

RESOLUTION NO. **20-41**

A RESOLUTION AUTHORIZING THE SALE OF SURPLUS REAL ESTATE FOR THE PROPERTY COMMONLY KNOWN AS 1 NORTH WHITE STREET, FRANKFORT, WILL AND COOK COUNTIES, ILLINOIS

WHEREAS, the Village of Frankfort is authorized by 11-76-4.1 of the Illinois Municipal Code (65 ILCS 5/11-76-4.1) to sell surplus real estate; and

WHEREAS, the Village of Frankfort owns certain real estate improved with a single story building commonly located at 1 North White Street, Frankfort, Illinois which is part of and located within Property Index Number (PIN) 19-09-27-100-040, which is legally described in Exhibit A (Parcel) attached hereto and measures approximately 0.125 acres +/- (5,425 square feet +/-). The Parcel is zoned H-1 Historic District by the Village of Frankfort and currently used as a retail shop; and

WHEREAS, the Village of Frankfort currently leases the existing single-story building to My Sister's and Me Boutique, Inc. through July 31, 2021; and

WHEREAS, the Village of Frankfort received notice on August 31, 2020 from the lessee requesting early termination of the lease; and

WHEREAS, at its September 8, 2020 meeting, the Village of Frankfort Committee of the Whole recommended the Village Board enter into a termination agreement concerning the existing lease at 1 North White Street; and

WHEREAS, upon termination of the lease at 1 North White Street a retail vacancy will exist at a prime location in downtown Frankfort; and

WHEREAS, the corporate authorities of the Village have found and determined it is in the interest of the Village and its residents to have the Parcel privately owned and operated as a retail enterprise with uses as may be appropriate for that location. The Village corporate authorities find and determine the Parcel is surplus public property which should be offered for sale as provided by law; and

WHEREAS, the value of the Parcel was determined by a written MAI certified appraisal, dated September 11, 2020 and prepared by Robert C. Gorman of The Gorman Group, Ltd, a member of the Appraisal Institute, a copy of which is available for public inspection during regular business hours at the Village Administrative Office, 432 West Nebraska Street, Frankfort, IL 60423; and

WHEREAS, at its August 17, 2020, September 8, 2020, and September 21, 2020 meetings, the Committee of the Whole of the Frankfort Village Board discussed the sale of the Parcel and

unanimously recommended the sale be conducted by the staff of the Village of Frankfort. The terms and conditions of which are subject to the approval of the Village corporate authorities as may be required by law; and

WHEREAS, the Village encourages and may give preference to offers from prospective Buyers who are committed to the continued operation of the building on the Parcel for sales tax producing retail or restaurant uses that are consistent with a thriving historic business district; and

WHEREAS, the general terms of the Sale Parcel may include, but are not restricted to:

- A) Cash on closing sale.
- B) The Village will consider both price and proposed use of the property to determine if any contract proposal is in the best interest of the village.
- C) Sale to occur after termination of the existing lease.
- D) In addition to payment of the purchase price, the Buyer will also pay all Seller's closing costs associated with the sale (e.g. Survey, Title, etc.) and Village's appraisal costs.
- E) The Parcel and its improvements are sold as is without any representations or warranties.
- F) Concurrent with any offer to purchase, the prospective Buyer is required to represent to the Village its proposed uses of, improvements to, and commencement of business operations on the Parcel. The successful Buyer's representations will survive the closing.
- G) Concurrent with any offer to purchase, the prospective Buyer must include with their contract proposal \$5,000.00 as earnest money in certified funds.
- H) The prospective Buyer will be responsible to pay the Village a one-time cash-in-lieu payment for the required parking in the amount of three thousand dollars (\$3,000.00) per required parking space, pursuant to the Village of Frankfort Zoning Ordinance, as amended from time to time, except however the fee shall not be assessed for the first ten (10) required parking spaces.
- I) The prospective Buyer will provide the Village such other or additional information as it solely deems necessary in evaluating and determining the Village's best interest and possible sale of the Parcel.
- J) As provided by law, the Village corporate authorities cannot consider any offer for the Parcel which is less than 80% of its appraisal value.
- K) Any other, different, supplemental or amended terms of sale as determined to be in the best interest of the Village.
- L) The Village reserves the right in its sole discretion to reject any and all proposals to purchase the Parcel.
- M) The Village reserves the right to reopen the process to solicit additional contract purchase proposals. In the event the process is reopened, all contract purchase proposals may be amended and resubmitted during the term of the reopening.
- N) The Village corporate authorities may accept any contract proposal determined by them to be in the best interest of the village by a vote of two-thirds of the corporate authorities then holding office; and

WHEREAS, the Village staff are authorized to market, publicize and promote the availability of the Parcel and its method of sale as it deems appropriate including, but not limited to, soliciting offers.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF FRANKFORT, WILL & COOK COUNTIES, ILLINOIS:

