

**PROPERTY PURCHASE AND SALES CONTRACT
(101 NORTH LAKE STREET AND 102 NORTH RIVER STREET, AURORA, ILLINOIS)**

THIS PROPERTY PURCHASE AND SALES CONTRACT (the "**Contract**") is made as of the Effective Date (as defined in Section 23 hereof) between OLD SECOND NATIONAL BANK, an Illinois Corporation (the "**Seller**") and the CITY OF AURORA, an Illinois municipal corporation (the "**Buyer**").

AGREEMENT:

1. **THE BUYER IS A MUNICIPAL ENTITY AND THIS CONTRACT IS SUBJECT TO THE APPROVAL OF, AND IS NOT ENFORCEABLE UNLESS APPROVED AT AN OPEN MEETING BY, THE CITY COUNCIL OF BUYER.**

2. **SALE.** The Seller, whose identity may be updated to conform to the owner of record set forth in the "Title Commitment," as defined in Section 6 below, agrees to sell to Buyer, and Buyer agrees to purchase from Seller, upon the terms and conditions set forth in this Contract, the fee simple title to a parcel of land and any and all improvements, if any, commonly known as 101 N. Lake Street, Aurora, Illinois, PINs: 15-22-162-005; 15-22-162-006; and 15-22-162-003, located in the County of Kane (the "**Property**"), which Property is legally described in **Exhibit A** attached hereto and made a part hereof, and which legal description shall be adjusted, if necessary, to conform to the legal description in the "Survey," as defined in Section 8 below.

3. **PURCHASE PRICE.** The purchase price for the purchase of the Property by Buyer is **ONE MILLINION SIX HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,600,000.00)** (the "**Purchase Price**"). At closing, Buyer shall pay to Seller, in good and available funds by wire transfer or cashier's check, the Purchase Price, plus or minus prorations as provided herein. **CLOSING COSTS**

4. **EARNEST MONEY DEPOSIT.** NONE.

5. **CLOSING DATE.** The closing (the "**Closing**") of the contemplated purchase and sale of the Property shall take place through a deed and money escrow ("**Escrow**") on June 30, 2023 (the "**Closing Date**") at the office of Chicago Title Insurance Company, 2000 W. Galena Blvd., Aurora, Illinois 60506 (the "**Title Company**") or at such other time and place as mutually agreed to by the parties. The cost of the closing fee and New York Style closing shall be split between the Parties.

6. **TITLE INSURANCE.** Within thirty (30) days of the Effective Date, Seller, at its cost and expense, shall deliver to Buyer, a title commitment issued by the Title Company, in the amount of the Purchase Price, with extended coverage over the standard exceptions 1 through 5 (the "**Title Commitment**"), together with copies of all underlying title documents listed in the Title Commitment (the "**Underlying Title Documents**"), subject only to (i) 2022 real estate taxes and subsequent years, not yet due and payable; (ii) utility and drainage easements which are acceptable, in Buyer's sole judgment, with Buyer's use, enjoyment and development of the Property (iii) covenants, conditions, easements, restrictions and matters of record which are acceptable, in Buyer's sole judgment, with Buyer's use, enjoyment and development of the Property; and (iv) acts done or suffered by or judgments against Buyer (the foregoing

