

RES 16-046

Wilmington, Delaware
June 2, 2016

#4221

Sponsor:

**Council
Member
D. Brown**

WHEREAS, pursuant to Wilm. C. (Charter) §1-101, the City may acquire, hold, manage, and dispose of property on such terms as it deems proper for any municipal purpose; and

WHEREAS, pursuant to Wilm. C. (Charter) §8-205, the City may sell or exchange any real estate belonging to the City or grant any license, easement, right-of-way or other interest over or in such real estate with “authority by general ordinance and later resolution from Council so to do”; and

WHEREAS, Wilm. C. §2-621(a) provides that the Council shall by resolution declare a property approved for disposition and authorize the conduct of disposition proceedings; and

WHEREAS, the City of Wilmington (the “City”) currently owns the properties located at 1043 Clifford Brown Walk, 1039 Clifford Brown Walk, 318 East 11th Street, 316 East 11th Street, and 314 East 11th Street, Wilmington, Delaware, respectively being Tax Parcel Nos. 26-036.10-089, 26-036.10-088, 26-036.10-046, 26-036.10-047, 26-036.10-048 (collectively the “Property”); and

WHEREAS, the Department of Real Estate and Housing in consultation with the Office of the Mayor and in consultation with City Council recommends that the Property be disposed of to the African American Heritage Center of Delaware, Inc., subject to the terms and conditions of that certain Agreement of Sale

and that certain Option Agreement attached hereto and made a part hereof as 'Exhibit A'; and

WHEREAS, the Council wishes that the Property be disposed of to the African American Heritage Center of Delaware, Inc., subject to the terms and conditions of that certain Agreement of Sale and that certain Option Agreement attached hereto and made a part hereof as 'Exhibit A'.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that Council hereby authorizes and approves the execution of that certain Agreement of Sale and that certain Option Agreement attached hereto and made a part hereof as 'Exhibit A' to allow for the disposition of the above-enumerated Property.

BE IT FURTHER RESOLVED that Council hereby authorizes the Mayor or his designee to execute any and all documents necessary to effectuate disposition proceedings for the Properties, including any and all further undertakings and assurances that may be appropriate.

Passed by Council
June 2, 2016

ATTEST: Maribel Seijo
City Clerk

Approved as to form this 2nd
day of June 2016

[Signature]
Assistant City Solicitor

SYNOPSIS: This Resolution authorizes the disposition of 1043 Clifford Brown Walk, 1039 Clifford Brown Walk, 318 East 11th Street, 316 East 11th Street, and 314 East 11th Street to the African American Heritage Center of Delaware, Inc., subject to the terms and conditions of the Agreement of Sale and Option Agreement negotiated by the parties.

AGREEMENT OF SALE

THIS AGREEMENT OF SALE (the "Agreement") is made this ___ day of _____, 201_ (the "Effective Date"), by and between AFRICAN AMERICAN HERITAGE CENTER OF DELAWARE, INC., a Delaware corporation, (the "Buyer"), and the CITY OF WILMINGTON, a Delaware municipal corporation, (the "Seller").

WITNESSETH THAT:

WHEREAS, Seller is the legal owner of those certain parcels of real property located at 1043 Clifford Brown Walk, 1039 Clifford Brown Walk, 318 East 11th Street, 316 East 11th Street, and 314 East 11th Street, Wilmington, Delaware, respectively being Tax Parcel Nos. 26-036.10-089, 26-036.10-088, 26-036.10-046, 26-036.10-047, 26-036.10-048 (collectively the "Property"); and

WHEREAS, Seller desires to sell the Property and Buyer, subject to the conditions set forth in this Agreement, desires to acquire the Property.

NOW THEREFORE, in consideration of the mutual covenants, promises and agreements contained herein, the parties hereto, intending to be legally bound hereby, do covenant and agree with each other as follows:

1. Purchase and Sale of Property. Subject to the terms and conditions hereinafter set forth, Seller does hereby agree to sell and convey to Buyer, and Buyer does hereby agree to purchase the Property, together with all of the right, title and interest, if any, of Seller in all easements, privileges and rights belonging to and benefiting the Property and any improvements and appurtenances thereto.