- 1) The preceding provisions are integral to and incorporated by reference in this Resolution.
- 2) The corporate authorities of the Village find the Parcel described in Exhibit A is surplus public property and should be offered for sale pursuant to this Resolution and Illinois law.
- 3) The Village staff is authorized and directed to conduct the sale of the Parcel as provided by this Resolution and law, and further outlined in the Request for Purchase Proposals Publication attached hereto as Exhibit B.
- 4) The Village will consider both price and proposed use of the property to determine if any contract proposal is in the best interest of the village.
- 5) Prospective Buyers who have an interest in submitting a contract purchase proposal shall refer to the Request for Purchase Proposals Publication attached hereto as Exhibit B.
- 6) Prospective Buyers shall complete and execute the Village's Purchase and Sale Agreement as part of their contract purchase proposal, a copy of which is attached hereto as Exhibit D,
- 7) The Village reserves the right at its sole discretion to reject any and all proposals.
- 8) The corporate authorities may accept any contract proposal to sell the Parcel determined by them to be in the best interest of the Village by a vote of two-thirds (2/3) of the corporate authorities then holding office, but, in no event, at a price less than 80% of the Parcel's appraised value.
- 9) The Village staff is directed to publish this Resolution at the first opportunity following its passage in a newspaper published in the Village or, if none, then in a newspaper published in Will County, Illinois.

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PASSED this ____ day of _____, 2020; with ____ members voting AYE; ____ members voting NAY; ____ members absent; the Village President voting ____; and ____ members abstaining and said vote being:

ADAM BORRELLI _____

JOHN C. CLAVIO _____

MARGARET M. FARINA _____

KEITH OGLE _____

EUGENE SAVARIA _____

JESSICA PETROW _____

APPROVED this ____ day of _____, 2020.

JIM HOLLAND
VILLAGE PRESIDENT

ATTEST:

BRIAN FEEHERY
VILLAGE CLERK

EXHIBIT A
LEGAL DESCRIPTION

That part of the Northwest Fractional Quarter of Section 27, North of the Indian Boundary Line in Township 35 North, Range 12 East of the Third Principal Meridian described as follows: Commencing at the northwest corner of said Northwest Fractional Quarter of Section 27, and running thence South 01 degrees 57 minutes 59 seconds East along the West line of said Northwest Fractional Quarter, a distance of 141.18 feet to a point that is 8.50 feet southerly of, measured at right angles, the centerline of the Michigan Central Switch track; thence continued South 01 degrees 57 minutes 59 seconds East along said West line of the Northwest Fractional Quarter, a distance of 89.24 feet to a point that is 150 feet south of the centerline of main track of said railroad; thence North 89 degrees 35 minutes 41 seconds East along a line 150 feet south of and parallel with said centerline of main track of said railroad a distance of 35.87 feet, to the Point of Beginning; thence North 00 degrees 24 minutes 19 seconds West along a line perpendicular to the previously described line a distance of 63.98 feet, to a line parallel with said line 150 feet south of and parallel with said centerline of main track of said railroad; thence North 89 degrees 35 minutes 41 seconds East along said parallel line a distance of 49.84 feet; thence south 54 degrees 29 minutes 27 seconds East 37.47 feet, to a line parallel with said line 150 feet south of and parallel with said centerline of main track of said railroad; thence North 89 degrees 35 minutes 41 seconds East along said parallel line a distance of 14.96 feet, to a line perpendicular with said line 150 feet south of and parallel with said centerline of main track of said railroad; thence South 00 degrees 24 minutes 19 seconds East along said perpendicular line a distance of 42.00 feet, to said line 150 feet south of and parallel with said centerline of main track of said railroad; thence South 89 degrees 35 minutes 41 seconds West along said line 150 feet south of and parallel with said centerline of main track of said railroad a distance of 95.15 feet, to the Point of Beginning, in Will County, Illinois.

Part of PIN 19-09-27-100-040-0000

EXHIBIT B
REQUEST FOR PURCHASE PROPOSALS PUBLICATION

The Village of Frankfort, an Illinois Municipal Corporation (“Frankfort”) is seeking sealed contract purchase proposals from anyone interested in purchasing the property commonly known as 1 North White Street, Frankfort, Illinois (“Property”).

The Property is part of and located within Property Index Number (PIN) 19-09-27-100-040, and is generally described and portrayed in the attached Exhibit A. The Property is approximately 0.125 acres +/- (5,425 square feet +/-). It is zoned H-1 Historic District by the Village of Frankfort.

Frankfort will accept sealed contract purchase proposals from interested buyers until 12:00 o’clock p.m. local time on November 30, 2020. Contract purchase proposals may be withdrawn prior to 12:00 o’clock p.m. local time on December 1, 2020. After such time, Frankfort will close the proposal process and all submitted contract purchase proposals will become final, unless the Village reopens the proposal process, in which case all contract purchase proposals may be amended and resubmitted during the reopened term. Sealed contract purchase proposals will be opened at a public meeting on or after 1:00 p.m. local time on December 1, 2020, actual date and time to be determined. Once opened, the contract purchase proposals are public documents that may be published for public inspection in any format deemed appropriate by the Village of Frankfort.

