141 ORANGE STREET
MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is dated this 12th day of April , 2022 between the Town of Nantucket Affordable Housing Trust ("AHT") and the Nantucket Islands Land Bank ("Land Bank"), both being bodies politic and corporate located in Nantucket, Massachusetts.

RECITALS

AHT and the Land Bank have agreed that affordable housing purposes and the conservation interests of the Inhabitants of the Town and County of Nantucket will be served by the collaborative land acquisition described in this agreement.

AHT owns two parcels of land known as 135 Orange Street and 137 Orange Street, Nantucket (together, the "Existing Parcel") on which AHT intends to construct affordable housing units. 141 Orange Street (the "Purchase Parcel") is a vacant parcel which is contiguous to the Existing Parcel and is located at the intersection of Orange Street and Daves Street. The Purchase Parcel is available to purchase and is suitable for the Land Bank for its statutory purposes and for AHT to construct a driveway providing access to the Existing Parcel from Daves Street. Locating the driveway on the Purchase Parcel will allow AHT to add several units to its planned development of the Existing Parcel.

AHT and the Land Bank have agreed to contribute to purchase of the Purchase Parcel by allocating the price in proportion to the areas which will be used by each.

NOW THEREFORE, in consideration of the foregoing and in consideration of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **EXECUTION OF P&S.** On approximately the date of this Memorandum of Understanding ("MOU"), the Land Bank will execute a Purchase and Sale Agreement for purchase of the Purchase Parcel at a price of $1,700,000, in substantially the same form as attached hereto as Exhibit A. In so doing, Land Bank will be relying on full performance of this MOU during the time frames described in the Purchase and Sale Agreement.

2. **PREPARATION OF EASEMENT.** The parties agree to cooperate in drafting a Declaration of Easement for execution by the Seller of the Purchase Parcel and recording prior to the deed to the Land Bank. The Declaration will describe a driveway easement allowing use of a twenty-five (25) foot strip along the southwesterly boundary of the Purchase Parcel for sidewalk and driveway purposes, including all uses generally allowed for a public way in the Town of Nantucket, which may include for sub-surface utility purposes. The approximate location of the easement area is shown on the Proposed Concept Site Plan for Driveway Access attached hereto as Exhibit B. In addition, the Declaration of Easement will provide for an additional ten (10) foot wide temporary construction easement as shown on Exhibit B to be used during construction of the driveway by AHT.

3. **AHT CONTRIBUTION TO PRICE.** At least five (5) calendar days prior to the date established for closing purchase of the Purchase Parcel, AHT shall cause the sum of $487,690 to be delivered in escrow to Land Bank's counsel Verrill Dana LLP to be used as part of the purchase price. Said sum is calculated as shown on Exhibit C, rounded for convenience.

4. DEFAULT; DAMAGES. The parties agree that there is no adequate monetary remedy for a default by either party. If a party fails to fulfill its obligations under this MOU, the other party may seek equitable remedies, including specific performance.

5. CONSTRUCTION OF AGREEMENT. This MOU, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and enures to the benefit of the parties hereto, and may be canceled, modified or amended only by a written instrument executed by both the Land Bank and AHT. The parties may rely upon facsimile copies of such written instruments. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this agreement or to be used in determining the intent of the parties to it.

6. **NOTICES.** All notices required or permitted to be given hereunder shall be in writing and delivered by facsimile, by hand or mailed, postage prepaid, by registered or certified mail, or by overnight express delivery with receipt required, in the case of the AHT to:

Mr. Tucker Holland, Housing Director
Town of Nantucket
16 Broad Street – Office 111
Nantucket, MA 02554

With a copy to:
Vicki S. Marsh, Esq.
KP Law, P.C.
101 Arch Street
Boston, MA 02110

In the case of the Land Bank:
Nantucket Islands Land Bank
22 Broad Street
Nantucket, MA 02554
Attn: Ms. Jesse Bell, Executive Director

With a copy to:
Valerie Swett, Esq.
Verrill Dana LLP
One Federal Street 20th Floor
Boston, MA 02110

Or in the case of either party to such other address as shall be designated by written notice given to the other party. Any such notice shall be deemed given when so delivered by hand or, if so mailed, when received by the party to whom it is addressed, or if sent by facsimile, on the same business day as sent.

