

THIRD AMENDMENT TO REAL ESTATE PURCHASE AGREEMENT

THIS THIRD AMENDMENT TO THE REAL ESTATE PURCHASE AGREEMENT (the "Third Amendment"), is made as of the 26th day of August 2025 ("Effective Date"), by and between **Fortuna Park LLC, sole member Nautilus Custom Construction LLC.**, whose sole member is Michael Pagnotta, (the "Buyer" or "Fortuna") with an address at 342 West 9th Street, Ship Bottom, New Jersey 08008 and **Long Beach Island Board of Education**, a New Jersey board of education (the "Seller" or the "Board") with a mailing address of 201 20th Street, Ship Bottom, New Jersey 08008. Pagnotta and the Board shall be collectively referred to as the "Parties".

WITNESSETH:

WHEREAS, the Parties entered into a Real Estate Purchase Agreement (the "Contract") with a stipulated execution date of October 4, 2022, for Pagnotta to purchase from the Board the property located at 201-267 West 20th Street, Ship Bottom, New Jersey, also identified as Block 48, Lot 1 on the Tax Map of the Borough of Ship Bottom, Ocean County, New Jersey and also known as the Long Beach Island Grade School (the "Property"); and

WHEREAS, on March 14, 2023, the Parties executed a First Amendment to Real Estate Purchase Agreement (the "First Amendment") memorializing certain revisions and additions to the Contract as agreed to by the Parties; and

WHEREAS, on or around July 24, 2024, the Parties executed a Second Amendment to Real Estate Purchase Agreement (the "Second Amendment") memorializing certain revisions and additions to the Contract and First Amendment as agreed to by the Parties; and

WHEREAS, the Buyer's purchase of the Property is contingent upon Fortuna procuring all necessary approvals and permits required under the Coastal Area Facility Review Act ("CAFRA"), and

WHEREAS, for Buyer's CAFRA application, the public comment period began on June 18 and will continue for thirty (30) days; and once the application is deemed complete for final review, the New Jersey Department of Environmental Protection ("NJDEP") shall have ninety (90) days to render a final decision; and

WHEREAS, the Parties to the Contract also want to use this opportunity to clarify certain other points in the Contract; and

WHEREAS, this Third Amendment hereby memorializes the revisions and additions to the Contract; and

NOW, THEREFORE, for good and valuable consideration, the receipt of which is acknowledged by the Parties, Seller and Purchaser hereby agree as follows:

1. **Recitals**. All Recitals above are incorporated herein and made a part hereof.
2. **Tolling of Dates**. This Third Amendment shall extend and toll all dates under the Contract until Fortuna has received a final decision and building permit from the NJDEP on their pending CAFRA application and final clearance to close from Buyer's lender Unity Bank, not to exceed twenty (20) days beyond CAFRA approval, unless otherwise agreed to by the parties.
3. **Revision to Closing of Title Section**.
 - a. Section 5.1 of the Contract is hereby amended to reflect a revised Closing Date of October 15, 2025, subject to paragraph 2 above.
 - b. The Buyer shall be granted access to the school building to remediate asbestos prior to the above-referenced Closing Date.
 - c. The Buyer shall be granted access to the bus garage to remediate asbestos prior to the above-referenced Closing Date.
 - d. The Seller shall promptly execute and cooperate with the gas disconnection process at the property, estimated to be six to eight weeks following submission to NJNG. Buyer shall be responsible for the costs of the same.
4. **Improvement**. As a gesture of goodwill between the parties, the Buyer will make a monetary donation of \$100,000.00 to the Ethel Jacobsen Elementary School, 200 South Barnegat Avenue, Surf City, New Jersey 08008. The parties shall further define the timing of the donation. This agreement for the proposed donation shall survive closing.
5. The Parties agree that, except as modified by this Third Amendment, all provisions, covenants, addendums, terms, and conditions set forth in the Contract, First Amendment, and Second Amendment shall remain in full force and effect and are hereby ratified (pursuant to Board Approval) and confirmed in all respects. The Parties further agree that the covenants, amendments, terms, and conditions contained in this Third Amendment shall bind and inure to the benefit of the Parties hereto and their respective successors and assigns.