collectively, the **"Permitted Exceptions"**). If the Title Commitment, Underlying Title Documents or the Survey (as hereinafter defined) discloses exceptions to title, which are not acceptable to Buyer (the **"Unpermitted Exceptions"**), Buyer shall have fourteen (14) days from the later of the delivery of the Title Commitment, the Underlying Title Documents and the Survey to object to the Unpermitted Exceptions. Buyer shall provide Seller with an objection letter (the **"Buyer's Objection Letter"**) listing the Unpermitted Exceptions, which are not acceptable to Buyer. Seller shall have five (5) days from the date of receipt of the Buyer's Objection Letter (**"Seller's Cure Period"**) to have the Unpermitted Exceptions removed from the Title Commitment or to cure such Unpermitted Exceptions or to have the Title Company commit to insure against loss or damage that may be occasioned by such Unpermitted Exceptions, and the Closing shall be extended such additional time, but not beyond [REDACTED], 2023 (the **"Extended Title Closing Date"**) after Buyer's receipt of a proforma owner's title policy (the **"Proforma Title Policy"**) reflecting the Title Company's commitment to insure the Unpermitted Exceptions. If Seller fails to have the Unpermitted Exceptions removed or in the alternative, to obtain a Title Commitment insuring the Unpermitted Exceptions within the specified time, Buyer may elect to either (i) terminate this Contract, at which time the Buyer shall be entitled to have the Earnest Money Deposit returned to Buyer and this Contract shall become null and void without further action of the parties, or (ii) upon notice to Seller within ten (10) days after Buyer's receipt of Seller's intention not to cure the Unpermitted Exceptions, to take title as it then is with the right to negotiate with Seller an amount to be deducted from the Purchase Price. In the event an agreement cannot be reached on the negotiation of an amount to be deducted from the Purchase Price relative to any Unpermitted Exceptions, either party may terminate the Contract, and the Earnest Money Deposit shall be returned to Buyer in full. All Unpermitted Exceptions, which the Title Company commits to insure, shall be included within the definition of Permitted Exceptions. A Proforma Title Policy provided by the Title Company shall be conclusive evidence of good title as shown therein as to all matters insured by the Title Company, subject only to the Permitted Exceptions. The Seller shall pay the cost for any later date title commitments and Proforma Title Policy and the Buyer shall pay for any later date for its Owners Title Insurance Policy.

7. **DUE DILIGENCE:**

A. **Seller Supplied Documents.** Not later than 5 (five) days after the Effective Date, Seller will deliver to Buyer for Buyer's review and approval, the following items (or, for any of the following items that do not exist, Seller's written certification that such do not exist to Seller's best knowledge):

- i. All licenses or permits that any governmental authority has issued with respect to the Property.
- ii. Copies of all environmental assessment reports and other documentation in Seller's possession pertaining to the environmental condition of all or any part of the Property.
- iii. Copies of all agreements, if any, entered into with any governmental agency, board, commission or department or other party affecting the Property, including without limitation, annexation or improvement agreements, and all amendments thereto.

- iv. Any and all soil reports or tests pertaining to the Property made for Seller and currently in Seller's possession.
- v. Any and all notices of violations of, and any and all files of Seller pertaining to the compliance or non-compliance of the Property with applicable zoning, building, environmental, health, safety and other codes, laws, regulations and ordinances, which Seller has received or maintains.
- vi. Any leases and other agreements with any third party whereby any tenancy, license or easement or other rights to use all or any part of the Property, or any fixtures or equipment located thereon, are granted to any third party.
- vii. Any agreements with any third party whereby any license or easement or other rights to use all or any part of the Property of such third party are granted to the owner or party in possession of the Property.
- viii. All contracts with third parties for the provision of services to the Property.
- ix. All certificates of occupancy issued by any governmental authority with respect to the Property.
- x. All plans and specifications pertaining to the buildings and improvements located on the Property.
- xi. All reports setting forth the results of any inspection of the building, building components or building equipment, or other improvements located on the Property.
- xii. All plats of survey of the Property not more than six (6) months old.

B. Buyer's Due Diligence. A Phase I environmental assessment has been conducted on the Property and it recommended a Phase II environmental assessment. The Phase II environmental assessment was also conducted. The Buyer has reviewed the Phase II environmental assessment and hereby waives any further environmental due diligence. Nonetheless, the Buyer shall have the right to conduct, or cause to be conducted, any additional inspections, investigations, appraisals, evaluations and tests of the Property that Buyer deems necessary or desirable (collectively, the "Investigations"), within _____ () days of the Effective Date ("the "Contingency Period"), all at the Buyer's expense, including, without limitation, the following::

- i. Inspections of the buildings and improvements located on the Property including, without limitation, the foundation, roof and other structural elements, heating, ventilation and air conditioning equipment and systems, electrical equipment and systems, and plumbing fixtures, equipment and systems.

Commented [JAG1]: Please confirm and send me the reports.

Commented [JAG2]: I added the wavier of further environmental due diligence as instructed.

- ii. Determination of the availability and adequacy of utilities, whether any part of the Property is located in a flood plain or flood hazard area, adequacy of access to public roads, and adequacy of parking for the intended use.

C. Approvals. During the Contingency Period, Buyer shall have the right to seek and obtain all approvals, licenses and permits (collectively, "Permits") from all governmental authorities having jurisdiction over the Property that are necessary or desirable to allow Buyer to construct improvements necessary, and to operate the Property for Buyer's intended use, including, without limitation, building Permits, Permits for necessary parking, curb cuts, driveways, signage desired by Buyer at locations approved by Buyer, and other improvements in accordance with Buyer's plans and specifications.

