

**Agreement for Exchange of Real Estate, Development Services,
and Public Space Improvements**

This Agreement for Exchange of Real Estate, Development Services, and Public Space Improvements (“**Agreement**”) is made and entered into between the Metropolitan Government of Nashville and Davidson County (“**Metro**”); and 600 Church, LLC, a Tennessee limited liability company, or its assigns (“**Giarratana**”) regarding the purchase and exchange of certain real estate hereinafter described.

WHEREAS, Giarratana (through a controlled affiliate) owns the approximately 0.26 acre parcel of property on James Robertson Parkway (the “**JRP Property**”), Metro tax parcel number 09302001000; and

WHEREAS, Metro currently owns the approximately 0.27 acre parcel of real property located on Church Street (the “**Metro CS Property**”), Metro tax parcel number 09306101500; and

WHEREAS, Metro currently owns the approximately 0.19 acre parcel of real property located at 505 Second Avenue North (the “**Metro PSH Property**”) Metro tax parcel number 09302004900; and

WHEREAS, Metro proposes to exchange the Metro CS Property for the JRP Property; to develop the Metro PSH Property as 100 units of permanent supportive housing (the “**Project**”); and to develop the JRP Property as a public park or other open space; and

WHEREAS, Giarratana proposes to exchange the JRP Property for the Metro CS Property; to contribute additional consideration to Metro in the amount of \$2,000,000 (the “**Contribution**”) to facilitate the development of the JRP Property as a public park or open space; to provide development services to facilitate the development of the PSH Project, at no charge to Metro; and to improve Anne Dallas Dudley Boulevard; and

WHEREAS, pursuant to the following terms and conditions, in consideration of the conveyance to Metro of the JRP Property, the coordination of the Project, the Contribution, and the agreement to improve Anne Dallas Dudley Boulevard, Metro proposes to convey the Metro CS Property to Giarratana.

NOW, THEREFORE, the parties agree as follows:

1. This Agreement shall become effective only after its approval by both the Metropolitan Board of Parks and Recreation and the Metropolitan Council and upon the date (“**Effective Date**”) of its filing with the Metro Clerk; provided, however, that should such approval not have occurred as of April 30, 2019 either party shall have the right to terminate this Agreement by written notice to the other party.

2. **Inspection Period.**

a. Metro shall have until the date that is thirty (30) business days following the Effective Date (the “**Inspection Period**”) to inspect the JRP Property in order to satisfy itself of

the suitability of the JRP Property for its intended use. During the Inspection Period, Metro shall have the right to enter upon the JRP Property for the purpose of making such surveys and inspections as it may reasonably require. Metro may terminate this Agreement by providing Giarratana with prior written notice thereof prior to the expiration of the Inspection Period in its sole and absolute discretion for any reason or for no reason. Within five (5) business days after the execution of this Agreement, Giarratana shall provide to Metro copies of all existing reports, surveys and full disclosure of any and all information in Giarratana's possession or control concerning the environmental history of the JRP Property.

b. Giarratana shall have the right, during the Inspection Period, to inspect the Metro CS Property in order to satisfy itself of the suitability of the Metro CS Property for its intended use. During the Inspection Period, Giarratana shall have the right to enter upon the Metro CS Property for the purpose of making such surveys and inspections as it may reasonably require. Giarratana may terminate this Agreement by providing Metro with prior written notice thereof prior to the expiration of the Inspection Period in its sole and absolute discretion for any reason or for no reason. Within five (5) business days after the execution of this Agreement, Metro shall provide to Giarratana copies of all existing reports, surveys and full disclosure of any and all information in Metro's possession or control concerning the environmental history of the Metro CS Property.