2. Closing. Subject to the contingencies set forth in Section 11 of this Agreement, the closing under this Agreement (the "Closing") shall take place thirty (30) days after the end of the Due Diligence Period as further defined herein (the anticipated date of Closing being hereinafter referred to as the "Closing Date"). The Closing shall occur at the offices of the Buyer's closing attorney at 2 p.m. or at such other time and/or location that is mutually acceptable to all parties.

3. Purchase Price.

a. The purchase price (the "Purchase Price") that shall be paid to the Seller, and which the Seller agrees to accept for the Property, shall be the sum of Five Dollars (\$5.00), the receipt and sufficiency of which is hereby acknowledged.

b. The Purchase Price will be paid to Seller at Closing, subject to any adjustments or prorations provided herein.

4. Title and Conveyance. At Closing, the title to the Property shall be conveyed to Buyer in fee simple by special warranty deed and shall be good and marketable and free and clear of all liens, encumbrances, easements, reservations, restrictions and encroachments of any

nature, except for those non-monetary title defects designated as “Permitted Exceptions” as provided in this paragraph (the “Permitted Exceptions”). During the Due Diligence Period, Buyer shall, at Buyer’s expense, order a title report (the “Title Report”) for the Property. On or before the end of the Due Diligence Period, Buyer shall give written notice to Seller of any objections which Buyer may have to title defects disclosed by the Title Report. If Buyer fails to give notice to Seller by such date, Buyer shall be deemed to have waived its right to object to any non-monetary title defects disclosed by the Title Report, which shall thereafter be deemed to be Permitted Exceptions. Within five (5) business days of its receipt of any such notice of objection, Seller shall give notice to Buyer of whether Seller intends to attempt to cure such title defects prior to Closing. In the event Seller elects to refuse to attempt to cure such title defects or if, having commenced attempts to cure any objection, Seller later notifies Buyer that Seller will be unable to effect a cure thereof by the Closing Date or no longer desires to attempt to cure such objection, Buyer shall have five (5) business days from the receipt of Seller’s refusal notice in which to elect (i) to proceed to Closing notwithstanding such title defects, or (ii) to terminate this Agreement, and the parties shall have no further rights or obligations hereunder except for any right or obligation under any Section of this Agreement which by its terms survives any termination hereof. In the event Seller elects to attempt to cure all such title defects, then this Agreement shall continue in effect, subject to Buyer’s termination right as set forth herein if Seller subsequently is unable or declines to cure a matter to which Buyer has objected. Seller agrees not to voluntarily encumber the Property from and after the Effective Date through the Closing or termination of this Agreement without Buyer’s consent. In addition to the other rights provided to Buyer herein, Buyer may object to any title matters arising or being recorded after the effective date of the Title Report (a “Late Arising Title Issue”), in which case, Seller and Buyer shall have the same options with respect to such Late Arising Title Issue as each party would have had if a notice of objection had been made by Buyer for such Late Arising Title Issue on or before the end of the Due Diligence Period.

5. Possession. At the Closing, Seller shall deliver to Buyer actual possession of the Property by delivery of a deed, and the Property shall be conveyed vacant, unoccupied and subject to no rights in any party to occupy the same. Buyer may inspect the Property prior to Closing in order to confirm that the Property is vacant and unoccupied.