7. **AHT'S CONTINGENCY.** AHT's performance hereunder is contingent upon the Land Bank's purchase of the Purchase Parcel from its current owners. In the event that the Land Bank does not purchase the Purchase Parcel pursuant to the terms of the Purchase and Sale Agreement set forth in Exhibit A, then this MOU shall be void whereupon all obligations of the parties under this Agreement shall be terminated and any AHT's funds held in escrow for the Purchase of the Purchase Parcel shall be returned to AHT.

IN WITNESS WHEREOF the parties have hereto set their hands and seals as of the day referenced above.

AHT	**LAND BANK**
NANTUCKET AFFORDABLE HOUSING TRUST acting by and through its Trustees	NANTUCKET ISLANDS LAND BANK acting by and through its Commission
______________________ Brian Sullivan, Chair	______________________ Neil Paterson
______________________ Brooke S. Mohr, Vice Chair	______________________ Allen B. Reinhard
______________________ Penelope Dey	______________________ Kristina Jelleme
______________________ Dawn E. Hill Holdgate	______________________ John J. Stackpole
______________________ David Iverson	______________________ Mark Donato
______________________ Reema Sherry	
______________________ Shantaw Bloise	

Exhibits

A Purchase Parcel Purchase and Sale Agreement
B Proposed Concept Site Plan for Driveway Access
C Allocation of Purchase Price According to Area of Use

PURCHASE AND SALE AGREEMENT

From: Verrill Dana LLP
One Federal Street 20th Floor
Boston, MA 02110
Phone: 617-951-1101
Fax: 617-542-7437

Agreement made this 12th day of April, 2022.

1. **PARTIES**

ACK DREAMS LLC, a Massachusetts Limited Liability Company, hereinafter called the SELLER, agrees to SELL and Nantucket Islands Land Bank, hereinafter called the BUYER or PURCHASER, agrees to BUY, upon the terms hereinafter set forth, the following described premises:

2. **DESCRIPTION**

A parcel of vacant land together with any improvements thereon, commonly known as 141 Orange Street, Nantucket, Massachusetts, consisting of approximately 6,760 square feet of land, comprised of Lot 3 on the plan recorded in Nantucket Registry of Deeds Plan Book 16 Page 41. The parcel is approximately shown on the Town of Nantucket Assessor's Map 55 as Parcel 153. For Seller's title, see said Deeds Book 1657 Page 347.

3. **BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES**

<Intentionally omitted – vacant land.>

4. **TITLE DEED**

Said premises are to be conveyed by a good and sufficient quitclaim deed running to the BUYER, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except:

(a) Any liens for municipal betterments assessed after the date of this agreement;
(b) Laws, by-laws, rules, and regulations, whether federal, state, or local, which affect the use of the Premises, including, but not limited to, rules and regulations of the Nantucket Conservation Commission, Nantucket Zoning By-Law, Nantucket Historic District Commission, Nantucket Building Department, Nantucket Planning Board and Nantucket Board of Health.
(c) Real estate taxes for the then-current fiscal year and future periods which are not due and payable at the time of delivery of the deed.
(d) Any fee which may be imposed upon the transaction which is the subject of this agreement by the Nantucket Land Bank Commission, which the BUYER agrees to pay at the time of delivery of the deed.
(e) Any easement or restriction which does not limit or impair BUYER's proposed use of the property.

5. **PLANS**

If said deed refers to a plan necessary to be recorded therewith the SELLER shall deliver such plan with the deed in form adequate for recording or registration.