3. The closing of the transactions contemplated hereby (the "**Closing**") shall occur within sixty (60) days after the later to occur of (i) the Effective Date or (ii) the Zoning Approval Date (as defined below) (the "**Closing Date**"). At Closing, and subject to the provisions of this Agreement, (i) for and in consideration of the conveyance to Giarratana of the Metro CS Property, Giarratana shall convey the JRP Property to Metro, and (ii) for and in consideration of the conveyance to Metro of the JRP Property and payment of the Contribution, Metro shall convey the Metro CS Property to Giarratana.

a. Giarratana shall convey the JRP Property to Metro via special warranty deed in form reasonably acceptable to Metro (the "**JRP Deed**") and shall include all rights appurtenant to the JRP Property. Metro shall convey the Metro CS Property to Giarratana via special warranty deed reasonably acceptable to Giarratana (the "**Metro Deed**") and shall include all rights appurtenant to the Metro CS Property.

b. Metro shall pay transfer costs and taxes, deed recording fees, the cost of title insurance on the JRP Property, and all costs of inspections and surveys related to its acquisition of the JRP Property.

c. Giarratana shall pay transfer costs and taxes, deed recording fees, the cost of title insurance on the Metro CS Property, and all costs of inspections and surveys related to its acquisition of the Metro CS Property.

d. Metro and Giarratana shall each bear their own attorney expenses.

e. Each of Metro and Giarratana represent and warrant to the other that it has not dealt with, and is not obligated to pay any commissions to, any broker in connection with this transaction.

f. At Closing, Giarratana shall receive any applicable refunds or credits relating to any taxes and assessments for the JRP Property which Giarratana paid prior to Closing but which relate to periods following Closing.

4. Construction of the PSH Project.

a. The parties anticipate that Metro will solicit competitive proposals from and select a qualified firm (a “Design-Builder”) to design and build the Project. Giarratana may submit a proposal to serve as the Project Design-Builder to be considered along with those of other firms. If Giarratana is selected as the Design-Builder, the parties will proceed with the Project on such terms as they agree. In the event Giarratana is not selected to serve as the Project Design-Builder, Giarratana agrees to provide to Metro, at no cost, such assistance as Metro may reasonably request in overseeing design development and construction of the Project.

b. Giarratana agrees that in conjunction with its development of the Metro CS Parcel it will coordinate and undertake, at its expense, not to exceed \$5,000,000, a renovation of Ann Dallas Dudley Boulevard from Church Street to Union Street, generally consistent with the depiction shown on Exhibit A attached hereto. Such renovation will be undertaken pursuant to plans approved by Metro.

5. Notwithstanding any provision herein to the contrary, Giarratana’s obligations hereunder are conditioned upon the Metropolitan Council having approved a Specific Plan zoning designation (“**SP Zoning**”) for the Metro CS Property on or before April 30, 2018 which SP Zoning (i) shall be acceptable to Giarratana in its sole and absolute discretion; (ii) shall permit the construction of a building consistent with the materials on Exhibit B attached hereto; and (iii) shall be final and not subject to appeal. The date that all conditions set forth in this Section 5 are satisfied is referred to herein as the “**Zoning Approval Date**”.

6. Metro’s obligation to close will be contingent on the occurrence or express written waiver of the following:

a. All of Giarratana’s representations and warranties in this Agreement shall be true and correct in all material respects.

b. Giarratana shall not be in default of any material obligation under this Agreement.

c. Metro shall be satisfied as to the suitability of the JRP Property for Metro’s intended use and as to Giarratana’s plan for the Project, including the schedule for completion; provided, however, that the foregoing condition shall be deemed satisfied if Metro does not terminate this Agreement during the Inspection Period as set forth in Section 2 above.

7. Giarratana’s obligation to close will be contingent on the occurrence or express written waiver of the following:

a. All of Metro’s representations and warranties in this Agreement shall be true and correct in all material respects.

b. Metro shall not be in default of any material obligations under this Agreement. Without limiting the generality of the foregoing, the parties expressly acknowledge and agree that the approval of the SP Zoning under Section 5 hereof is a material obligation for the purposes of this Section 7(b).

c. Giarratana shall be satisfied as to the suitability of the Metro CS Property for Giarratana's intended use; provided, however, that the foregoing condition shall be deemed satisfied if Giarratana does not terminate this Agreement during the Inspection Period as set forth in Section 2 above.

