

## PROPERTY REHABILITATION AGREEMENT

THIS PROPERTY REHABILITATION AGREEMENT (the "Agreement") is made and entered as of this 23<sup>rd</sup> day of October, 2020 (the "Effective Date"), by and between UNION CITY PRIDE INCORPORATED, a Pennsylvania Non-Profit Corporation (the "Owner") and the ERIE COUNTY LAND BANK (the "Land Bank"). Owner and Land Bank shall be referred to herein individually as a "Party" and collectively as the "Parties."

### Background

A. Owner is the owner of certain real property located in the Borough of Union City, Erie County, Pennsylvania, bearing the address of 23-25 S. Main Street Union City, PA, Tax Index No. (41) 10-038-059.00, consisting of approximately 0.0529 acres of land, together with all appurtenances thereto and all buildings, fixtures, and other improvements located thereon, together with all rights, titles and interests of Owner in and to easements, appurtenances, rights and privileges, belonging or appurtenant thereto, and referred to herein as the "Property."

B. Land Bank is a public body and a body corporate an politic established pursuant to the Pennsylvania Land Bank Act, Act of October 24, 2012, P. L. 1239 (the "Act"), and is authorized by the provisions of the Act to accept donations of real property.

C. The building(s) located on the Property are in a blighted condition and require rehabilitation, as further described on Exhibit "A" attached hereto, the "Rehabilitation Work".

D. Land Bank, at the request of Owner, is willing to acquire the Property from Owner and complete the required Rehabilitation Work.

E. Upon completion of the Rehabilitation Work, Land Bank will re-convey the Property to Owner for no consideration other than as may be set forth in this Agreement.

F. The Parties desire to memorialize the terms and conditions if their agreement regarding the Property hereinbelow.

### Terms of Agreement

NOW, THEREFORE, in consideration of the terms and conditions of this Agreement, and the mutual promises and covenants herein, and intending to be legally bound hereby, the Parties hereby agree as follows:

#### 1. TRANSFER OF THE PROPERTY TO LAND BANK.

1.1. Conveyance from Owner to Land Bank. Owner shall transfer title to the Property by special warranty deed to Land Bank, upon and subject to the terms and conditions set forth in this Agreement. Owner shall pay the costs of preparation and recording of the deed of conveyance and any closing costs (exclusive of Land Bank's counsel fees, which shall be paid by Land Bank) associated with the transfer of the Property to Land Bank.

1.2. As-Is Where Is. Land Bank acknowledges and agrees that the transfer of the Property from Owner to Land Bank shall be in its "AS-IS, WHERE IS" condition "WITH ALL FAULTS" and specifically and expressly without any warranties, representations or guarantees, either express or implied, as to its condition, fitness for any particular purpose, merchantability, or any other representation or warranty of any kind, nature, or type whatsoever from or on behalf of Land Bank.

1.3. Disclaimer of Warranties. Without in any way limiting Section 3.2, Owner specifically disclaims any warranty, guaranty or representation, oral or written, past or present, express (except as otherwise expressly provided herein) or implied, concerning (a) the value, nature, quality or condition of the Property, including, without limitation, the water, structural integrity, soil and geology; (b) the income to be derived from the Property; (c) the suitability of the Property for any and all activities and uses which Land Bank, or any tenant, contractor or agent of Land Bank, may conduct in connection therewith, including the possibilities for future development of the Property, specifically including the Rehabilitation Work; (d) the compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (e) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property; (f) the presence or absence of any environmental matter or condition of the Property; or (i) any other matter with respect to the Property. Owner has made no agreement to alter, repair, remediate or improve the Property.

## 2. REHABILITATION MATTERS.

### 2.1. Investigation and Rehabilitation Responsibility.

2.1.1. Either one or both of the Parties has previously conducted an investigation of the Property and determined that the building(s) on the property require the Rehabilitation Work. As expeditiously as possible after obtaining title to the Property, Land Bank shall conduct such additional investigation of the Property as may be necessary to determine what actions must be taken to complete the Rehabilitation Work.

2.1.2. All costs associated with the Rehabilitation Work shall be borne by Land Bank.

2.2. Cooperation. The Parties agree to communicate and reasonably cooperate with each other in the performance of each Party's obligations under this Agreement, including, without limitation, reasonably cooperating in good faith with each other in any formal or informal governmental authority proceedings, investigations, requests for information, or other actions.

