party shall have any further obligation or liability to the other under the Agreement. If Purchaser's objection letter indicates that such objections can be cured, then Seller shall have ten (10) days thereafter to respond to the Purchaser advising whether the Seller can and will remedy the objection(s). If Seller does not deliver that response letter within such period, Seller shall be deemed to have responded that it is unable or unwilling to cure the objections. If Seller responds (or is deemed to respond) that it is unable or unwilling to effect a cure of the Purchaser's objections or obtain title insurance acceptable to Purchaser over such objections upon terms acceptable to Purchaser, Purchaser may by written reply delivered to Seller within five (5) business days after the expiration of the 10-day period in which the Seller to provide its response letter either (a) terminate this Agreement by written notice to Seller, in which event the Deposit shall be immediately returned to Purchaser and

neither party shall have any further liability hereunder; (b) waive such objections and proceed to acquire and take title to the Property subject to such waived objections; or (c) upon mutual written agreement by the parties, proceed to close and cure any objections by deducting from the Purchase Price and/or escrowing with the Title Company the sums necessary to cure the objections and/or cause the Title Company to insure and/or endorse over such objections in a manner satisfactory to both parties in their reasonable discretion. If Purchaser has not delivered a reply letter with such period expressly exercised any of the options set forth above, Purchaser shall be deemed to have elected the option set forth in subsection (b). Those recorded exceptions to title disclosed by the Title Commitment to which Purchaser does not object, together with those recorded exceptions to title the objections to which have been waived by Purchaser, shall collectively be referred to herein as the “Permitted Exceptions

5. Survey. Purchaser may, at its own expense, order and prepare a survey of the Property’s boundaries.

6. Waste; Seller’s Interest in the Property. Seller shall not, through any act or omission, cause or permit waste to occur or jeopardize or lessen Seller’s interest in the Property from the date of this agreement through the date of closing.

7. Condition of Property. Purchaser is purchasing the property “as is,” and with “all faults.” Seller makes no warranties concerning the condition of the Property and leaves Purchaser to its own due diligence.

8. Inspection Period. Purchaser shall have the right within 45 days after execution of this Offer to Purchase (such period being referred to herein as the “Inspection Period”), at Purchaser’s sole cost and expense, to conduct such tests, surveys, studies and examinations of the Property as Purchaser deems advisable, to investigate applicable laws, ordinances and codes, and to do all other things as Purchaser deems necessary, in its sole discretion, to satisfy itself that the Property is suitable for Purchaser’s intended use; provided, however, that Purchaser shall not conduct any soil borings or other invasive testing of the Property without the prior written consent of Seller (collectively, the “Inspections”). Seller agrees that Purchaser, its officers, employees,

agents, invitees and contractors (“Purchaser’s Representatives”) shall have reasonable access to the Property to conduct the Inspections, all at Purchaser’s sole cost, risk, and expense. Purchaser shall indemnify, defend and hold Seller harmless from any claim, loss, cost, expense, liability, damage, loss or injury, including reasonable attorneys’ fees, arising out of or related to any Inspections. In the event any such Inspections disturb any portion of the Property the Purchaser shall, at its sole cost and expense, promptly restore the Property to its prior condition. These obligations shall survive the Closing or the termination of this Offer. If Purchaser is not satisfied with the results of its Inspections, Purchaser shall have the right to terminate this Offer upon notice to Seller thereof within the Inspection Period, whereupon this Offer shall terminate, the earnest money deposit shall be returned to the Purchaser, and subject to such obligations of Purchaser hereunder which expressly survive termination of this Offer, neither party shall have any further obligation to the other. If Purchaser fails to submit written notification to Seller of its election to terminate this Offer within the Inspection Period, Purchaser shall be deemed to be satisfied with the condition of the Property and the other matters relating thereto shall be deemed satisfied or otherwise waived by Purchaser.

If, after expiration of the Inspection Period, this transaction fails to proceed to closing for any reason, except for the default of Seller, the deposit held in escrow by the Title Company shall be released to Seller as liquidated damages for Purchaser’s non-performance hereunder, which shall be Seller’s sole and exclusive remedy against Purchaser for any default or breach of this Agreement by Purchaser. Should the failure to proceed to closing be caused by the Default of Seller, the Buyer’s sole remedy shall be either a) specific performance or b) a return of its earnest money deposit.