6. **REGISTERED TITLE**

In addition to the foregoing, said deed shall be in form sufficient to entitle the BUYER to a Certificate of Title to said premises, and the SELLER shall deliver with said deed all instruments, if any, necessary to enable BUYER to obtain such Certificate of Title.

7. **PURCHASE PRICE**

The agreed purchase price for said premises is One Million Seven Hundred Thousand and no/100 Dollars

($1,700,000.00) of which

$ 170,000.00	are to be paid upon the execution of this Agreement, and
1,530,000.00	are to be paid at the time of delivery of the deed by attorney's drawn on a Boston clearinghouse bank without intervening endorsements, or, at SELLER's option paid by wire transfer immediately after recording in accordance with instructions to be provided by SELLER.
$ 1,700,000.00	Total

8. **TIME FOR PERFORMANCE: DELIVERY OF DEED**

Said deed is to be delivered at Eleven O'Clock A.M. on the 4th day of May, 2022, at the office of Buyer (22 Broad Street, Nantucket, Massachusetts), unless otherwise agreed upon in writing. It is agreed that time is of the essence of this agreement.

9. **POSSESSION AND CONDITION OF PREMISES**

Full possession of said premises free of all tenants and occupants, is to be delivered at the time of the delivery of the deed, said Premises to be then (a) in the same condition as they are now, except reasonable use and wear thereof, (b) not in violation of said building and zoning laws, and (c) in compliance with provisions of any instrument referred to in clause 4 hereof. The BUYER shall be entitled to personally inspect the premises prior to the delivery of the deed in order to determine whether the condition of the premises complies with the terms of this clause.

10. **EXTENSION TO PERFECT TITLE OR MAKE PREMISES CONFORM**

If the SELLER shall be unable to give title or to make conveyance, or to deliver possession of the premises, all as herein stipulated, or if at the time of delivery of the deed the premises do not conform with the provisions hereof, then the SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said premises conform to the provisions hereof, as the case may be, in which event the time for performance hereof shall be extended for a period not to exceed sixty (60) days.

11. **FAILURE TO PERFECT TITLE OR MAKE PREMISES CONFORM**

If at the expiration of the extended time the SELLER shall have failed so to remove any defects in title, deliver possession, or make the premises conform, as the case may be, all as herein agreed, then any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto.

12. **BUYER'S ELECTION TO ACCEPT TITLE**

The BUYER shall have the election, at either the original or any extended time for performance, to accept such title as the SELLER can deliver to the said premises in their then condition and to pay therefore the purchase price without deduction, in which case the SELLER shall convey such title.

13. **ACCEPTANCE OF DEED**

The acceptance and recording of a deed by the BUYER shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after delivery of said deed.

14. **USE OF MONEY TO CLEAR TITLE**

To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed.

15. **INSURANCE**

Until delivery of the deed, the SELLER shall maintain insurance on said premises as follows:

Type of Insurance	Amount of Coverage
(a) Fire	$ as presently insured
(b) Extended coverage	$
(c)	$

Risk of loss shall remain with SELLER until the delivery of the deed.

16. **ADJUSTMENTS**

Tax assessments shall be apportioned as of the date of performance of this Agreement and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the Buyer at the time of delivery of the deed.

17. **ADJUSTMENT OF UNASSESSED AND UNABATED TAXES**

If the amount of said taxes is not known at the time of delivery of the deed, they shall be apportioned on the basis of the taxes assessed for the preceding fiscal year, with a reapportionment as soon as the new tax rate and valuation can be ascertained; and, if the taxes which are to be apportioned shall thereafter be reduced by abatement, the amount of such abatement, less the reasonable cost of obtaining the same, shall be apportioned between the parties, provided that neither party shall be obligated to institute or prosecute proceedings for an abatement unless herein otherwise agreed.