2.3. Work Standards. The Parties agree that the Rehabilitation Work shall be (a) performed in a good workmanlike manner accordance with all applicable laws, rules, and regulations, (b) in a manner which is as cost-effective as reasonably possible and permissible; (c) based on customary and accepted industry and/or engineering practices; (d) completed as expeditiously as possible, (e) furnished with new and good quality materials that shall conform to the plans, specifications, or other descriptions or details contained in Exhibit A attached hereto and made a part hereof (the "Specifications"); and (e) in accordance with the Specifications.

2.4. No Liens or Encumbrances. Land Bank shall not permit any liens or other encumbrances to be filed or recorded against the Property without the express written consent of Owner

2.5. Condition of Property. Owner makes no representations or warranties with respect to the present or future condition of the Property.

2.6. Completion Date. Land Bank shall use its commercially reasonable efforts to complete the Rehabilitation Work by no later than one (1) year from the Effective Date. Land Bank shall not be liable or responsible to Owner, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Land Bank including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either

party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

### 3. RE-CONVEYANCE OF PROPERTY TO OWNER.

3.1. Conveyance from Land Bank to Owner. As expeditiously as possible following the completion of the Rehabilitation Work, but in no event longer than thirty (30) days following the completion of the Rehabilitation Work, Land Bank shall re-convey the Property to Owner by deed of special warranty with such title as had been originally conveyed to Land Bank by Owners, subject only to the same liens and encumbrances of record at the time when the Owner conveyed title to the Property to Land Bank and no other except as otherwise provided herein, whereupon this Agreement shall terminate. Owner shall pay all expenses related to such conveyance (exclusive of Land Bank's attorney fees, which shall be paid by Land Bank), transfer taxes (if any) and recording fees. There shall be no additional consideration due to Land Bank for such conveyance. Land Bank shall transfer any and all warranties with respect to the Rehabilitation Work, including any manufacturer, vendor, labor or service warranties or guarantees that are transferrable. Land Bank will deliver to Owner all product warranty forms in its possession.

3.2. As-Is Where Is. Owner acknowledges and agrees that the transfer of the Property from Land Bank to Owner shall be in its "AS-IS, WHERE IS" condition "WITH ALL FAULTS" and specifically and expressly without any warranties, representations or guarantees, either express (except as otherwise expressly provided herein) or implied, as to its condition, fitness for any particular purpose, merchantability, or any other representation or warranty of any kind, nature, or type whatsoever from or on behalf of Land Bank.

3.3. Disclaimer of Warranties. Without in any way limiting Section 3.2, Land Bank specifically disclaims any warranty, guaranty or representation, oral or written, past or present, express (except as otherwise expressly provided herein) or implied, concerning (a) the value, nature, quality or condition of the Property, including, without limitation, the water, structural integrity, soil and geology; (b) the income to be derived from the Property; (c) the suitability of the Property for any and all activities and uses which Owner, or any tenant of Owner, may conduct in connection therewith, including the possibilities for future development of the Property; (d) the compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (e) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property; (f) the presence or absence of any environmental matter or condition of the Property; or (i) any other matter with respect to the Property. Except as set forth herein, Land Bank has made no agreement to alter, repair, remediate or improve the Property.

### 4. MAINTENANCE, TAXES AND INSURANCE.

4.1. Maintenance of Property by Land Bank. Land Bank agrees that during the term of this Agreement it will keep the Property in as reasonably safe condition as its operations shall permit.

4.2. Taxes and Governmental Charges. Land Bank will pay when they become due, any ad valorem or other taxes or governmental charges or assessments of any nature lawfully levied against the Property. Owner will reimburse Land Bank for all costs incurred by Land Bank in connection with such taxes and charges.

#### 4.3 Insurance Required.

(a) Throughout the term of this Agreement, Land Bank shall keep the Property continuously insured against such risks as are customarily insured against, paying as the same become due all premiums in respect thereto, including but not necessarily limited to:

(1) Insurance upon the repair or replacement basis, and otherwise to the full insurable value of the insured property, including all structures and improvements, as determined by a recognized insurer selected by Land Bank, but subject to the written approval of Owner (which approval shall not be unreasonably withheld, conditioned or delayed), against the loss or damage by fire and lightning, with uniform standard extended coverage endorsement limited only as may be provided in the standard form of extended coverage endorsement at the time in use in Pennsylvania. This policy shall name Owner as additional insured.