6. Due Diligence.

a. Buyer and its employees, agents, representatives, contractors and subcontractors shall have an investigation period beginning on the Effective Date and ending at 5 p.m. on _____, 2016 [**insert date that is 90 days following the Effective Date**] (the “Due Diligence Period”) to access and inspect the Property and to conduct such tests, investigations and other due diligence matters that may be required by any of the terms included herein or that Buyer, in its sole and absolute discretion, deems necessary or advisable to determine the suitability of the Property for its intended uses, including but not limited to, the right to conduct surveys, engineering studies, soil tests, environmental studies and any other tests or studies which Buyer may deem necessary or appropriate in connection with its acquisition of the Property. Within five (5) days of the Effective Date, Seller shall promptly turn over to Buyer or otherwise make available to Buyer all information, surveys, plans, reports, tests, studies or other related documents, that are in the possession, custody or control of Seller or Seller’s employees, agents, contractors or subcontractors with respect to past or present generation, use,

handling, storage, treatment, release, discharge, emission, leakage, spillage, removal or disposal of any Regulated Substances (hereinafter defined) at the Property in violation of any applicable federal, state and local environmental statutes, regulations, ordinances and permits (collectively "Environmental Laws"). For the purpose of this Agreement, the term "Regulated Substances" shall mean hazardous substances (as that term is defined in the Comprehensive Environmental Response Compensation and Liability Act, 45 U.S.C. Paragraph 9601 et seq., or any applicable state laws), hazardous materials (as defined in the Hazardous Materials Transportation Act, 49 U.S.C. Paragraph 1801 et seq. or any applicable state law) or petroleum or petroleum related products.

b. Seller will reasonably cooperate with Buyer and Buyer's employees, agents, representatives, contractors and subcontractors in Buyer's investigation of the Property, including without limitation: (i) complying with reasonable requests for information and records; and (ii) assisting Buyer in obtaining governmental agency and other records.

c. If Buyer's inspections, surveys, studies or tests reveal any condition that is unacceptable to Buyer, then Buyer, in its sole and absolute discretion, shall have the right (but not the obligation) to terminate this Agreement by giving written notice to Seller at any time on or before the expiration of the Due Diligence Period. Upon the termination of this Agreement by the Buyer in accordance with this Section 6(c), the parties hereto shall have no further rights or obligations hereunder except for any right or obligation under any Section of this Agreement which by its terms survives any termination hereof.

7. Representations or Warranties of Buyer. Buyer does hereby represent and warrant that, the following representations and warranties are true and correct at the time of execution of this Agreement, and Buyer shall be deemed to have reaffirmed such representations and warranties as of the date of Closing:

a. Buyer is a Delaware corporation, validly existing and in good standing under the laws of the State of Delaware, with all legal power and authority to undertake, observe and perform all of Buyer's agreements and obligations hereunder and under Buyer's Closing Documents (hereinafter defined).

b. Buyer's entry into this Agreement and the observance and performance of each of Buyer's agreements and obligations hereunder have been duly authorized by all necessary action of Buyer.

c. The execution and delivery of this Agreement will not conflict with or result in a breach of any law, regulation or order, or any agreement or instrument to which Buyer is a party or by which Buyer is bound or the Property is subject, and this Agreement and the documents to be delivered by Buyer pursuant to this Agreement, will each constitute the legal, valid, and binding obligations of Buyer; and there are no claims, defenses (personal or otherwise) or offsets to the validity of or enforceability against Buyer of this Agreement and the documents to be delivered pursuant hereto.

8. Brokers. Buyer and Seller represent to each other that neither party has dealt with any broker or intermediary in connection with this transaction.

9. Adjustments and Incidental Costs. Real estate taxes for the Property shall be apportioned as of the date of Closing between Seller and Buyer on a per diem basis as of 12:01 A.M. on the date of Closing. To the extent feasible, Seller shall cause all water, sewer, electricity and/or other utility and municipal service meters to be read and the municipalities or utility companies servicing the Property to issue final bills to Seller as of the Closing Date, and all such bills shall be paid by Seller at or prior to Closing. If Seller is unable to obtain readings of any meters prior to the Closing Date, Closing shall be completed without such readings and such items shall be apportioned on the basis of good faith estimates by the parties and reconciled as soon as practicable after the Closing. Buyer shall be solely responsible for all realty transfer taxes imposed by the State of Delaware and/or the City of Wilmington on the sale of the Property pursuant to this Agreement.