18. **BROKER REPRESENTATION**

The parties warrant and represent each to the other that there is no broker involved with the transaction to which this agreement pertains, except J Pepper Frazier II of J Pepper Frazier Real Estate, to whom the Seller will pay a commission of 2.5%, or $42,500 from the proceeds of sale. In the event of a breach of the foregoing representation, the breaching party shall indemnify and hold harmless the non-breaching party for all expenses, including attorney fees, which arise from such breach. The provisions of this paragraph shall survive delivery of the deed hereunder.

19. **DEPOSIT; ESCROW PROVISIONS**

All deposits made hereunder shall be held in escrow by Verrill Dana LLP as escrow agent in an interest bearing account subject to the terms of this agreement and shall be duly accounted for at the time for performance of this agreement at which time said interest shall be credited to Buyer. In the event that no closing occurs under this Agreement then all interest on any deposit shall follow that deposit. In the event of any disagreement between the parties, escrow agent shall retain all deposits made under this agreement pending instructions mutually given in writing by the SELLER and the BUYER, or by court order by a Court having competent jurisdiction.

The escrow agent hereunder shall not be liable for any loss suffered with respect to the escrow account or for any action or inaction taken by the escrow agent in good faith with respect to the account or deposit. The escrow agent may resign at any time by transferring the deposit to a successor escrow agent reasonably acceptable to Seller and Buyer which successor agrees in writing to act as escrow agent. Buyer and Seller jointly and severally agree to indemnify and hold the escrow agent harmless for any and all costs and expenses, including reasonable attorney fees, incurred in connection with any such dispute between Seller and Buyer as to the allocation and disbursement of such deposit funds.

20. **BUYER’S DEFAULT; DAMAGES**

If the Buyer shall fail to fulfill the BUYER’S agreements herein, all deposits made hereunder by the BUYER shall be retained by the SELLER as liquidated damages which shall be the SELLER’S sole and exclusive remedy at law and in equity for a breach of this agreement.

21. **LIABILITY OF TRUSTEES, SHAREHOLDERS OR BENEFICIARIES**

If the SELLER or BUYER executes this agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither the SELLER or BUYER so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.

22. **MORTGAGE CONTINGENCY CLAUSE**

Intentionally Omitted.

23. **CONSTRUCTION OF AGREEMENT**

This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and enures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both the SELLER and the BUYER or their respective counsel. The Parties may rely upon facsimile copies of such written instruments. If two or more persons are named herein as BUYER their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this agreement or to be used in determining the intent of the parties to it.

24. **TITLE STANDARDS**

Any matter relating to performance of this Agreement which is the subject of a title, practice or ethical standard of the Massachusetts Real Estate Bar Association shall be governed by such standard to the extent applicable.

25. **NOTICES**

All notices required or permitted to be given hereunder shall be in writing and delivered by facsimile, email, by hand or mailed, postage prepaid, by registered or certified mail, or by overnight express delivery with receipt required, in the case of the Seller to:

Mr. Steven C. Jemison, Manager
ACK DREAMS, LLC
78 Rue du Prince
Cordillera, CO 81632

With a copy to:
Ryan Kelly, Esq.
Parker Scheer LLP
One Constitution Center
Boston, MA 02129

In the case of Buyer:
Nantucket Islands Land Bank
22 Broad Street
Nantucket, MA 02554
Attn: Ms. Jesse Bell, Executive Director

With a copy to:
Valerie Swett, Esq.
Verrill Dana LLP
One Federal Street 20th Floor
Boston, MA 02110

Or in the case of either party to such other address as shall be designated by written notice given to the other party. Any such notice shall be deemed given when so delivered by hand or, if so mailed, when received by the party to whom it is addressed, or if sent by facsimile or email, on the same business day as sent.

26. **SELLER'S DOCUMENTS**

Seller agrees to sign at closing all forms customary or reasonably required by Buyer or Buyer's attorney, including without limitation title insurance affidavits, nonforeign affidavits, Internal Revenue Service disclosure statement, and DCAMM disclosure.