(2) Comprehensive general liability insurance for the benefit of Owner and Land Bank, as additional insureds, including products and completed operations coverage, insuring against any claims for bodily injury, death and property damage occurring upon, in or about the Property and on, in and about the adjoining sidewalks and passageways during the performance of the Rehabilitation Work in an amount of at least \$1,000,000 combined single limit.

(3) During the performance of the Rehabilitation Work, Land Bank shall also provide and maintain (or require its construction manager and/or general contractor to provide and maintain) worker's compensation in amounts required by statute.

(b) All insurance required by Section 4.3(a) hereof shall be taken out and maintained in generally recognized responsible insurance companies selected by the Land Bank, and approved by Owner in writing (which approval shall not be unreasonably withheld, conditioned or delayed) and may be written with deductible amounts comparable to those on similar policies carried by Owner. All policies evidencing such insurance shall provide for payment of the losses to Owner and Land Bank, as their respective interests may appear.

(c) Owner will reimburse Land Bank for all costs incurred by Land Bank in connection with the premiums for any insurance obtained pursuant to the provisions of Section 4.3(a)(1).

(d) In the event of any casualty, the Parties hereby agree that Owner, in its sole discretion shall determine if any claim will be made. In the event a claim shall be made; Owner shall be responsible for the payment of any deductible and any and all payments for losses shall be used to repair, restore and for replacing the Property.

#### 5. INDEMNIFICATION.

5.1. Parties' Reciprocal Indemnity. Each of the Parties shall be responsible for and shall indemnify, protect, defend and hold harmless the other Party, its directors, officers, shareholders, employees, trustees, beneficiaries, agents, attorneys, representatives, contractors, successors and assigns (individually, an "Indemnitee") from and against any and all claims, demands, causes of action, suits, judgments, damages, compensation, debts, costs, expenses, losses, reasonable attorneys' fees and other legal costs, consultant and expert fees, penalties, fines, stipulated penalties, punitive damages, and liabilities of any kind or nature (collectively, "Losses") that arise directly or indirectly from, out of, or in connection with (i) any breach of this Agreement by such Party or its affiliates, or their respective employees, officers, consultants, contractors, or other agents or representatives, or (ii) any act, omission, negligence or misconduct of a Party or its affiliates, or their respective employees, officers, consultants, contractors, or other agents or representatives committed after the execution of this Agreement in the conduct of operations, demolition, rehabilitation, redevelopment or other activities at the Property, including, without limitation, any offsite or onsite property damage or bodily

injury caused, contributed to or exacerbated by any Party or its affiliates, or their respective employees, officers, consultants, contractors, or other agents or representatives; provided, however, that the foregoing indemnity shall not apply to the extent that any Indemnitee caused or contributed to the Losses from and after the date of this Agreement.

5.2. Survival. The provisions of this Article 5 shall survive the termination of this Agreement and shall not merge with the provisions of any deeds.

## 6. REMEDIES.

6.1. Land Bank's Remedies; Limitations. In the event Owner should default under this Agreement, then Land Bank may elect to either: (a) sue for specific performance of this Agreement, or (b) recover reimbursement from Owner for all direct, out of pocket costs and expenses, and/or (c) terminate this Agreement by giving written notice of termination to Owner. Upon termination of this Agreement, the Parties shall have no further obligations under this Agreement, except (i) for provisions that expressly survive termination, and (ii) that Land Bank shall have the right to re-convey the Property to Owner subject to the terms of Section 3.1 of this Agreement and Owner shall remain liable for the payment of all expenses related to such conveyance. Notwithstanding anything contained in this Agreement to the contrary, Land Bank waives any right to pursue any action for monetary damages (other than reimbursement for out of pocket expenses as set forth hereinabove) arising out of Owner's breach or alleged breach under this Agreement and in no event shall Owner be liable to any Party under any statutory, common law, equitable or other theory of law for any punitive, speculative or consequential damages, including without limitation lost profits.