All contract purchase proposals must be submitted to Frankfort at c/o Village Administrator 432 W. Nebraska, Frankfort, Il 60423 in a sealed envelope clearly marked “1 North White Street Proposal” along with the interested party’s name clearly printed on the exterior of the envelope. The contents of the sealed envelope must include as the top cover sheet a completed and signed copy of the document titled “Purchase Proposal Summary,” which is attached hereto as Exhibit C.

All contract purchasers shall execute a Purchase and Sale Agreement (the “Contract”) and complete all the blanks, including the Notice Provisions and the purchase price for the Property. A copy of the Contract is attached hereto as Exhibit D.

All sealed envelopes submitted as contract purchase proposals for the Property shall contain, at a minimum, the following documents and information or the proposal may not be considered:

1. Purchase Proposal Summary (Exhibit C), which shall be placed on top of all other documents and serve as a cover page to the contract purchase proposal; and
2. Completed and Executed Purchase and Sale Agreement (Exhibit D); and
3. Proposed use of the Property in sufficient detail to determine the nature of the business activity, regular hours of operation, target customers, quantity and frequency of customer visits, number of employees during a typical shift, and any other information necessary or

useful to the corporate authorities of the Village of Frankfort in evaluating the degree to which the proposed use will complement the existing mix of businesses in the historic downtown area; and

4. Name of business to occupy the Property, if known; and
5. Proposed improvements to be completed and estimate of construction cost; and
6. Proposed schedule to complete improvements and/or occupy the Property; and
7. Earnest money deposit of \$5,000.00 in certified funds; and
8. Statement from bank or recognized financial institution showing sufficient funds to purchase.

The contract purchase proposal shall be a binding offer to purchase the Property without conditions or limitations. To assist potential purchasers in determining their offer price, potential purchasers may register with the Village of Frankfort during regular business hours to acquire a "Due Diligence" packet from Frankfort's Village Hall located at 432 W. Nebraska, Frankfort, IL 60423, any time prior to submitting their contract purchase proposal. The Due Diligence Packet shall consist of the following:

1. A copy of the Resolution Authorizing the Sale of Surplus Real Estate
2. The form of the Purchase and Sale Contract
3. A survey of the Property
4. A copy of a preliminary title insurance commitment
5. The form of the Site Access Agreement

The Property shall be available for inspection to those who have registered with the Village of Frankfort to acquire the Due Diligence Packet and their agents, inspectors and consultants. Prior to any inspection, the potential purchaser and those inspecting will be required to execute a Site Access Agreement, which will be included in the Due Diligence packet and available at the Village Hall. Executed Site Access Agreements may be returned to the Village of Frankfort on or before the inspection day. Entry to the property will be denied to any person who has not first filed an executed Site Access Agreement with the Village of Frankfort. The building will be open for inspection on November 2, 2020 between 10:00 o'clock a.m. and 12:00 o'clock p.m., and on November 4, 2020 between 3:00 o'clock p.m. and 5:00 o'clock p.m., and on November 6, 2020 between 9:00 o'clock a.m. and 11:00 o'clock a.m.

To the maximum extent permitted by law, the Property is being sold in an "AS IS, WHERE IS" condition, without warranty, either expressed or implied, and with a waiver of all statutory and common law warranties. No representations or warranties will be made and no responsibility will be assumed by Frankfort or by any member, officer, person, firm, agent, attorney, or

representative acting or purporting to act on behalf of Frankfort as to: (i) the condition or repair of the Property; or (ii) to the value, expense of operation, or income potential thereof; or (iii) as to any other fact or condition which has or might affect the Property or the condition, repair, value, expense of operation or income potential of the Property or any portion thereof. Buyer will have the opportunity to inspect the Property fully and investigate all matters relevant thereto and the Buyer must rely solely upon the results of Buyer's own inspections or other information obtained or otherwise available to Buyer.

Frankfort has set the minimum purchase price at **\$300,000.00**, which is 100% of the appraisal value. By law, Frankfort cannot sell the property for less than 80% of the appraisal value. All contract purchase proposals must be accompanied by a minimum of \$5,000.00 as earnest money in certified funds, which will be refundable to the successful buyer only as provided in the Purchase and Sale Agreement. The earnest money check or funds will be returned to unsuccessful buyers within seven (7) days of the selection of the successful contract purchase proposal and execution of the Purchase and Sale Agreement by both parties or February 19, 2021, whichever comes first.

All contract purchase proposals must be accompanied with a statement from a bank or recognized financial institution showing sufficient funds available to the contract purchaser to cover the purchase amount. There are no finance or zoning entitlement contingencies.

Frankfort reserves the right to reject any and all contract purchase proposals and to waive any non-conformity, inconsistency or informality in the contract purchase proposal process and take other actions as permitted by law.

All questions regarding the Due Diligence Packet, the Agreement or other relevant matters will only be accepted in writing via email to Village Attorney, Jean Kenol (JKenol@msclawfirm.com). All inquiries, together with the responses provided, will be provided to all who have registered with the Village of Frankfort to acquire Due Diligence Packets.