D. Seller's Cooperation. During the Contingency Period, Seller shall cooperate with Buyer in Buyer's efforts to conduct the Investigations and to seek and obtain Permits, and Seller shall grant to Buyer and Buyer's agents, contractors and inspectors, unrestricted access to the Property in connection therewith. Buyer shall be responsible for the repair or cost of repairing any damage to the Property caused by Buyer or Buyer's agents, contractors and inspectors directly arising from such access.

E. Condition of Inspections. All inspections shall occur with prior reasonable notice to the Seller. Any tests, examinations or inspections of the Property by Buyer and all costs and expenses in connection with such testing, examination and inspection of the Property shall be at the sole cost of Buyer and shall be performed in a manner not to unreasonably interfere with Seller's ownership of the Property or increase Seller's liability with respect to its ownership of the Property.

F. Buyer's Right to Terminate. In the event that the Buyer determines, in Buyer's sole discretion, that the results of the Investigations, or any component thereof, are not satisfactory to Buyer and notifies Seller within five (5) days of the expiration of the Contingency Period, Buyer may terminate this Contract and the Earnest Money shall be immediately returned to the Buyer.

8. SURVEY. Within thirty (30) days after the Effective Date, Seller, at Seller's cost and expense, shall deliver to Buyer an ALTA survey (the "**Survey**") dated not more than six (6) months prior to the date of Closing prepared by a surveyor licensed by the State of Illinois, which Survey shall include, but not be limited to, the following Table A items: 1, 2, 3, 4, 6a, 6b, 7b1, 8, 9, 11, 13, 16 and 17, and certified to the Buyer and Title Company. Upon approval of the Survey, the legal description in Exhibit A shall be automatically revised to be that of the legal description in the Survey and Title Commitment. At either party's request, any changes to the legal description shall be confirmed in writing and signed by both parties.

9. DEED. Seller shall convey fee simple title to the Property to Buyer, by a recordable Warranty Deed (the "**Deed**"), subject only to the Permitted Exceptions. Seller shall also execute and deliver, at Closing, any and all documents, in addition to the Deed, including an Affidavit of Title, Covenant and Warranty, and Title Company documentation including, but not limited to, an ALTA Statement, GAP Undertaking or such other documents reasonably requested either by the Buyer or the Title Company to consummate the transaction contemplated herein and to vest fee simple title to the Property in Buyer subject only to the Permitted Exceptions and the owners title insurance policy issued by the Title Company.

Buyer shall be responsible for the recording fee of the Deed.

10. **CLOSING DOCUMENTS.** On the Closing Date, the obligations of the Buyer and Seller shall be as follows:

A. Seller shall deliver or cause to be delivered to the Title Company:

- i. the original executed and properly notarized Deed;
- ii. the original executed and property notarized Affidavit of Title, Warranty and Covenant;
- iii. the original executed and property notarized Non-Foreign Affidavit;
- iv. counterpart originals of Seller's Closing Statement;
- v. such other standard closing documents or other documentation as is required by applicable law or the Title Company to effectuate the transaction contemplated hereby, including, without limitation, ALTA statements and GAP Undertaking, such other documentation as is reasonably required by the Title Company to issue Buyer its owners title insurance policy in accordance with the Proforma Title Policy and in the amount of the Purchase Price insuring the fee simple title to the Property in the Buyer as of the Closing Date, subject only to the Permitted Exceptions.

B. Buyer shall deliver or cause to be delivered to the Title Company:

- i. the Purchase Price, plus or minus prorations;
- ii. counterpart originals of Seller's Closing Statement;
- iii. ALTA Statement and such other standard closing documents or other documentation as is required by applicable law or the Title Company to effectuate the transaction contemplated herein.

C. The parties shall jointly deposit fully executed State of Illinois Transfer Declarations and County Transfer Declarations.

11. **POSSESSION.** Possession of the Property has been with the Buyer prior to the Effective Date and shall be continued and finally and fully delivered to Buyer on the Closing Date, subject to the Permitted Exceptions, and in the same condition as at the time of the execution of this Contract.

12. **PRORATIONS.** At Closing, the following adjustments and prorations shall be computed as of the Closing Date and the balance of the Purchase Price shall be adjusted to reflect such prorations. All prorations shall be based on a 365-day year, with the Seller having the day prior to the Closing Day.