6. **Miscellaneous:**

- A. No provision of this Third Amendment may be amended, changed or waived orally, but only by an instrument in writing signed by the Parties. This Third Amendment supersedes all prior and contemporaneous representations, agreements, and understandings, whether written or oral.
- B. Each party acknowledges that it has participated, with the advice of counsel, in the preparation of this Third Amendment. No party is entitled to any presumption with respect to the interpretation of any provision hereof or the resolution of any alleged ambiguity based on any claim that the other party drafted or controlled the drafting of this Third Amendment.
- C. Any paragraph, Article or Article headings or captions contained in this Third Amendment shall be for reference purposes only and shall not affect the construction or interpretation of any provision in this Third Amendment.
- D. This Third Amendment shall be governed by New Jersey law without regard to its conflict of law principles and any dispute shall be venued in the Superior Court of New Jersey, Ocean County vicinage, unless otherwise agreed to by the Parties.
- E. **Jury Trial Waiver.** Seller and the Buyer hereby waive their rights to a trial by jury in any action or proceeding concerning the breach or enforcement of this Third Amendment.
- F. **Severability.** If any term, covenant or condition of this Third Amendment or the application thereof to any person or circumstance is, to any extent, invalid, illegal, or unenforceable, the remainder of this Third Amendment, or the application of such term, covenant or condition to parties or circumstances other than those to which it is held invalid, illegal, or unenforceable, is not affected thereby and each term, covenant, and condition of this Third Amendment remains valid and enforceable to the fullest extent permitted by law, but only if the essential terms and conditions of this Third Amendment for each party remain valid, binding and enforceable.
- G. **Counterparts.** The parties may execute this Third Amendment in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by email is as effective as executing and delivering this Third Amendment in the presence of the other parties to this Third Amendment. This Third Amendment is effective upon delivery of one executed

counterpart from each party to the other parties. In proving this Third Amendment, a party must produce or account only for the executed counterpart of the party to be charged. Any party delivering an executed counterpart of this Third Amendment by email shall also deliver a manually executed counterpart of this Third Amendment, but the failure to do so does not affect the validity, enforceability, or binding effect of this Third Amendment.

- H. **Waiver.** Each party shall have the right, in its sole discretion, for any reason or for no reason, to waive any condition precedent or contingency contained in this Third Amendment for the benefit of said party, provided that such waiver shall be in writing and if any such waiver occurs, this Third Amendment shall be interpreted and construed as if such condition precedent or contingency had never been a party of this Third Amendment, except to the extent that said condition precedent or contingency is stated in this Third Amendment to be also for the benefit of the other party.
- I. **Authority to Execute.** The parties executing this Third Amendment represent and warrant that they have full authority and/or have been duly authorized by their respective corporations to do so on behalf of such corporations.
- J. **Date of Third Amendment.** The date of this Third Amendment shall be the date on which a signed copy by Buyer is approved by the Board, which date will be inserted at the top of the first page hereof.
- K. **Attorney Fees.** In the event any action or proceeding is commenced to obtain a declaration of rights hereunder, to enforce any provision hereof, or to seek rescission of this Third Amendment for default contemplated herein, whether legal or equitable, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees in addition to all other relief to which it may be entitled therein. All indemnities provided for herein shall include, but without limitation, the obligation to pay costs of defense in the form of court costs and attorneys' fees.

(Signature page follows)

IN WITNESS WHEREOF, each party has caused this Third Amendment to be executed as of the date set forth below and pending full ratification by the Long Beach Island Board of Education.

WITNESS/ATTEST

SELLER

LONG BEACH ISLAND
BOARD OF EDUCATION

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WITNESS/ATTEST

BUYER

FORTUNA PARK, LLC

m. Hayle

[Signature]