EXHIBIT C
PURCHASE PROPOSAL SUMMARY

One North White Street, Frankfort, Illinois
Purchase Proposal Summary

1. Purchaser Printed Name/Company: _____

Authorized Signature: _____

2. Purchase Price \$ _____

3. Purchase & Sale Agreement (select one)

Unmodified Changes Requested

4. Proposed Use (check all that apply; name business(es), where applicable)

Purchasers are directed to the "Request for Purchase Proposals Publication" for required information regarding use of the property. The following response alone is not adequate and is in summary only.

Retail Sales Business Name(s): _____

Food/Beverage Business Name(s): _____

Office Business Name(s): _____

Medical Business Name(s): _____

Other Business Name(s): _____

Investment Property – Lessee Known, Business Name: _____

Investment Property – Lessee Unknown

5. Improvements - Estimated Cost of Construction: \$ _____

Building (Interior)

Building (Exterior)

Site / Property

Demolish and Redevelop as (please describe) _____

Occupy As-Is

6. Availability of Funds (select one)

Able to close immediately

Other (attach documentation)

EXHIBIT D
PURCHASE AND SALE AGREEMENT

Pages 1 – 17 to follow

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("**Agreement**") is made and entered into as of the Effective Date (as hereinafter defined) by and between the Village of Frankfort, an Illinois Municipal Corporation (hereinafter "**Seller**"), and the _____ ("**Purchaser**").

In consideration of the mutual covenants set forth in this Agreement and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser agree as follows:

Section 1. Certain Definitions.

For purposes of this Agreement, when used herein the following terms shall have the meaning ascribed to them as set forth below.

1.1 **Effective Date:** The date that this Agreement has been approved by a vote of two-thirds (2/3) of the corporate authorities of the Village of Frankfort then holding office and executed by Seller.

1.2 **Earnest Money:** Purchaser has deposited earnest money with the Seller in the sum of Five Thousand Dollars (\$5,000.00) ("Earnest Money"). The Earnest Money is non-refundable, except in the event of a default by Seller, in which case the Earnest Money shall be fully refunded to the Purchaser pursuant to Paragraph 11 herein. This Earnest Money shall be applied against the Purchase Price on the Closing Date.

1.3 **Property:** The property commonly known as 1 North White Street, Frankfort, Will County, Illinois. P.I.N.: 19-09-27-100-040 ("Property") and more particularly described in the attached **Exhibit "1"**.

Section 2. Purchase Price.

2.1 Purchaser hereby agrees to purchase and the Seller hereby agrees to sell for the sum of _____ Dollars (\$_____.00), the property described above at the price and terms set forth herein, and to convey or cause to be conveyed to Purchaser or nominee title thereto by a recordable general warranty deed with release of homestead rights, subject only to; (a) covenants, conditions and restrictions of record; (b) public, and utility easements, if any, (c) roads and highways, if any; (d) general real estate taxes for the year 2020 and subsequent years.

2.2 The Purchaser shall receive a credit at closing for the Earnest Money. The Purchaser shall pay the remainder of the Purchase Price to the Seller on the Closing via wire.

Section 3. Closing

3.1 The closing of the purchase and sale of the Property shall be effected through an escrow with the Chicago Title ("Escrowee"). Delivery of the deed and any other documents and payment of any unpaid portion of the Purchase Price for the Property shall be effected through such escrow. The terms of such escrow shall be pursuant to an escrow agreement in customary form utilized by the Title Company modified to reflect the transaction contemplated herein. The cost of said escrow shall be borne by the Purchaser. This Agreement shall not be merged into the escrow agreement, but the latter shall be deemed auxiliary to this Agreement and the provisions of this Agreement shall be controlling as between the parties hereto.

3.2 At the Purchaser's election and at its sole cost, closing may be effected pursuant to a so-called "New York Style" Closing in which Seller assumes the risk of the "gap" period (other than as a result of the acts of Purchaser and its agents). The Escrow Agreement among the parties and the Escrowee shall be in accordance with the general provisions of the usual form of Escrow trust instruments for the purchase and sale of real property then in use by the Escrowee, wherein sales proceeds are paid to Seller when the Escrowee is prepared to issue to Purchaser the Title Insurance Policy herein required, and delivery of the Deed shall be made through the Escrow, with such special provisions inserted in said instructions as may be required to conform with the provisions of this Agreement. The Escrow Agreement shall be upon the following terms and conditions: The Escrow Agreement shall incorporate terms and conditions herein set forth and shall not supersede this Agreement. If there is any conflict between the Escrow Agreement and this Agreement, this Agreement shall control. The Closing shall be held at the office of the Escrowee or such other place as the parties may agree upon.

3.3 Purchaser shall be entitled to an inspection 48 hours prior to closing to determine that the Property is in the same condition as of the date hereof. If at the time of Purchaser's inspection, the Property is not in the same or substantially the same condition, the Purchaser shall have the option of declaring this Agreement null and void and receiving the return of all the Earnest Money paid or of receiving a credit at closing for the cost of repairing or replacing any unacceptable items.

3.4 Closing shall take place at Chicago Title 15255 S 94th Ave #604, Orland Park, IL 60462. Closing shall take place thirty (30) days from the Effective Date ("Closing Date") or at a time agreeable to both parties.