A. Real Estate Taxes. General real estate taxes for 2022 and subsequent years, special assessments and all other public or governmental charges against the Property which are or may be payable on an annual basis (including charges, assessments, liens or encumbrances for sewer, water, drainage or other public improvements completed or commenced on or prior to the Closing Date) shall be adjusted and apportioned as of the Closing Date. If the exact amount of general real estate taxes is not known at Closing, the proration will be based on 105% of the most recent full year tax bill, and shall be conclusive, with no subsequent adjustment.

B. Miscellaneous. All other charges and fees customarily prorated and adjusted in similar transactions shall be prorated as of Closing Date. In the event that accurate prorations and other adjustments cannot be made at Closing because current bills or statements are not obtainable (as, for example, all water, sewer, gas and utility bills), the parties shall prorate on the best available information. Final readings and final billings for utilities shall be taken as of the date of Closing.

13. CONVEYANCE TAXES. The parties acknowledge that, as Buyer is a governmental entity, this transaction is exempt from any State or County or local real estate transfer tax pursuant to 35 ILCS 200/31-45(b). Seller is obligated to furnish completed Real Estate Transfer Declarations signed by Seller or Seller's agent in the form required pursuant to the Real Estate Transfer Tax Act of the State of Illinois.

14. COVENANTS, REPRESENTATIONS AND WARRANTIES OF SELLER. The covenants, representations and warranties contained in this Section shall be deemed remade as of the Closing Date and shall survive the Closing, and shall be deemed to have been relied upon by the Buyer in consummating this transaction, notwithstanding any investigation the Buyer may have made with respect thereto, or any information developed by or made available to the Buyer prior to the Closing and consummation of this transaction. Seller covenants, represents and warrants to the Buyer as to the following matters, each of which is so warranted to be true and correct as of the Effective Date and also on the Closing Date:

A. Title Matters. Seller has good and marketable fee simple title to the Property, subject only to the Permitted Exceptions.

B. Violations of Zoning and Other Laws. Other than those matters existing between the Seller and the Buyer, Seller has received no notice, written or otherwise, from any governmental agency alleging any violations of any statute, ordinance, regulation or code. The Property as conveyed to Buyer shall include all rights of the Seller to the use of any off-site facilities, including, but not limited to, storm water detention facilities, necessary to ensure compliance with all zoning, building, health, fire, water use or similar statutes, laws, regulations and orders and any instrument in the nature of a declaration running with the Property.

C. Pending and Threatened Litigation. To the best knowledge and belief of Seller, and excluding those matters currently pending between the Buyer and the Seller, there are no pending or threatened matters of litigation, administrative action or examination, claim or demand whatsoever relating to the Property.

D. Eminent Domain, etc. To the best knowledge and belief of Seller, there is no pending or contemplated eminent domain, condemnation or other governmental taking of the Property or any part thereof.

E. Access to Property Utilities. No fact or condition exists which would result in the termination or impairment of access to the Property or which could result in discontinuation of presently available or otherwise necessary sewer, water, electric, gas, telephone or other utilities or services.

F. Assessments. To the best knowledge and belief of Seller, there are no public improvements in the nature of off-site improvements, or otherwise, which have been ordered to be made and/or which have not heretofore been assessed, and there are no special or general assessments pending against or affecting the Property.

G. Authority of Signatories; No Breach of Other Agreements; etc. The execution, delivery of and performance under this Contract by Seller is pursuant to authority validly and duly conferred upon Seller and the signatories hereto. The consummation of the transaction herein contemplated and the compliance by Seller with the terms of this Contract do not and will not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, any agreement, arrangement, understanding, accord, document or instruction by which Seller or the Property are bound; and will not and does not, to the best knowledge and belief of Seller, constitute a violation of any applicable law, rule, regulation, judgment, order or decree of, or agreement with, any governmental instrumentality or court, domestic or foreign, to which Seller or the Property are subject or bound.

H. Executory Agreements. Seller is not a party to, and the Property is not subject to, any contract or agreement of any kind whatsoever, written or oral, formal or informal, with respect to the Property, other than this Contract. Buyer shall not, by reason of entering into or closing under this Contract, become subject to or bound by any agreement, contract, lease, license, invoice, bill, undertaking or understanding which it shall not have previously agreed in writing to accept. Seller warrants and represents that no written leases, licenses or occupancies exist in regard to the Property and, further, that no person, corporation, entity, tenant, licensee or occupant has an option or right of first refusal to purchase, lease or use the Property, or any portion thereof.