10. Closing Documents.

a. At Closing, Seller shall execute and deliver to Buyer the following (all of which shall be in a form reasonable acceptable to Buyer and all of which are sometimes collectively referred to herein as "Seller's Closing Documents"):

i. A special warranty deed for the Property, which shall be prepared by Seller (subject to Buyer's reasonable approval of form and content), and any transfer tax affidavits or forms required to record such deed;

ii. All documents reasonably required by Buyer's title company that are necessary in order for the title company to issue an ALTA form of owner's title insurance policy at its regular rates to Buyer for the Property, which policy shall only have the Permitted Exceptions as exceptions to such policy;

iii. All documents reasonably required by Buyer evidencing the authority and power of Seller to consummate the transactions contemplated herein;

iv. A signature page for a mutually agreed-upon closing statement;

v. A 1099-S form;

vi. A certification under Section 1445 of the Internal Revenue Code, stating that Seller is not a foreign person, in form sufficient to absolve Buyer from liability for failing to withhold ten (10%) of the Purchase Price; and

vii. Such other documents reasonably requested by Buyer to effectuate the transfer of the Property to Buyer.

b. At Closing, Buyer shall execute and deliver to Seller the following (all of which are sometimes collectively referred to herein as "Buyer's Closing Documents"):

i. A signature page for a mutually agreed-upon closing statement.

ii. An executed copy of an Option Agreement as agreed to by Seller and Buyer that detailed the Buyer's option to purchase the Property back from Buyer should certain conditions fail to be met.

iii. Current construction cost estimate for renovation of the Property on letterhead from an Architect duly licensed to conduct business in the State of Delaware.

11. Seller Contingencies.

a. Seller shall not be obligated to complete Closing unless and until the following conditions have been satisfied in full (collectively, the "City Contingencies"):

i. Buyer must not be in default of any of its obligations hereunder.

ii. Buyer must provide proof of necessary insurance for all of the parcels comprising the Property by providing a copy of any and all insurance policies required, at closing.

iii. Buyer must provide a study, funded by buyer, as to whether or not the parcels located at 318 East 11th Street, 316 East 11th Street, and 314 East 11th Street (collectively the "11th Street Properties") will need to be entered into the DNREC brownfields program.

a) If the study referenced in subsection 11(a)(iii) above reveals that the 11th Street Properties are contaminated, transfer of the 11th Street Properties will not occur unless and until the parcels are accepted for entry into either the DNREC Voluntary Cleanup Program or the DNREC Brownfield Development Program. Seller shall undertake its best efforts to provide any and all information buyer may require or need to complete the application for entry into either the DNREC Voluntary Cleanup Program or the DNREC Brownfield Development Program. Seller shall not provide any funding for the completion of such applications but will provide any information or documents reasonably necessary to complete said application as long as said information or records are in possession of the Seller. A second closing for the 11th Street Properties will be held separate and apart from the closing of 1043 Clifford Brown Walk and 1039 Clifford Brown Walk (collectively the "Clifford Brown Walk Properties") if required under this subsection. If a second closing is required, all other terms and conditions of this Agreement must be met before closing on of the 11th Street Properties may take place.

iv. All of the Buyer's representations or warranties in Paragraphs 7 and 8 of this Agreement must be true and accurate as of the date of the Closing, and title to the Property must be as described in Paragraph 4 of this Agreement.

v. The Wilmington City Council must have approved of the disposition of the Property pursuant to this Agreement.

b. In the event that the City Contingencies have not been satisfied by the Closing Date, unless further extended by written agreement of the parties, Buyer may elect to have this Agreement terminated and become null and void, so that the parties will have no

further obligation to or claims against one another under this Agreement, or Buyer may waive, in its sole discretion, any or all of such conditions and complete Closing.