Section 4. Survey

Seller has provided Purchaser with a plat of survey dated September 17, 2020 and attached hereto as **Exhibit “2”**. Purchaser may obtain, at its sole expense, any revisions, additional surveys or title insurance over survey related matters, if needed.

Section 5. Title Commitment

5.1 Seller will delivered to Purchaser or Purchaser's agent, a title commitment for American Land Title Association Owners Policy - 2006 and the underlying documents issued by a Title Insurance Company, attached hereto as **Exhibit “3”**, in the amount of the purchase price, covering title to the real estate on or after the date hereof, showing title in the intended grantor subject only to (a) the title exceptions set forth above, and (b) title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount which may be removed by the payment of money at the time of closing and which the Seller may so remove at that time by using the funds to be paid upon the delivery of the deed (all of which are herein referred to as the permitted exceptions). The title commitment shall be conclusive evidence of good title as therein shown as to all matters insured by the policy, subject only to the exceptions as therein stated.

5.2 If the title commitment discloses unpermitted exceptions, Seller shall have thirty (30) days from the date of delivery thereof to the Seller to have the exceptions removed from the commitment or to have the Escrowee commit to insure against loss or damage that may be occasioned by such exceptions. If Seller fails to have the exceptions removed, or in the alternative, to obtain the commitment for title insurance specified above as to such exceptions within the specified time, Purchaser may terminate this Agreement or may elect, upon notice to Seller within ten (10) days after the expiration of the 30-day period, to take title as it then is with the right to deduct from the purchase price liens or encumbrances of a definite or ascertainable amount. If Purchaser does not so elect, this Agreement shall become null and void without further actions of the parties.

Section 6. Seller’s Responsibilities

6.1 Seller shall deliver to Purchaser the following at or prior to the Closing Date:

a) Special Warranty Deed subject to all conditions and exceptions contained in a commitment for title insurance and permitted herein;

b) Affidavit of Title;

c) ALTA Statement;

d) Closing Statement;

e) Transfer Declaration. Executed Transfer Declarations for the State, County and Village, as applicable;

f) Entity Transfer Certificate. Entity Transfer Certification confirming that Seller is a "United States Person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended;

g) A personal Gap undertaking to effectuate a New York Style Closing, if needed;

h) Bill of Sale;

i) Any and all other documents required to convey title.

6.2 Seller agrees to deliver possession of the Property.

6.3 Seller shall be responsible for payment of its own attorney fees.

Section 7. Affirmative Covenants of Seller

7.1 Maintenance of Property. Seller shall maintain the Property free from waste and neglect and in good order and repair and shall not permit any claim, lien or encumbrance to be recorded against the Property without the Purchaser's prior written consent.

7.2 Insurance. From the date hereof to the Closing Date, Seller shall maintain or cause to be maintained liability, casualty and other insurance upon and in respect to the Property against such hazards and in accordance with the insurance presently maintained by Seller.

7.3 Change of Circumstance. Seller shall promptly inform Purchaser in writing of any material event which Seller reasonably believes materially affects its ownership or operation of the Property, whether or not insured against.

Section 8. Representations of the Seller

8.1 Seller hereby makes the following representations and warranties as of the Effective Date and as of the Closing Date:

a) Seller owns the Property. This Agreement and all documents to be executed and delivered by Seller at Closing are duly executed and delivered, and are legal, valid, and binding obligations of Seller, and do not violate any provisions of any agreement to which Seller is a party or to which Seller is subject or any order, rule, or

regulation applicable to Seller or the Property of any court or any federal, state, or municipal regulatory body or administrative agency or other governmental body. No permission, approval, or consent by third parties or governmental authorities is required for Seller to consummate this transaction.

b) Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended.

Section 9. Representations and Indemnifications of the Purchaser

9.1 Purchaser hereby represents and warrants to Seller as follows:

a) Purchaser has been duly organized and is validly existing and in good standing in the state of its formation, and is qualified to do business in the state in which the Property is located. Purchaser has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by Purchaser at the Closing will be, authorized and properly executed and constitutes, or will constitute, as appropriate, the valid and binding obligation of Purchaser, enforceable in accordance with their terms.

b) There is no agreement to which Purchaser is a party or to which Purchaser's knowledge binding on Purchaser which is in conflict with this Agreement. There is no action or proceeding pending or, to Purchaser's knowledge, threatened against Purchaser which challenges or impairs Purchaser's ability to execute or perform its obligations under this Agreement.