8. Notices given under this Agreement shall be given in writing and delivered in person or sent by hand delivery, overnight courier service or certified mail, return receipt requested, postage prepaid, and addressed as follows:

**Metro: Director of Law
Metropolitan Court House
Suite 108 P.O. Box 196300
Nashville, TN 37219**

**Giarratana: Anthony D. Giarratana
424 Church Street, Suite 2900
Nashville, Tennessee 37219**

**With copy to: Waller Lansden Dortch & Davis, LLP
Nashville City Center
511 Union Street
Suite 2700
Nashville, Tennessee 37219
Attn: Robert R. Campbell, Jr.
Email: bo.campbell@wallerlaw.com**

9. (a) Metro acknowledges that the JRP Property will be delivered to Metro in its then-existing AS IS, WHERE IS condition, except for the express obligations of Giarratana set forth in this Agreement, and that such sale shall be without representation or warranty of any kind, express or implied, from Giarratana or any agents of Giarratana, including, without limitation, any representation or warranty with respect to (i) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the JRP Property or any improvements thereon; (ii) the nature, quality or condition of the JRP Property, including with respect to water conditions, soil, geological or geotechnical condition; (iii) compliance with environmental laws or land use laws, rules, regulations, orders, codes or requirements under any federal, state, regional, county, municipal and other local laws, regulations and ordinances; (iv) the completeness or accuracy of any information provided to Metro by Giarratana or its agents; or (v) any other matter relating to the JRP Property or to the development, construction, leasing, operation, or sale of the JRP Property.

(b) Giarratana acknowledges that the Metro CS Property will be delivered to Giarratana in its then-existing AS IS, WHERE IS condition, except for the express obligations of Metro set forth in this Agreement, and that such sale shall be without representation or warranty of any kind, express or implied, from Metro or any agents of Metro, including, without limitation, any representation or warranty with respect to (i) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Metro CS Property or any improvements thereon; (ii) the nature, quality or condition of the Metro CS Property, including

with respect to water conditions, soil, geological or geotechnical condition; (iii) compliance with environmental laws or land use laws, rules, regulations, orders, codes or requirements under any federal, state, regional, county, municipal and other local laws, regulations and ordinances; (iv) the completeness or accuracy of any information provided to Giarratana by Metro or its agents; or (v) any other matter relating to the Metro CS Property or to the development, construction, leasing, operation, or sale of the Metro CS Property.

10. Metro and Giarratana, and their successors and assigns and each and all of their respective members, officers, directors, employees, parents, affiliates or subsidiaries and each of their respective successors and assigns hereby release each other from, and irrevocably and unconditionally waive all claims and liability against each other for or attributable to (i) any and all statements or opinions heretofore or hereafter made, or information furnished concerning the JRP Property, the Metro CS Property, or the transactions contemplated by this Agreement or (ii) the environmental condition of the JRP Property and the Metro CS Property, including, without limitation, claims relating to the presence, discovery or removal of any hazardous materials in, at, under or about the JRP Property or the Metro CS Property.

11. Metro shall give possession of the Metro CS Property to Giarratana at Closing. Giarratana shall give possession of the JRP Property.

12. Giarratana acknowledges and agrees that, following the Closing, Giarratana shall not seek or request any tax incremental financing or other public incentives other than those generally available for the development of the Metro CS Property or expressly contemplated herein.

13. Neither party may assign this Agreement without the written consent of the other party; provided, however, that Giarratana may, without the consent of Metro, assign its rights under this Agreement to an entity formed for the purpose of acquiring title to the Metro CS Property.

14. This Agreement, together with the exhibits attached hereto, contains all of the understandings of the parties with respect to the subject matter hereof and any prior discussions, statements or negotiation are merged herein and barred hereby. This Agreement may be modified only by a written instrument signed by an authorized representative of both parties.

15. Any action arising from this Agreement shall be brought in the Circuit or Chancery Courts of Davidson County, Tennessee. This Agreement shall be governed by and interpreted in accordance with the laws of Tennessee.

[signatures appear on following page]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective authorized officials as of the date and year first above written.

Metropolitan Government of Nashville and Davidson County

600 Church, LLC

RECOMMENDED:

By: _____
Anthony D. Giarratana, President

Director Public Property Administration

Date: _____

APPROVED AS TO AVAILABILITY OF FUNDS:

Director of Finance

APPROVED AS TO FORM AND LEGALITY:

Assistant Metropolitan Attorney

EXHIBIT A

ANNE DALLAS DUDLEY BOULEVARD RENOVATION DEPICTION

[to be attached]

EXHIBIT B

BUILDING CONCEPT

[to be attached]