I. Mechanic's Liens. All bills and invoices for labor and material of any kind relating to the Property have been paid in full, and there are no mechanic's liens or other claims outstanding or available to any party in connection with the Property.

J. Governmental Obligations. To the best knowledge of Seller, there are no unperformed obligations relative to the Property outstanding to any governmental or quasi-governmental body or authority.

K. Easements. Seller represents that the Property has no private easements or agreements that would hinder Seller from its intended use of the Property.

L. Section 1445 Withholding. Seller represents that he/she/it/they is/are not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and is/are, therefore,

exempt from the withholding requirements of said Section. At Closing, Seller shall furnish Buyer with a Non-Foreign Affidavit as set forth in said Section 1445.

M. Environmental Conditions.

- i. From the Effective Date to and including the Closing Date, Seller agrees (i) to operate, maintain and manage the Property (including the groundwater thereunder) in the ordinary course of business; (ii) that the Property (including the groundwater thereunder) will comply in all respects, and will remain in compliance, with all applicable federal, state, regional, county and local laws, statutes, rules, regulations or ordinances concerning public health, safety or the environment; and (iii) to maintain existing insurance on the Property.
- ii. Seller has received no notice of and to the best of Seller's knowledge and belief the Property (including the groundwater thereunder) does not violate, any law, regulation or agreement applicable to the Property (including the groundwater thereunder) or its use. With respect to the Property (including the groundwater thereunder), if Seller shall (i) receive notice that any violation of any federal, state or local environmental, health or safety law or regulation may have been committed or is about to be committed with respect to the Property (including the groundwater thereunder), (ii) receive notice that any administrative or judicial complaint or order has been filed or is about to be filed alleging violations of any federal, state or local environmental law or regulation or requiring Seller to take any action in connection with the release of any hazardous materials into the environment, (iii) receive any notice from a federal, state or local governmental agency or private party alleging that the Seller may be liable or responsible for costs associated with a response to or cleanup of a release of any hazardous materials into the environment or any damages caused thereby, (iv) receive any notice that the Seller is subject to federal, state or local investigation evaluating whether any remedial action is needed to respond to the release of any hazardous or toxic waste, substance or constituent, or other hazardous materials into the environment, or (v) receive any notice that the Property is subject to a lien in favor of any governmental entity for any liability under the federal, state or local environmental laws or regulations or damages arising from or costs incurred by such governmental entity in response to a release of a hazardous or toxic waste, substance or constituent, or other hazardous materials into the environment, then the Seller shall promptly provide the Buyer with a copy of such notice, and in no event later than fifteen (15) days from Seller's receipt thereof.
- iii. There are no proceedings pending or, to the best knowledge and belief of Seller, threatened against or affecting the Seller in any court or before any governmental authority or arbitration board or tribunal, which if adversely determined, would materially and adversely affect the Property. The

Seller is not in default with respect to any order of any court or governmental authority or arbitration board or tribunal, which default would materially and adversely affect the Property.

- iv. The Seller has provided to the Buyer, or will within five (5) days of the Effective Date of this Contract, any environmental record (which shall mean any document, correspondence, pleading, report, assessment, analytical result, or other record concerning a hazardous material, compliance with an environmental law, or other environmental subject) concerning the Property which Seller possesses.

Seller hereby indemnifies and holds Buyer harmless against all losses, damages, liabilities, costs, expenses (including reasonable attorneys' fees) and charges which Buyer may incur or to which Buyer may become subject as a direct or indirect consequence of a breach of any of Seller's representations or warranties made hereunder, including all incidental and consequential damages. These representations, warranties and Seller's indemnification shall survive the Closing.

When used in this Section, the expression "**to the best knowledge and belief of Seller,**" or words to that effect, is deemed to mean that Seller, after reasonable examination, investigation and inquiry, is not aware of any thing, matter or the like that is contrary, negates, diminishes or vitiates that which such term precedes.