12. Buyer Contingency. In the event that the Wilmington City Council has not approved of the disposition of the Property pursuant to this Agreement by the end of the Due Diligence Period, Buyer may elect to terminate this Agreement by delivering a notice to the Seller within three (3) business days following the end of the Due Diligence Period (a "Buyer Termination Notice"). Upon the Seller's receipt of the Buyer Termination Notice, this Agreement shall be deemed terminated and the parties shall have no further obligations to each other under this Agreement. If Buyer shall fail to deliver the Buyer Termination Notice within the three (3) business days following the Due Diligence Period, then Buyer shall be deemed to have waived its right to terminate this Agreement.

13. Option Agreement. Seller and Buyer have agreed to that certain Option Agreement ("Option Agreement") of even date herewith and recorded with the Recorder of Deeds in and for New Castle County at Instrument No.: _____, which vests in Seller the option to repurchase the Property if certain conditions are not met by Buyer. The below subsections of this Paragraph are the conditions that must be met by Buyer. In the event any of the below conditions are not met, Seller may exercise its option to repurchase the Property pursuant to the Option Agreement. Buyer hereby agrees to effectuate or take any action necessary should Seller elect to exercise its rights under the Option Agreement. The terms and conditions of Section 13 herein are intended to and shall survive the termination of this Agreement.

a. By December 31, 2017, Buyer shall have cash on hand in the minimum amount of **Two Hundred Thousand Dollars** (\$200,000.00) which shall be necessary for, and used to hire an Executive Director, pay for programmatic costs associated with starting the capital fundraising campaign, pay for strategic planning for the long term growth of the Center, and to pay for costs incidental to the capital campaign and fundraising initiatives.

i. In the event that the amount of \$200,000.00 is updated to reflect a change in the estimated cost of the above listed eligible costs, Seller reserves the right to require Buyer to have the amount of the updated cost estimate on hand, in cash by December 31, 2017.

ii. In the event that the amount of \$200,000.00 is updated to reflect a change in the estimated cost of the above listed eligible costs, Buyer shall notify Seller within 30 days of such a change in writing.

b. By December 31, 2021, Buyer shall have cash on hand in the minimum amount of **One Million Two Hundred Thousand Dollars** (\$1,200,000.00), which is equal to the estimated cost of construction and repair for Buyer's planned redevelopment of the Property. The \$1,200,000.00 shall be used to fund construction and repair on the Property for Buyer's planned redevelopment.

i. In the event that the amount of \$1,200,000.00 is updated to reflect a change in the estimated cost of construction and repair, Seller reserves the right to require Buyer to have the amount of the updated cost estimate on hand, in cash by December 31, 2021.

ii. In the event that the amount of \$1,200,000.00 is updated to reflect a change in the estimated cost of construction and repair, Buyer shall notify Seller within 30 days of such a change in writing and Buyer shall provide to Seller in writing such an updated cost estimate as prepared by a duly licensed professional, licensed to do business in the State of Delaware.

c. Buyer shall maintain the Property adequately and not cause the Property to fall into disrepair whether the Property is operational or whether Buyer is still in the fundraising process. Seller, in its sole discretion shall determine the status of the Property and shall not be unreasonable in determining that the Property is in a state of disrepair. As well, Buyer shall not allow any of the following:

i. The Property to be improperly 'mothballed' for the purposes of preserving the Property while the search for an Executive Director and a Capital Fundraising Campaign is undertaken. By way of example, Buyer shall properly secure the Property, Buyer shall perform all internal and exterior maintenance of the Property and Buyer shall address and correct any issues that may arise that effect the structural stability or habitability of the Property during the process of raising funds.

ii. The Property to accrue late fees, penalties, and interest on outstanding debts due The City of Wilmington for failure to pay property taxes, failure to pay water bills, and failure to pay sewer bills. As well, Buyer shall not allow the Property to accrue late fees, penalties, and interest on debts due New Castle County for failure to promptly and fully pay any property tax assessed by New Castle County.

d. Buyer shall maintain and use the Property only for the explicit purpose of providing the citizens of Wilmington and the public at large a historical center to detail the heritage of African Americans and the history associated therewith.

