

Addendum D

AMENDMENT TO CONTRACT FOR PURCHASE AND SALE OF REAL ESTATE

THIS AMENDMENT made this 28th day of October, 2017 by and between the **COUNTY OF SCHENECTADY**, a municipal corporation organized and existing under the Laws of the State of New York, having its principal office at 620 State Street, Schenectady, New York (“County”) and _____, having an address of _____ (“Purchaser”, “Buyer” or “Designee”).

WITNESSETH:

WHEREAS, the Parties hereto have entered into a certain contract for Purchase and Sale of Real Estate relating to Tax Map Parcel Number _____ in the Town of _____ (the “Contract”); and

WHEREAS, heretofore and on the _____ day of _____, 20____, the County filed a Petition and Notice of Foreclosure in a certain action entitled:

STATE OF NEW YORK
SUPREME COURT _____ SCHENECTADY COUNTY

In the Matter of the Foreclosure of Tax Liens by
Proceeding in Rem pursuant to Article Eleven of
The Real Property Tax Law by the County of
Schenectady relating to the _____ Town and County
Tax and Delinquent School Taxes.

(the “Action”); and

WHEREAS, the Action was brought for an order awarding possession of a certain parcel of real estate located in the Town of _____ described as Tax Map number _____ (the “Parcel”) to the County or its designee; and directing a deed of the Parcel be executed by the Treasurer of the County of Schenectady to the County or its Designee; and

WHEREAS, on or about the _____ day of _____, 20____, a Judgment of Foreclosure was made and entered in the Action awarding the County or its designee possession of the Parcel and directing the Treasurer of the County of Schenectady to prepare, execute and cause to be recorded a deed conveying the Parcel to the County or to its designee; and

WHEREAS, the Designee has entered into an agreement to purchase the Parcel under certain terms and conditions; and

WHEREAS, the Parties agree to modify the Contract to further reflect the terms and conditions of the purchase.

NOW, THEREFORE in consideration of the premises and the covenants, conditions and promises contained herein, the parties hereto agree to amend the Contract as follows:

MEANINGS

In a case where the words “Purchaser” or “Buyer” appear in the Contract it shall be deemed to read “Designee”.

DESIGNATION

The County agrees to designate the Designee as the grantee in the Treasurer’s Deed executed pursuant to the Judgment of Foreclosure in the Action upon the terms and conditions expressed herein.

CONDITION OF PREMISES

The Designee does hereby acknowledge, represent, warrant and covenant for the benefit of the County, its Agents, the Auction Company and its Agents that:

- A. The Designee is expressly purchasing the Property in its existing condition ‘AS IS, WHERE IS AND WITH ALL FAULTS’;
- B. The Designee hereby assumes all responsibility to inspect and investigate the Property and assume all risk of adverse conditions;
- C. The Designee has undertaken all examinations of the Property and all permits and approvals, if any, related thereto, as the Designee deems necessary or appropriate, and has evaluated the suitability of the Property for the Purchaser’s intended use; the Designee is relying solely upon such examinations and the advice and counsel of its own agents, legal counsel and consultants;
- D. The County and Auction Company is not making and has not made any warranty or representation, either express or implied, with respect to the validity or accuracy of any materials or other data provided to the Designee, the physical condition of the Property, the existence or nonexistence of any permits or approvals or any other aspect of all or any part of the Property, either as an inducement to the Designee to purchase the Property or for any other purpose, and the Designee has independently verified the accuracy and reliability of all such matters and items;
- E. The County and Auction Company makes no acknowledgement, representation, warranty or agreement of any kind regarding any hazardous substances or materials, including, but not limited to, whether there has been or there will be escapage, seepage, leakage, spillage, discharge, emission or release on, in at or under the Property;

F. The Designee has independently determined that the Purchase Price is fair;

G. The County and Auction Company have made no representations and shall have no liability to the Designee with respect to the condition of the soil, the existence or nonexistence of hazardous substances or materials or contamination, or any past use of the Property. The Designee acknowledges that the County is not in any manner responsible for the presence of hazardous substances or materials at, on, in, under or relating to the Property.

H. By reason of the foregoing the Designee shall assume the full risk of any loss or damage occasioned by any fact, circumstance, condition or defect pertaining to the condition of the Premises. Without limiting the generality of the foregoing, the Designee acknowledges that it has had adequate opportunity to become fully acquainted with the nature and condition, in all respects, of the Property, the existence or availability of all permits and approvals from governmental authorities, and the condition and state of repair of any improvements situated on the Property. These representations shall survive the closing.

RELEASE

The Designee hereby specifically releases the County, its legislators, officers, employees, agents and personal representatives, their respective heirs, successors and assigns as well as the Auction Company, officers, employees, agents and personal representatives, their respective heirs, successors and assigns, from any and all claims, losses, liabilities, fines, charges, damages, injuries, penalties, response costs and expenses of any and every kind whatsoever (whether known or unknown) (collectively "Claims") relating to the presence on, in, at or under, or the escape, seepage, leakage, spillage, discharge, emission or release of any hazardous substances or material (collectively "Spills") on, in or at the Property, whether occurring prior to or following the Closing except Designee does not release County from Claims arising from Spills caused by any intentional dumping of substances or materials onto the Property by the County. This release shall survive the Closing.

INDEMNIFICATION

Designee agrees, at its sole cost and expense, to defend, save and hold harmless the County and Auction Company, officers, employees, agents and personal representatives, their respective heirs, successors and assigns, from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, judicial or administrative orders, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements and/or expenses (including, without limitation attorneys', consultants' and experts' fees, expenses and disbursements) of any kind or nature whatsoever by whomever asserted which may at any time be imposed upon, incurred by or asserted or awarded against the County by any person or entity, whether private or governments, relating in any way to the presence on, in, at or under, or the escape, seepage, leakage, spillage, discharge, emission or release of any hazardous substances, or material on, in, from, or at the Property, whether occurring prior to or following the closing. Designee and County agree to follow the Indemnification Procedure attached hereto, made a part hereof and marked Schedule "A". This indemnification shall survive the closing.

RATIFICATION OF CONTRACT

Unless modified by this Amendment, all of the terms and conditions of the Contract are hereby ratified and affirmed and shall remain in effect and be binding upon the Parties hereto.

SURVIVAL OF REPRESENTATIONS

The representations, warranties and agreements of the Parties contained in this Agreement shall survive the Closing and shall be unaffected by any investigation made by the Designee at any time.

GOVERNING LAW

This Amendment shall be governed by and construed in accordance with the laws of the State of New York.

BINDING EFFECT

This Amendment shall inure for the benefit of and be binding upon the parties, their legal representatives, heirs, successors and assigns and shall survive the closing and transfer of title.

Dated: October 28, 2017

Dated: October 28, 2017

DESIGNEE:

THE COUNTY OF SCHENECTADY

By: _____
Kathleen Rooney, County Manager

Approved as to form and content:

Christopher H. Gardner, County Attorney