15. **DISCLOSURE OF INTERESTS.** In accordance with Illinois law, 50 ILCS 105/3.1, prior to execution of this Contract by the Buyer, a member, owner, authorized trustee, corporate official, general partner or managing agent, or his/her authorized attorney, must submit a sworn affidavit (the "**Disclosure Affidavit**") to the Buyer, disclosing the identity of every owner and beneficiary having any interest, real or personal, in the Property, and every member, shareholder, limited partner or general partner entitled to receive more than 7 ½% of the total distributable income of any limited liability company, corporation, or limited partnership having any real interest, real or personal, in the Property, or, alternatively, if the interest, stock or shares in a limited liability company, corporation or general partnership is publicly traded, a sworn affidavit by a member, officer of the corporation, general partner or managing agent, or his/her authorized attorney, that there is no readily known individual having a greater than 7 ½% percent interest, real or personal, in the Property. The Disclosure Affidavit shall be substantially similar to the one described in **Exhibit "B"**, attached hereto and made a part hereof.

16. **DEFAULT AND CONDITIONS PRECEDENT TO CLOSING.**

- A. It is a condition precedent to Closing that:
 - i. fee simple title to the Property is shown to be good and marketable, subject only to the Permitted Exceptions, as required hereunder and is accepted by Buyer;
 - ii. the covenants, representations and warranties of Seller contained in Section 14 hereof and elsewhere in this Contract are true and accurate on the Closing Date or waived by Buyer in writing on the Closing Date;

- iii. Seller has performed under the Contract and otherwise has performed all of its covenants and obligations and fulfilled all of the conditions required of it under the Contract in order to Close on the Closing Date; and
- iv. Buyer determines that the results of its Due Diligence are satisfactory.

B. If, before the Closing Date, Buyer becomes aware of a breach of any of Seller's representations and warranties or of Seller failing to perform all of its covenants or otherwise failing to perform all of its obligations and fulfill all of the conditions required of Seller in order to Close on the Closing Date, Buyer may, at its option:

- i. elect to enforce the terms hereof by action for specific performance; or
- ii. attempt to cure such breach or failure by Seller for a period of up to thirty (30) days following the Closing Date, charging Seller for all costs and expenses incurred in doing so and, following such attempt, to either:
 - a. terminate this Contract; or
 - b. proceed to Close notwithstanding such breach or nonperformance.

In all events, Buyer's rights and remedies under this Contract shall always be non-exclusive and cumulative and the exercise of one remedy shall not be exclusive of or constitute the waiver of any other, including all rights and remedies available to it at law or in equity.

C. In the event of a default by Buyer, Seller's sole and exclusive right and remedy shall be to terminate this Contract. Notwithstanding the foregoing, the parties agree that no default of or by either party shall be deemed to have occurred unless and until notice of any failure by the non-defaulting party has been sent to the defaulting party and the defaulting party has been given a period of ten (10) days from receipt of the notice to cure the default, except to the extent that a different cure period is otherwise specifically provided

17. **BINDING EFFECT.** This Contract shall inure to the benefit of and shall be binding upon the heirs, legatees, transferees, assigns, personal representatives, owners, agents, administrators, executors and/or successors in interest of any kind whatsoever of the parties hereto.

18. **BROKERAGE.** Each party hereto hereby represents and warrants to the other that, in connection with this transaction, no third-party broker or finder has been engaged or consulted by it or, through such party's actions (or claiming through such party), is entitled to compensation as a consequence of this transaction. Each party hereby defends, indemnifies and holds the other harmless against any and all claims of brokers, finders or the like, and against the claims of all third parties claiming any right to a commission or compensation by or through acts of that party or that party's partners, agents or affiliates in connection with this Contract. Each party's indemnity obligations shall include all damages, losses, costs, liabilities and expenses, including reasonable attorneys' fees, which may be incurred by the other in

connection with all matters against which the other is being indemnified hereunder. This provision shall survive the Closing.

19. **NOTICES.** Any and all notices, demands, consents and approvals required under this Contract shall be sent and deemed received: (A) on the third business day after mailed by certified or registered mail, postage prepaid, return receipt requested, or (B) on the next business day after deposit with a nationally-recognized overnight delivery service (such as Federal Express or Airborne) for guaranteed next business day delivery, or (C) by e-mail transmission on the day of transmission, with the original notice mailed by certified or registered mail, postage prepaid, return receipt requested, or (D) by personal delivery, if addressed to the parties as follows:

To Seller:

With a copy to:

To Buyer: City of Aurora
Law Department
44 E. Downer Place
Aurora, Illinois 60505
Attn: Richard Veenstra, Corporation Counsel
E-Mail: rveenstra@aurora-il.org

With a copy to: Klein, Thorpe and Jenkins, Ltd.
120 South LaSalle, Suite 1710
Chicago, Illinois 60603
Attn: Jason A. Guisinger
E-Mail: jaguisinger@ktjlaw.com

Any party hereto may change the name(s), address(es) and e-mail address(es) of the designee to whom notice shall be sent by giving written notice of such change to the other parties hereto in the same manner, as all other notices are required to be delivered hereunder.