c) Purchaser acknowledges that prior to entering into this Agreement, Purchaser had an opportunity to review the condition of the Property and is satisfied with the condition thereof. Purchaser further acknowledges and agrees that, except as provided in Section 8, Seller has not made any representations or warranties regarding the Property whatsoever, that Purchaser has not relied upon any statement by Seller or any employee, agent, officer, or other person connected with Seller. Except as set forth in Section 8, the Property is being sold to Purchaser by Seller in an "AS-IS, WHERE IS AND WITH ALL FAULTS" condition. More specifically, but not by way of limitation of the foregoing, the Property is being sold and shall be conveyed and transferred without any representation or warranty as to (a) the condition or state of repair of the Property, or the status of the business which may be or have been conducted thereon, or the ability of the Purchaser to obtain sole possession of the Property, (b) the compliance or non-compliance of the Property with any applicable laws, regulations or ordinances (including without limitation, any applicable zoning, building or development codes), (c) the value, expense of operation, or income potential of the Property, (d) any other fact or condition which has or might affect the Property or the condition, state of repair, compliance, value, expense of operation or income potential of the Property or any

portion thereof, including without limitation any franchise operation which has been or is being conducted on the Property, (e) whether the Property contains asbestos or harmful or toxic substances or pertaining to the extent, location or nature of same, and any such warranty, representation or other statement by any person is specifically denied, disavowed and repudiated by Seller (f) the nature, quality or condition of the Property, including, without limitation, the water, soil, and geology, or the presence or absence of any pollutant, hazardous waste, gas or substance or solid waste on or about the Property or any improvements thereupon, (g) the income to be derived from the Property, pursuant to the terms of any lease or leases affecting the Property or the payment status of rent due pursuant to any such leases, if any, (h) the suitability of the Property for any and all activities and uses which Purchaser may intend to conduct thereon, (i) the habitability, merchantability or fitness for a particular purpose of the Property or any implied warranty of habitability, and (j) any other matter related to or concerning the Property, except as expressly set forth in this Agreement, if at all. Seller has no knowledge of, and makes no representation or warranty whatsoever as to, the existence on the Property of Hazardous Materials (as defined below), or the release into the environment, discharge, placement, or disposal, of Hazardous Materials, from, at, on, adjacent to, or under the Property. For purposes of this Agreement, the term, "Hazardous Materials", shall mean and include the following, including mixtures thereof: any hazardous substance, pollutant, contaminant, waste, by-product or constituent regulated under the comprehensive environmental response, compensation and liability act, 42 U.S.C. §9601, et seq; oil and petroleum products and natural gas, natural gas liquids, liquefied natural gas and synthetic gas usable for fuel; pesticides regulated under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136, et seq.; asbestos and asbestos-containing materials, PCBS and other substances regulated under the Toxic Substances Control Act, 15 U.S.C. §2601, et seq.; source material, special nuclear material, by-product material and any other radioactive materials or radioactive wastes, however produced, regulated under the Atomic Energy Act or the Nuclear Waste Policy Act of 1982; chemicals subject to the OSHA Hazard Communication Standard, 29 C.F.R. §1910.1200, et seq.; and industrial process and pollution control wastes, whether or not hazardous within the meaning of the Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq. Purchaser, for itself and its successors in interest, waives and releases Seller from any present or future claim(s) arising from or relating to the presence or alleged presence of Hazardous Materials at, on, adjacent to, or under the Property, including without limitation, any claims under or on account of: (i) any federal law described above in this Section 9 of this Agreement, as the same may have been or may be amended from time to time, and similar state or local laws, and any regulations promulgated thereunder; (ii) any other federal, state or local law, ordinance, rule or regulation, now or hereafter in effect, that deals with, or otherwise in any manner relates to, environmental matters of any kind; or (iii) this Agreement or the common law. Purchaser has not relied upon and specifically disclaims the right to rely upon any representation or warranty, whether express or implied, of Seller in this Agreement for Purchaser's execution of this Agreement or Purchaser's purchase of the Property. Purchaser has

an opportunity to conduct a full review and investigation of the Property prior to the Effective Date and expressly acknowledges that Purchaser had the sole burden to perform any and all review and investigation as Purchaser deemed necessary and proper, in Purchaser's sole discretion. Purchaser accepts all risks of the Property's condition, including without limitation, faults that are undiscovered, undisclosed, inadequately disclosed or unknown.

d) Purchaser submitted a contract purchase proposal ("Proposal") to Seller representing certain uses of the Property and improvements that may be made thereto. A copy of the Proposal is attached hereto as Exhibit 4. Purchaser understands Seller relied on the representations made by the Purchaser's Proposal in arriving at this Agreement and Purchaser agrees to diligently pursue and execute the improvement and use of the Property as proposed by the Proposal. Should Purchaser breach of the obligations listed in this paragraph 9.1(d), Seller may request any applicable equitable remedies from a court, including injunctive relief, without the need for Seller to post any security. The terms and provisions of this Section 9.1 of this Agreement shall survive the Closing.

9.2 Purchaser shall pay the following costs:

- a) Its own attorneys' fees; and
- b) The escrow fees charged by the Title Company; and
- c) The cost of any deed stamps or other costs to record the Deed; and
- d) Seller's actual costs for the Survey; the Title Commitment exam and title insurance premium; and Appraisal of the Property; and
- d) The cost of any additional survey, the title insurance policy, title endorsements or extended coverage.