27. **SEVERABILITY**

If any provision or condition of this Agreement shall be deemed invalid or unenforceable, the remaining provisions and conditions shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.

28. **BUYER'S CONTINGENCIES**

Buyer's obligations hereunder shall be contingent upon the following occurring:

28.1 Prior to closing Buyer complying with the requirements of Massachusetts General Laws Chapter 30B concerning public procurement of the premises.
28.2 Prior to or simultaneously with executing this Agreement, Buyer entering into a mutually acceptable Memorandum of Understanding with the Town of Nantucket Affordable Housing Trust ("AHT") regarding collaboration between Buyer and AHT in acquisition of the Property.
28.3 By no later than 4:00 p.m. at least two business days prior to closing, escrow agent receiving cash totaling at least $487,690 from or on behalf of AHT to be used toward acquisition of the Property.

29. **VENUE**

The parties hereto agree that all actions on this Agreement shall be brought in the Superior Court Department of the Trial Court, Commonwealth of Massachusetts, Nantucket Division, to the extent that said Court shall have jurisdiction of the subject matter in any such action.

30. **EXTENSION AUTHORITY**

By executing this Agreement, Buyer and Seller hereby grant to their respective attorneys the actual authority to bind them by facsimile or e-mail for the limited purpose of allowing them to grant extensions, and Buyer and Seller shall be able to rely upon the signature or email of said attorneys as binding unless they have actual knowledge that either party has disclaimed the authority granted herein to bind them.

31. **DRIVEWAY EASEMENT**

SELLER acknowledges having been informed that BUYER is collaborating with AHT (as defined in Paragraph 28) in purchase of the Property. SELLER agrees to accommodate this by executing and recording prior to the deed to BUYER a driveway easement encumbering the Property in form and substance acceptable to BUYER and AHT. Such easement shall be prepared at no expense to SELLER and shall be provided to SELLER at least five (5) days prior to Closing.

32. **REPRESENTATIONS; EXCLUSION OF WARRANTIES**

The **BUYER** acknowledges that the **BUYER** has not been influenced to enter into this transaction nor has it relied upon any warranties or representation not set forth or incorporated in this agreement or previously made in writing, except for the following additional warranties and representation, if any made by the **SELLER**: NONE. **BUYER** accepts the vacant land in the condition at the time BUYER made the Offer. The **BUYER** acknowledges and agrees that the **SELLER** has made no representations as to the condition, past, present or future of the premises, other than those contained in this Agreement. The **BUYER** acknowledges that BUYER has waived any inspection. No warranties are made nor representations (express, implied or otherwise) other than those that appear in writing in this Agreement and the **BUYER** is purchasing the premises in "as is" condition. Notwithstanding the foregoing,

SELLER represents that SELLER has no actual knowledge of a discharge, spillage, uncontrolled loss, seepage or filtration of oil or petroleum or chemical liquids or solids or hazardous substance (as defined in the Comprehensive Environmental Response, Compensation and Liability Act, as amended) impacting the premises.

33. **SELLER'S KNOWLEDGE.**

All of **SELLER's** representations under this Agreement, if any, are to the **SELLER's** actual knowledge, and without conducting any independent investigation or inquiry and are not intended to imply or create any obligation for the **SELLER** to take additional actions or more further inquiry with regard to any topics contained within this Agreement or elsewhere, including but not limited to, documents, to be executed in conjunction with the Closing; furthermore, it is acknowledged and agreed by the Parties that any such representations shall not constitute a representation or warranty against the existence of such conditions about which **SELLER** has no knowledge, nor a representation or warranty against the discovery or occurrence of such conditions after the Closing.

34. **COVID-19 CLAUSE.**

The parties agree and acknowledge that in the event either the Buyer, Seller, any of their respective attorneys, or the Registry of Deeds becomes the subject of a voluntary or mandatory COVID-19 virus quarantine or closure order from any governmental agency at the time for performance hereunder, and if the affected person's absence cannot be covered by another attorney and/or a power of attorney, the closing shall be automatically extended at the request of either party for a period of up ten (10) business days after such quarantine or closure order is lifted. It is agreed that time is of the essence and that closing shall not be extended under this clause beyond June 30, 2022, without written consent of both parties.