6.2. Owner's Remedies; Limitations. In the event that Land Bank should default under this Agreement then Owner may elect to either: (a) sue for specific performance of this Agreement, or (b) recover reimbursement from Land Bank for all direct, out of pocket costs and expenses, and/or or (b) terminate this Agreement by giving written notice of termination to Land Bank. Upon termination of this Agreement, the Parties shall have no further obligations under this Agreement, except (i) for provisions that expressly survive termination, and (ii) that Owner shall have the right to acquire the Property from Land Bank, provided that Owner shall pay all expenses related to such conveyance. Notwithstanding anything contained in this Agreement to the contrary, Owner waives any right to pursue any action for monetary damages (other than reimbursement for out of pocket expenses as set forth hereinabove) arising out of Land Bank's breach or alleged breach under this Agreement and in no event shall Land Bank be liable to Owner under any statutory, common law, equitable or other theory of law for any punitive, speculative or consequential damages, including without limitation lost profits.

6.3. Survival. The terms of this Article 6 shall survive the termination of this Agreement.

## 7. DISPUTE RESOLUTION.

7.1. Injunctive Relief; Continuing Performance. Notwithstanding the above, to the full extent allowed by law, a Party may bring an action in any court of competent jurisdiction for injunctive relief (or any other provisional remedy) to protect the Party's rights or enforce the obligations of any other Party under this Agreement pending final resolution of any claims related thereto in an arbitration proceeding as provided above. The Parties shall continue to perform their obligations under this Agreement during the pendency of any dispute.

7.2. Venue. The venue for all proceedings pursuant to this Article 7 shall lie in Erie, Pennsylvania.

8. GENERAL PROVISIONS.

8.1. No Agency or Partnership. The Parties agree that nothing contained herein shall be construed to create the relationship of principal and agent, partnership, joint venture, or any other form of legal association which would impose liability upon one Party for the act or failure to act of another Party.

8.2. Further Assurances. Each Party shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder in good faith to carry out the intent of the Parties herein so long as such are consistent with the terms of this Agreement and impose no greater duties on the party.

8.3. Counterparts. This Agreement may be executed in one or more counterparts. All counterparts so executed shall constitute one contract, binding on all Parties, even though all Parties are not signatory to the same counterpart.

8.4. No Other Inducements. The execution and delivery of this Agreement by the Parties hereto has been induced by no statements, representations, warranties, or agreements other than those expressed herein.

8.5. Integration; Contingency. This Agreement contains the entire agreement of the Parties as to its subject matter and supersede any and all other written or oral understanding or agreement with respect to its subject matter. No amendment, change or modification of this Agreement shall be valid, unless in writing and signed by all of the Parties.

8.6. Construction. Each of the Parties hereby acknowledges that: (a) it has been represented by independent counsel in connection with this Agreement; (b) it has executed this Agreement with the advice of such counsel; and (c) this Agreement is the result of negotiations among the Parties and the advice and assistance of their respective counsel. This Agreement was prepared and negotiated by each of the Party's counsel. Any uncertainty or ambiguity in this Agreement shall not be construed against a Party because such Party's counsel prepared this Agreement or a portion thereof. The section headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several sections hereof.

8.7. Notices. All notices, demands, deliveries and communications under this Agreement shall be in writing and shall be sent by (i) first class, registered or certified U.S. mail, postage prepaid, return receipt requested, (ii) nationally recognized overnight carrier, (iii) facsimile (provided the original notice is also sent via a nationally recognized overnight carrier on the next business day and received within three business days from deposit with the carrier); or (iv) personal delivery. All notices shall be deemed to have been given three (3) business days following deposit of first class, registered or certified U.S. mail, one (1) business day following deposit with a nationally recognized overnight carrier, or upon receipt by facsimile or personal delivery, whichever occurs first. All notices shall be addressed to the Party at the address below or to such other address as a Party may designate by notice pursuant to this Section:

To Owner:

Union City Pride Incorporated  
PO Box 172  
Union City, PA 16438  
Phone: (814) 746-6668  
Fax: (814) 438-7115  
Attn: David Nothum

To Land Bank:

Erie County Land Bank  
150 East Front Street, Suite 300  
Erie, PA 16507  
Phone: (814)451-7339  
Fax: (814) 451-7333  
Attn: Christie Mahany  
Executive Director

with a copy to:

Knox McLaughlin Gornall & Sennett, P.C.  
120 West 10<sup>th</sup> Street  
Erie, PA 16501  
Phone (814) 459-2800  
Fax: (814) 453-4530  
Attn: Jeremy T. Toman, Esq.

with a copy to:

MacDonald Illig Jones & Britton LLP  
100 State Street, Suite 700  
Erie, PA 16507  
Phone: (814) 8707750  
Fax: (814) 454-4647  
Attn: J. W. Alberstadt, Jr., Esq.