9.3 Purchaser shall be responsible to pay to Seller, a one-time cash-in-lieu payment for the required parking in the amount of three thousand dollars (\$3,000.00) per required parking space, pursuant to the Village of Frankfort Zoning Ordinance, as amended from time to time, except however the fee shall not be assessed for the first ten (10) required parking spaces. This amount shall be determined by Seller upon review of Purchaser's Proposal and paid to the Seller before the issuance of an occupancy permit. Section 9.3 of this Agreement shall survive Closing.

Section 10. Prorations

10.1 Real Estate Taxes. Prior to or concurrent with closing, Seller shall cause to be paid in full all real estate taxes for all prior years, due prior to closing, and all penalties and interest thereon. At closing, Purchaser shall receive a prorated credit for real estate taxes not yet due and owing, based upon the tax rate and assessed

value contained in the most recently issued tax bill. Current general real estate taxes not yet due and payable shall be prorated at the time of closing based on one hundred percent (100%) of the most recent ascertainable real estate tax bill. The proration shall be final.

Section 11. Default.

11.1 Default by Seller. If Seller defaults in any way Purchaser may, as Purchaser's sole and exclusive remedies either (a) terminate this Agreement by written notice forwarded to Seller on or prior to the Closing Date, in which event the Earnest Money and all interest earned thereon shall be returned to Purchaser or (b) pursue specific performance in a lawsuit filed within 30 days after Purchaser first delivered the written default notice to Seller. Seller shall not be liable to Purchaser under any circumstances for any special, consequential or punitive damages whatsoever, whether in contract, tort (including negligence and strict liability), or any other legal or equitable principle, theory, or cause of action arising out of or related in any way to any claim including without limitation the aforementioned claims.

11.2 Default by Purchaser. In the event Purchaser defaults in its obligations to close the purchase of the Property, then Seller's sole and exclusive remedy (and in lieu of any other remedy, legal or equitable in nature) shall be to terminate this Agreement and receive the Earnest Money and all interest as liquidated damages, it being understood that Seller's actual damages in the event of such default are difficult to ascertain and that such proceeds represent the parties' best current estimate of such damages. Seller shall have no other remedy for any default by Purchaser.

Section 12. Intentionally omitted

Section 13. Miscellaneous

13.1 This Agreement (including its exhibits) contains the entire agreement between Seller and Purchaser. Oral statements or prior written matter not specifically incorporated into this Agreement has no force or effect. No variation, modification, or change to this Agreement binds either party unless set forth in a document signed by both parties or their duly authorized agents, officers, or representatives.

13.2 This Agreement inures to the benefit of and binds the parties and their respective legal representatives, successors, and permitted assigns. The Seller may assign its rights or obligations under this Agreement without the Purchaser's consent, or notice so long as the Assignee agrees to be bound by the terms and

conditions of this Agreement. The Purchaser may also transfer this Agreement without Seller's consent.

13.3 Time is of the essence in this Agreement. Whenever a date specified in this Agreement falls on a Saturday, Sunday, or federal holiday, the date will be extended to the next business day.

13.4 If, prior to Closing, the Property becomes subject to a taking by virtue of eminent domain to any extent whatsoever Seller shall immediately notify Purchaser of such fact. In such event, Purchaser may, in Purchaser's sole discretion, either (a) terminate this Agreement and receive back the Earnest Money, and neither party hereto shall have any further rights or obligations hereunder except for those that expressly survive termination, or (b) proceed with the Closing of the transaction, in which event Seller shall assign to Purchaser all condemnation proceeds available as a result of such destruction or taking and shall pay to Purchaser the amount of any applicable deductible or co-insurance maintained by Seller.

13.5 Purchaser understands and acknowledges that Seller may wish to effect an exchange of real estate for the Property pursuant to Section 1031 of the Internal Revenue Code, and that Seller's rights but not its obligations in this Agreement and the Property may be assigned to a contract and the Property may be assigned to a qualified intermediary for purposes of effecting an exchange or a series of exchanges of like kind real estate. Purchaser agrees that it will take such steps as may be necessary to effect an exchange or series of exchanges of real estate upon exercise of the Agreement for real estate designated by Seller, provided that exchange shall not create any additional liability on Purchaser and shall not increase Purchaser's expense of acquisition of the Property. Any and all expenses of the exchange, including recording charges, trustee and intermediary fees, escrow charges and title charges, shall be paid by Seller.

13.6 The captions beside the section numbers of this Agreement are for reference only and do not modify or affect this Agreement. Whenever required by the context, any gender includes any other gender, the singular includes the plural, and the plural includes the singular.

13.7 This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. The obligations under the terms of the Agreement are performable in Will County, Illinois, and any and all payments under the terms of the Agreement are to be made in Will County, Illinois. Any dispute involving this Agreement shall be resolved and venue in the Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois.

13.8 If any provision in this Agreement is found to be invalid, illegal, or unenforceable, its invalidity, illegality, or unenforceability will not affect any

other provision, and this Agreement must be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

13.9 Each party and its counsel have reviewed and revised this Agreement. The parties agree that the rule of construction that any ambiguities are to be resolved against the drafting party must not be employed to interpret this Agreement or its amendments or exhibits.