14. Time is of the Essence. Time is of the essence for the performance of this Agreement.

15. Default by Buyer. In the event that Buyer shall violate or fail to fulfill and perform any of the terms and conditions of this Agreement required to be performed by Buyer, Seller shall be permitted to exercise any right or remedy available to Seller at law or in equity on account of Buyer's default hereunder, including, but not limited to, the right to compel specific performance of Buyer's obligations hereunder. Formal tender of purchase monies is hereby waived.

16. Governing Law. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Delaware.

17. Notices. All notices, requests and other communications under this Agreement shall be in writing and shall be sent prepaid by (i) certified mail, return receipt requested, (ii) overnight courier of national or regional recognition (such as Federal Express), or (iii) personal delivery:

a. If intended for Seller:

City of Wilmington Office of Real Estate and Housing
Louis L. Redding City/Cty. Bldg., 7th Floor
800 N. French Street
Wilmington, DE 19801
Attn: Director

with a copy to:

City of Wilmington Law Department
Louis L. Redding City/Cty. Bldg., 9th Floor
800 N. French Street
Wilmington, DE 19801
Attn: City Solicitor

b. If intended for Buyer:

with a copy to:

18. Assignability. Buyer shall have no right to assign or otherwise transfer this Agreement and its rights hereunder unless such assignment is approved by Seller in writing.

19. Captions and Headings. The captions and headings of the paragraphs hereof are for convenience only and shall not control or affect the meaning or construction of any of the terms or provisions of this Agreement.

20. Binding Agreement. This Agreement (and the benefits and burdens thereof) shall extend to and bind the heirs, administrators, executors, successors and assigns of the respective parties hereto.

21. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and when attached hereto shall constitute a single instrument. Any executed signature page may be transmitted to the other party by facsimile transmission or as an electronic file (such as .PDF).

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed the day and year first written above.

SELLER:

CITY OF WILMINGTON

By: _____

Name:

Title:

BUYER:

**AFRICAN AMERICAN HERITAGE
CENTER OF DELAWARE, INC.**

Approval as to form this
_____ day of _____, 2016

Assistant City Solicitor

By: _____

Name:

Title:

AGREEMENT OF SALE BETWEEN AFRICAN AMERICAN HERITAGE CENTER OF DELAWARE, INC. AND THE CITY OF WILMINGTON FOR TAX PARCEL NOS. 26-036.10-089, 26-036.10-088, 26-036.10-046, 26-036.10-047, 26-036.10-048

WAIVER ADDENDUM FOR 25 DEL.C. §313

By their signature(s) below, the parties agree that Buyer waives the provisions of the Site Evaluation/Notice to Buyer set forth in the Agreement of Sale attached hereto. Buyer acknowledges that Buyer has read and understands the Notice to Buyer. Buyer voluntarily waives and gives up such Notice to Buyer provision in its entirety. Buyer understands that by waiving such provisions, the Agreement and the obligation of Buyer to purchase this Property is not contingent or dependent upon a satisfactory site evaluation, or the availability of central or on-site sewerage and water facilities or the conformity of the property with local zoning ordinance. Buyer and Seller agrees that this Agreement is not made null and void if an unsatisfactory site evaluation of the property is made or if central water supply or on-site wastewater/sewerage and water facilities are not available to the Property or if property does not conform to the local zoning ordinances. Buyer acknowledges that this waiver addendum is not made in reliance on any information, data, material statement or representation made by the Seller. **NO WAIVER OCCURS UNLESS SIGNED BELOW BY ALL PARTIES.** It is understood by Buyer that a site evaluation does not guarantee the issuance of a septic permit.