SELLER:
ACK DREAMS, LLC

By______________________________
Steven C. Jemison, Manager

ESCROW AGENT:
VERRILL DANA LLP

By:______________________________
Valerie Swett, Partner

BUYER:
NANTUCKET ISLANDS LAND BANK
By its Commission:

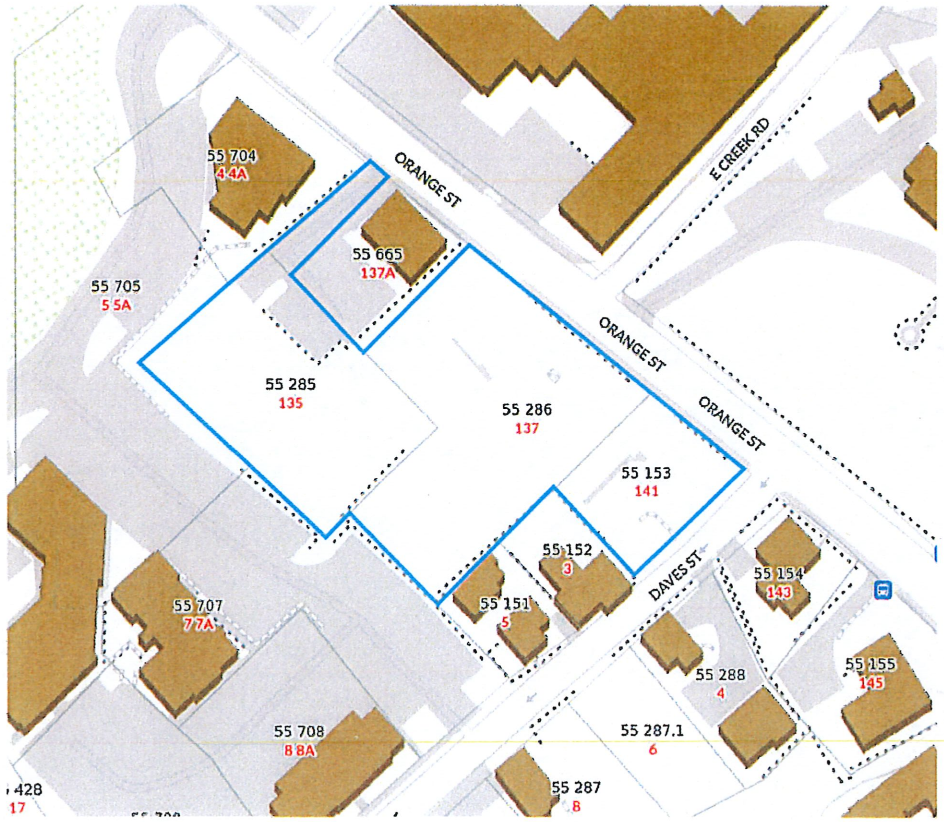
____
Neil Paterson

____
Allen B. Reinhard

____
Kristina Jelleme

____
John J. Stackpole

____
Mark Donato



Locus

3/16" = 1'-0"

Schematic Site Plan - Proposed

1" = 30'-0"

emeritus

EXHIBIT B

141 Orange Street	SF	NLB OFFER	SELLER COUNTEROFFER	DIFFERENCE
Total SF	6,766	$ 1,100,000.00	$ 1,700,000.00	$ 600,000.00
Price per SF		$ 162.58	$ 251.26	$ 88.68
NLB Green Space 71.31%	4,825	$ 784,436.89	$ 1,212,311.56	$ 427,874.67
AHT Driveway/sidewalk Easement 28.69%	1,941	$ 315,563.11	$ 487,688.44	$ 172,125.33

EXHIBIT C