8.8. Successors and Assigns. No Party may assign or transfer its interests, rights, or obligations in this Agreement without the other Party's prior written consent, which consent may be withheld by either Party in its discretion. Subject to the previous sentence, this Agreement shall inure to the benefit of and be binding upon and enforceable against the Parties and their respective successors and assigns. No assignment of this Agreement by any Party shall be deemed to relieve any Party from any liability or obligation under this Agreement and each Party and its respective assignees, including affiliates, shall remain jointly and severally liable for all of such Party's respective liabilities and obligations under this Agreement. The giving of consent to a particular assignment hereunder shall not release any Party from obtaining consent to any other assignment hereunder.

8.9. Survival. Those terms and provisions of this Agreement that specifically provide for survival shall survive the termination of this Agreement or the delivery of the deeds of conveyance by the Trustee and Land Bank.

8.10. No Third Party Beneficiaries. Nothing in this Agreement is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the Parties to it and their respective successors and assigns, if any, nor shall any provision give any third parties any right of subrogation or action against any Party to this Agreement.

8.11. Time. Time is of the essence of every provision contained in this Agreement. If the time for performance of any obligation hereunder shall fall on a Saturday, Sunday or holiday (national or in the Commonwealth of Pennsylvania), the time for performance shall be extended to the next day which is not a Saturday, Sunday or holiday.

8.12. Waiver. No covenant, term or condition of this Agreement, other than as expressly set forth herein, shall be deemed to have been waived by any party unless such waiver is in writing and executed by such party.

8.13. Governing Law. This Agreement shall be construed and interpreted in accordance with and shall be governed and enforced in all respects according to the laws of Pennsylvania, without regard to conflict of law principles.

8.14. No Recording. Neither Party shall record this Agreement or a memorandum or other notice thereof in any public office without the express written consent of the other Party.

8.15. Attorney Fees. In the event suit or action is instituted to interpret or enforce the terms of this Agreement, the substantially prevailing Party shall be entitled to recover from the other Party such sum as the court, arbitrator or mediator may adjudge reasonable as such Party's costs and attorney's fees, including such costs and fees as are incurred in any trial, on any appeal, in any bankruptcy proceeding (including the adjudication of issues peculiar to bankruptcy law) and in any petition for review.

[SIGNATURES APPEAR ON FOLLOWING PAGE(S)]

[SIGNATURE PAGE TO PROPERTY REHABILITATION AGREEMENT]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

Attest/Witness:

UNION CITY PRIDE INCORPORATED

\_\_\_\_\_  
Title: \_\_\_\_\_

By:  \_\_\_\_\_  
Title: PRESIDENT \_\_\_\_\_

Attest/Witness:

ERIE COUNTY LAND BANK

\_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
\_\_\_\_\_

# 2205358.v1

[SIGNATURE PAGE TO PROPERTY REHABILITATION AGREEMENT]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

Attest/Witness:

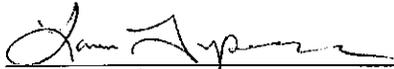
UNION CITY PRIDE INCORPORATED

\_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest/Witness:

ERIE COUNTY LAND BANK

  
\_\_\_\_\_  
Title: Office Manager

By: Christie Mahany  
Title: Executive Director  
Erie County Land Bank

# 2205358.v1

**EXHIBIT A**

**Rehabilitation Work**

The Land Bank will perform, at a minimum, the following work with respect to the Property: (i) remove the current roof surface; (ii) replace and repair the structure on the Property as needed; and (iii) replace the roof surface. The materials and design for the foregoing work shall be subject to the approval of Owner, which approval shall not be unreasonably withheld, conditioned or delayed.

Additional work may be performed by the Land Bank, but only following the written approval by Owner, which approval shall not be unreasonably withheld, conditioned or delayed.