SELLER:

CITY OF WILMINGTON

By: _____

Name:

Title:

BUYER:

**AFRICAN AMERICAN HERITAGE
CENTER OF DELAWARE, INC.**

By: _____

Name:

Title:

Approval as to form this
_____ day of _____, 2016

Assistant City Solicitor

Tax Parcel Nos.: 26-036.10-089
26-036.10-088
26-036.10-046
26-036.10-047
26-036.10-048

Prepared by/Return to:
Anthony J. Hill, Esq.
City of Wilmington Law Department
800 North French Street, 9th Floor
Wilmington, DE 19801

OPTION AGREEMENT

This Option Agreement (the "Option Agreement") is made as of this ____ day of _____, 2016, by and between THE CITY OF WILMINGTON, a Municipal Corporation of the State of Delaware ("Seller") and AFRICAN AMERICAN HERITAGE CENTER OF DELAWARE, INC., a Delaware corporation ("Buyer").

WHEREAS, Seller has agreed to convey to Buyer, and Buyer has agreed to accept subject to certain restrictions contained in the Agreement of Sale (the "Agreement of Sale"), and subject to those restrictions contained herein, those certain parcels of real property located at 1043 Clifford Brown Walk, 1039 Clifford Brown Walk, 318 East 11th Street, 316 East 11th Street, and 314 East 11th Street, Wilmington, Delaware, respectively being Tax Parcel Nos. 26-036.10-089, 26-036.10-088, 26-036.10-046, 26-036.10-047, 26-036.10-048 (collectively the "Property"); and

WHEREAS, Buyer has agreed to grant Seller an option to re-purchase the Property, should Buyer fail to perform certain obligations contained in the Agreement of Sale and contained herein, upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the sum of Five Dollars (\$5.00) in hand paid by Buyer to Seller, and in consideration of the premises and intending to be legally bound hereby, the parties do hereby agree as follows:

1. Option. Seller shall have an option to repurchase the Property that Seller has previously transferred to Buyer, subject to the terms and conditions contained herein.
2. Option Property. The Property is hereby described as those certain parcels of real property located at 1043 Clifford Brown Walk, 1039 Clifford Brown Walk, 318 East 11th Street, 316 East 11th Street, and 314 East 11th Street, Wilmington, Delaware, respectively being Tax Parcel Nos. 26-036.10-089, 26-036.10-088, 26-036.10-046, 26-036.10-047, 26-036.10-048.
2. Option Price. The Option Price shall be Five Dollars (\$5.00).

3. Incorporation of Real Estate Contract Terms. Paragraph 13 of the Agreement of Sale and the terms included therein are hereby incorporated by reference and made part of this Option Agreement. Specifically, Seller, in its sole discretion may exercise the rights granted under this Option Agreement if Buyer shall fail to perform under the terms of Paragraph 13 of the Agreement of Sale.

5. Notices. All notices hereunder shall be in writing, and if to Seller shall be sent to

City of Wilmington
Attn: Director of Real Estate and Housing
800 North French Street
Wilmington DE 19801

With a copy to

City of Wilmington
Attn: City Solicitor
800 North French Street
Wilmington DE 19801

If to Buyer:

With a copy to

6. Memorandum – Recordation. Seller may require that a Memorandum of this Option Agreement be executed in recordable form and recorded with the office of the Recorder of Deeds in and for New Castle County.

7. Runs with Land. This Agreement shall be a covenant running with the land and shall be binding upon the parties hereto, their heirs, executors, administrators, successors and assigns.

8. Termination Date. The Agreement and Buyer’s rights hereunder shall cease and terminate on _____, provided Seller gives Buyer written notice of termination after said date.

IN WITNESS WHEREOF, the parties hereto have executed this Option Agreement the day and year first above written

SIGNED, SEALED & DELIVERED
IN THE PRESENCE OF

CITY OF WILMINGTON (“Seller”)

AFRICAN AMERICAN HERITAGE
CENTER OF DELAWARE, INC. (“Buyer”)