20. **RIGHT OF WAIVER.** Each and every condition of the Closing, other than the Buyer's duties at Closing, is intended for and is for the sole and exclusive benefit of Buyer. Accordingly, Buyer may at any time and from time to time waive each and any condition of the Closing, without waiver of any other condition or other prejudice of its rights hereunder. Such waiver by Buyer shall, unless otherwise herein provided, be in a writing signed by Buyer and delivered to Seller.

21. **ASSIGNMENT.** Seller shall not have the right to assign or transfer its interest in this Contract without the prior written consent of the Buyer. If so consented to the Seller shall deliver to the Buyer a copy of the fully executed assignment and assumption. Buyer may freely assign or transfer its interest in this Contract without the prior written consent of the Seller. Any assignment by Buyer shall

provide that the City has the option of stepping back in to purchase if the assignee does not close. Upon assignment, Buyer shall deliver to the Seller a copy of the fully executed assignment and assumption.

22. **MISCELLANEOUS.**

A. Buyer and Seller mutually agree that time is of the essence throughout the term of this Contract and every provision hereof in which time is an element. No extension of time for performance of any obligations or acts shall be deemed an extension of time for performance of any other obligations or acts. If any date for performance of any of the terms, conditions or provisions hereof shall fall on a Saturday, Sunday or legal holiday, then the time of such performance shall be extended to the next business day thereafter.

B. This Contract provides for the purchase and sale of property located in the State of Illinois and is to be performed within the State of Illinois. Accordingly, this Contract, and all questions of interpretation, construction and enforcement hereof, and all controversies hereunder, shall be governed by the applicable statutory and common law of the State of Illinois. The parties agree that, for the purpose of any litigation relative to this Contract and its enforcement, venue shall be in the Circuit Court in the county where the Property is located and the parties consent to the *in personam* jurisdiction of said Court for any such action or proceeding.

C. The terms, provisions, warranties and covenants of Section 14 shall survive the Closing and delivery of the Deed and other instruments of conveyance. The provisions of Section 14 of this Contract shall not be merged therein but shall remain binding upon and for the parties hereto until fully observed, kept or performed.

D. The provisions of the Uniform Vendor and Buyer Risk Act of the State of Illinois shall be applicable to this Contract.

E. The parties warrant and represent that the execution, delivery of and performance under this Contract is pursuant to authority, validly and duly conferred upon the parties and the signatories hereto.

F. The Section headings contained in this Contract are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several Sections hereof.

G. Whenever used in this Contract, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

H. If the Seller is a Trust, this Contract is executed by the undersigned Trustee, not personally but as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. Said Trustee hereby warrants that it possesses full power and authority to execute this Contract. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings, warranties and agreements herein made on the part of the Trustee while in form purporting to be the representations, covenants, undertakings, warranties and agreements of said Trustee are nevertheless each and every one of them made and intended not as personal representations, covenants, undertakings, warranties and agreements by the

Trustee or for the purpose or with the intention of binding Trustee personally but are made and intended for the purpose of binding only the trust property, and this Contract is executed and delivered by said Trustee not in its own right, but solely in the exercise of the power conferred upon it as said Trustee; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said Trustee on account of this Contract or on account of any representations, covenants, undertakings, warranties or agreements of said Trustee in this Contract contained either express or implied, all such personal liability, if any, being expressly waived and released.

In the event the Seller is a Trust as provided above, this Contract shall be signed by the Trustee and also by the person or entity holding the Power of Direction under the Trust. The person or entity signing this Contract by his/her/their/its signature represents, warrants and covenants with Buyer that he/she/they/it has the authority to enter into this Contract and the obligations set forth herein. All references to the Seller's obligations, warranties and representations shall be interpreted to mean the Beneficiary or Beneficiaries of the Trust.

I. In the event either party elects to file any action in order to enforce the terms of this Contract, or for a declaration of rights hereunder, the prevailing party, as determined by the court in such action, shall be entitled to recover all of its court costs and reasonable attorneys' fees as a result thereof from the losing party.