13.10 Notices. Any notice under this Agreement must be written. Notices must be either (a) hand-delivered to the address set forth below for the recipient; or (b) placed in the United States postal service mailbox and sent certified mail, return receipt requested, addressed to the recipient as specified below; (c) deposited with a nationally recognized overnight delivery service, addressed to the recipient as specified below; or (d) telecopied by facsimile transmission to the party at the telecopy number listed below, provided that such transmission is followed with a copy sent by overnight delivery or regular mail to the address specified below. Any notice is effective upon deposit with the U.S. Postal Service or with the overnight delivery service, as applicable; all other notices are effective when received.

13.10.1 Seller's address for all purposes under this Agreement is:

Attention: Village Administrator
Village of Frankfort
432 W. Nebraska St.
Frankfort, IL 60423

Telephone: (815) 469-2177

with copies to: Attention: Jean A. Kenol
Mahoney, Silverman & Cross, LLC.
822 Infantry Drive, Suite 100
Joliet, IL 60435

Telephone: (815)730-9500

Fax: (815)730-9598

email: jkenol@msclawfirm.com

13.10.2 Purchaser's address for all purposes under this Agreement is:

Attention: _____

Telephone: _____
Fax: _____

with a copy to:

Attention: _____

Telephone: _____
Telecopy: _____

13.11 Prior to the Closing Date, both parties shall maintain in confidence the terms and conditions of the transaction proposed herein, as well as the identity of the parties hereto and any other aspect relating to this Agreement.

13.12 Brokerage. Seller represents that it has not dealt with any broker or agent in connection with this Agreement. If Purchaser retained or dealt with any broker or agent in connection with this Agreement ("Purchaser's Broker"), Purchaser shall pay the Purchaser's Broker's commission. Purchaser shall indemnify and hold the Seller harmless from any claim to a fee or commission by any brokers, finders or agents due or alleged to be due by reason of the acts of the Purchaser. This Section 13.12 shall survive the Closing and/or termination of this Agreement.

13.13 To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature or acknowledgement of, or on behalf of, each part, or that the signature of all persons required to bind any party or the acknowledgment of such party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, and the respective acknowledgments of, each of the parties hereto. Any signature or acknowledgment page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures or acknowledgments thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature or acknowledgment pages. Counterparts of this Agreement may be exchanged via electronic facsimile machines and any electronic facsimile of any party's signature shall be deemed to be an original signature for all purposes; provided, however that if counterparts are so executed by facsimile machines, then upon request of

either party original signatures will be exchanged promptly thereafter.

13.14 The provisions of this **Section 13** shall survive Closing.

Section 14. Exhibits. The following exhibits are incorporated herein:

- Exhibit 1: Legal Description
- Exhibit 2: Survey
- Exhibit 3: Title Commitment
- Exhibit 4: Contract Purchase Proposal

{signature page to follow}

EXECUTED as of the Effective Date.

SELLER

Village of Frankfort

By: _____

Attest

Date: _____

PURCHASER

BY: _____
It's authorized agent

Attest

Date: _____

EXHIBIT 1
LEGAL DESCRIPTION

That part of the Northwest Fractional Quarter of Section 27, North of the Indian Boundary Line in Township 35 North, Range 12 East of the Third Principal Meridian described as follows: Commencing at the northwest corner of said Northwest Fractional Quarter of Section 27, and running thence South 01 degrees 57 minutes 59 seconds East along the West line of said Northwest Fractional Quarter, a distance of 141.18 feet to a point that is 8.50 feet southerly of, measured at right angles, the centerline of the Michigan Central Switch track; thence continued South 01 degrees 57 minutes 59 seconds East along said West line of the Northwest Fractional Quarter, a distance of 89.24 feet to a point that is 150 feet south of the centerline of main track of said railroad; thence North 89 degrees 35 minutes 41 seconds East along a line 150 feet south of and parallel with said centerline of main track of said railroad a distance of 35.87 feet, to the Point of Beginning; thence North 00 degrees 24 minutes 19 seconds West along a line perpendicular to the previously described line a distance of 63.98 feet, to a line parallel with said line 150 feet south of and parallel with said centerline of main track of said railroad; thence North 89 degrees 35 minutes 41 seconds East along said parallel line a distance of 49.84 feet; thence south 54 degrees 29 minutes 27 seconds East 37.47 feet, to a line parallel with said line 150 feet south of and parallel with said centerline of main track of said railroad; thence North 89 degrees 35 minutes 41 seconds East along said parallel line a distance of 14.96 feet, to a line perpendicular with said line 150 feet south of and parallel with said centerline of main track of said railroad; thence South 00 degrees 24 minutes 19 seconds East along said perpendicular line a distance of 42.00 feet, to said line 150 feet south of and parallel with said centerline of main track of said railroad; thence South 89 degrees 35 minutes 41 seconds West along said line 150 feet south of and parallel with said centerline of main track of said railroad a distance of 95.15 feet, to the Point of Beginning, in Will County, Illinois.

Part of PIN 19-09-27-100-040-0000

EXHIBIT 3
TITLE COMMITMENT

To be provided

EXHIBIT 4
CONTRACT PURCHASE PROPOSAL

To be added