9. Taxes and Assessments. Seller shall pay all taxes, special assessments and utility and capital charges which have become a lien on the Property prior to closing. Current taxes, if any, shall be prorated and adjusted to the date of closing on a “due date” basis.

10. Transfer Tax and Recording Fees. Seller shall be responsible for any transfer tax due on the Seller’s conveyance of the Property to Purchaser, as well as any fees for the recording

of documents other than the warranty deed to Purchaser, the fee for which shall be paid by Purchaser.

11. Preparation of Closing Documents. Purchaser shall be responsible for preparing, executing and delivering, in a form satisfactory to Seller and the title insurance company, all closing documents, including the deed, closing statement, transferor's certificate of non-foreign status as required under the Internal Revenue Code, and any other documents necessary for closing. The costs incurred in connection with this transaction will be allocated between Seller and Purchaser as follows:

<u>Requirement</u>	<u>Responsibility</u>
Escrow Fees	Purchaser
Survey	Purchaser
Title Search	Purchaser
Title Insurance Commitment/Policy	Purchaser
Closing Fee	Purchaser
Recordation (Warranty Deed)	Purchaser
Transfer Taxes	Seller
Recordation (Clear Title Defects, if any)	Seller
Attorneys' Fees	Each Party pays own

12. Closing Time and Location. Unless this agreement is otherwise terminated due to default or Purchaser's dissatisfaction with the condition of the Property, after inspection pursuant to paragraph 8 of this agreement, closing shall take place within fourteen (14) days after all conditions precedent to closing, as set forth herein, have been met to Purchaser's satisfaction. Closing shall take place at a location mutually acceptable to Seller and Purchaser.

13. Post Closing Occupancy/Appliances and Fixtures. Seller shall be entitled to remain on the Property for one hundred and eighty days (180) after the closing date, so long as Seller continues to maintain all utilities associated with the same. All appliances and fixtures

located on the Property remain the Property of the Seller and are not included in this Purchase Agreement.

14. Broker's Commission. The parties acknowledge that neither party has engaged the services of a real estate broker, and there is no broker's commission due in connection with this transaction. The parties agree to indemnify and hold the other harmless from any claims associated by any broker claiming an interest through said party.

15. Default. In the event of default by Purchaser, Seller may, as Seller's sole remedy, declare forfeiture and retain the earnest money deposit as liquidated damages in full termination of this agreement. In the event of default by Seller, Purchaser may, at Purchaser's option, elect either a) to specifically enforce the terms hereof, or b) demand, and be entitled to, an immediate refund of Purchaser's entire earnest money deposit in full termination of this Agreement.

16. Land Division. Seller intends to convey the right to make any and all land divisions allowable under the Michigan Land Division Act.

17. City Council Approval. Seller acknowledges that this Offer to Purchase and Purchase Agreement is contingent on and subject to formal approval by the Rochester Hills City Council at its next available regular meeting before it will be binding on the City. This contingency shall not toll the Inspection Period. Should City Council Approval fail to be obtained on or before the end of the inspection period, Seller shall have the right to terminate this contract.

18. Irrevocability of Purchase Offer. This offer to purchase the Property shall be irrevocable for five (5) calendar days. If not accepted by Purchaser within that time, Seller may revoke its offer.

19. Entire Agreement. This instrument constitutes the entire agreement between Purchaser and Seller and shall inure to the benefit of and bind the parties hereto and their respective heirs, legal representatives, successors and assigns. This Agreement constitutes the entire contemplated agreement between the parties hereto with respect to the transactions contemplated herein, and it supersedes all prior oral and written understandings or agreements between the parties. Failure by the Purchaser or Seller to insist upon or enforce any of its rights shall not

constitute a waiver thereof. Either party hereto may waive the benefit of any provision or condition for its benefit contained in this Agreement. No oral modification hereof shall be binding upon the parties, and any modification shall be in writing and signed by the parties. It is understood and agreed that this Agreement may be executed in several counterparts, each of which, for all purposes, shall be deemed to constitute an original and all of which counterparts, when taken together, shall be deemed to constitute one and the same agreement, even though all of the parties hereto may not have executed the same counterpart.

SELLERS:

Date: September 27, 2023

By: *Daniel Shuler*
Daniel Shuler

Date: September 26, 2023

By: *Kat Ott*
Kathleen Barbara Ott

PURCHASER:

CITY OF ROCHESTER HILLS

Date: _____, 2023

By: _____
Bryan K. Barnett, Mayor