J. Buyer may record this Contract or any memorandum or short form of this Contract against the Property, provided that if the transaction contemplated herein does not occur and the Contract is terminated as provided herein, Buyer shall record a termination of the Contract. The recording fees for either shall be borne by the Buyer.

K. If any of the provisions of this Contract, or the application thereof to any person or circumstance, shall be invalid or unenforceable to any extent, the remainder of the provisions of this Contract shall not be affected thereby, and every other provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

L. This Contract may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument.

23. **EFFECTIVE DATE.** This Contract shall be deemed dated and become effective on the date that the City Council of the City of Aurora, Illinois, approves the Contract and it is executed by the Buyer, which date shall be the date stated below the Buyer's signature.

24. **CONTRACT MODIFICATION.** This Contract and the Exhibits attached hereto and made a part hereof, or required hereby, embody the entire Contract between the parties hereto with respect to the Property and supersede any and all prior agreements and understandings, whether written or oral, and whether formal or informal. No extensions, changes, modifications or amendments to or of this Contract, of any kind whatsoever, shall be made or claimed by Seller or Buyer, and no notices of any extension, change, modification or amendment made or claimed by Seller or Buyer (except with respect to permitted unilateral waivers of conditions precedent by Buyer) shall have any force or effect whatsoever unless the same shall be endorsed in writing and fully signed by Seller and Buyer.

25. **EXHIBITS.** The following Exhibits are attached hereto and made a part hereof by reference:

Exhibit A Legal Description of the Property

Exhibit B Disclosure Affidavit

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date below their respective signatures.

SELLER:

_____, an Illinois

BUYER:

CITY OF AURORA,
an Illinois municipal corporation

By: _____

Name: _____
Title: _____

By: _____

Name:

Title:

ATTEST:

By: _____

Name:

Title:

ATTEST:

By: _____

Name:

Title:

Date Seller executed: _____

Date Buyer executed: _____

Exhibit A

Legal Description of the Property

INSERT LEGAL

PINs: 15-22-162-005, 15-22-162-006 and 15-22-162-003

Common Address: 101 North Lake Street, Aurora, Illinois

Exhibit B
DISCLOSURE AFFIDAVIT

STATE OF ILLINOIS)
)
COUNTY OF _____) ss.

I, _____, reside at _____, in the City, Village, Town of _____, County of _____, State of _____, being first duly sworn and having personal knowledge of the Property in question, swear to the following:

1 That, I am over the age of eighteen and a (check as applicable): ☐ member, ☐ owner, ☐ authorized trustee, ☐ corporate official, ☐ general partner, ☐ managing agent or ☐ his/her authorized attorney, having an interest, real or personal, in the real property commonly known as 101 North River Street, Aurora, Illinois (the "**Property**"), and I (and/or the limited liability company, corporation, limited or general partnership having such interest) am/are interested in selling the Property to the CITY OF AURORA (the "**Buyer**") pursuant to the terms and conditions of that certain Property Purchase and Sales Contract between the Seller and Buyer (the "**Contract**")

2 That, the Property is located in the County of Kane and has a Permanent Index Number of 15-22-377-021 .

3 That, I understand that, pursuant to 50 ILCS 105/3.1, prior to the execution of the Contract between the Buyer and Seller, state law requires the owner, authorized trustee, corporate official, general partner or managing agent, or his/her authorized attorney, to submit a sworn affidavit to the Buyer disclosing the identity of every owner and beneficiary having any interest, real or personal, in the Property, and every member, shareholder, limited partner or general partner entitled to receive more than 7½% of the total distributable income of any limited liability company, corporation or limited partnership, having any interest, real or personal, in the Property.

4 As a member, owner, authorized trustee, corporate official, general partner or managing agent, or his/her authorized attorney, I declare under oath that (choose one): (Attach additional pages if necessary.)

- a ☐ The owners and/or beneficiaries are: _____
_____, or
- b ☐ The members, shareholders, limited partners and/or general partners with more than 7½% interest are: _____
_____; or
- c ☐ The interest, stock, or shares in a limited liability company corporation or general partnership are publicly traded and there is no readily known individual having greater than 7½% interest in the corporation.

This Affidavit is made to induce the Buyer to purchase the Property from Seller, in accordance with 50 ILCS 105/3.1.

AFFIANT:

SUBSCRIBED AND SWORN to before me
this _____ day of _____, 202__.

Notary Public