

RESOLUTION NO. 49.17

A RESOLUTION AUTHORIZING THE SALE OF CERTAIN REAL PROPERTY LOCATED AT 3131 SOUTH 49TH AVENUE, CICERO, ILLINOIS FOR THE TOWN OF CICERO, COUNTY OF COOK, STATE OF ILLINOIS.

WHEREAS, the Town of Cicero (the "Town") was created by a charter enacted by the Illinois General Assembly (the "Charter"); and

WHEREAS, the Corporate Authorities of the Town (as defined below) are governed by the Charter and the Constitution of the State of Illinois and the statutes of the State of Illinois when not specified in the Charter; and

WHEREAS, the Town is a home rule unit of local government as is provided by Article VII, Section 6 of the Illinois Constitution of 1970, and as a home rule unit of local government the Town may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the Town is the owner of the real property located at the address commonly known as 3131 South 49th Avenue, Cicero, Illinois 60804, which is legally described as set forth on Exhibit A, attached hereto and incorporated herein (the "Property"); and

WHEREAS, pursuant to Section 11-76-4.1 of the Illinois Municipal Code (65 ILCS 5/11-76-4.1) (the "Municipal Code") and Section 2-875 of The Code of Ordinances of The Town of Cicero, Illinois (the "Town Code"), the Corporate Authorities (as defined herein) of the Town may authorize by resolution the sale or public auction of surplus public real estate; and

WHEREAS, information concerning the size, use and zoning of the Property is set forth on Exhibit A, attached hereto and incorporated herein; and

WHEREAS, the Town President (the "President") and the Board of Trustees of the Town (the "Town Board" and, with the President, the "Corporate Authorities") determined and do hereby determine that the Property is no longer necessary or useful for the operations of the Town and further declare that it is not in the best interests of the Town or its residents to retain title to the Property; and

WHEREAS, in accordance with Section 11-76-4.1 of the Municipal Code and Section 2-875 of the Town Code, the Corporate Authorities deemed and do hereby deem the Property surplus property; and

WHEREAS, pursuant to Section 11-76-4.1 of the Municipal Code and Section 2-875 of the Town Code, the Corporate Authorities had the value of the Property determined by a written appraisal, which appraisal is available in the Town Clerk's office for public inspection during regular Town business hours; and

WHEREAS, the Corporate Authorities have determined that it is in the best interests of the Town and its residents to sell the Property, which sale shall be conducted by staff, independent contractors and/or agents of the Town (collectively, "Town Staff"); and

WHEREAS, the Corporate Authorities believe that it is in the best interests of the Town to authorize the President, the Town Attorney (the "Attorney") and Town Staff to take all necessary steps to sell and dispose of the Property in accordance with Section 2-875 of the Town Code; and

WHEREAS, the purchaser of the Property (the "Purchaser") will purchase the Property from the Town for at least eighty percent (80%) of the appraised value and in accordance with the provisions of that certain Purchase and Sale Agreement (the "Agreement"), which is available in the Town Clerk's office for public inspection during regular Town business hours; and

WHEREAS, the Corporate Authorities hereby determine that it is in the best interests of the Town and its residents to authorize the sale of the Property to the Purchaser in accordance with the terms of the Agreement; and

WHEREAS, the President is authorized to enter into and the Attorney is authorized to revise agreements for the Town making such insertions, omissions and changes as shall be approved by the President and the Attorney;

NOW, THEREFORE, BE IT RESOLVED by the President and the duly authorized Board of Trustees of the Town of Cicero, County of Cook, State of Illinois, as follows:

**ARTICLE I.
IN GENERAL**

Section 1.0 Findings.

The Corporate Authorities hereby find that all of the recitals hereinbefore stated as contained in the preambles to this Resolution are full, true and correct and do hereby, by reference, incorporate and make them part of this Resolution as legislative findings.

Section 2.0 Purpose.

The purpose of this Resolution is to declare the Property surplus property, to authorize the sale and disposition of the Property by Town Staff in accordance with the terms of the Agreement and to authorize the President or his designee to take all steps

necessary to carry out the terms of this Resolution and to ratify any steps taken to effectuate those goals.

**ARTICLE II.
AUTHORIZATION TO SELL REAL PROPERTY**

Section 3.0 Authorization.

The Town Board hereby declares the Property surplus property and authorizes and directs Town Staff to sell and dispose of the Property in accordance with Section 2-875 of the Town Code and ratifies any and all previous action taken to effectuate the intent of this Resolution. The Town Board authorizes and directs the President or his designee to execute the applicable Agreement, with such insertions, omissions and changes as shall be approved by the President and the Attorney, and the Town Board further authorizes the President or his designee to execute any and all additional documentation that may be necessary to carry out the intent of this Resolution. The Town Clerk is hereby authorized and directed to attest to and countersign any documentation as may be necessary to carry out and effectuate the purpose of this Resolution. The Town Clerk is also authorized and directed to affix the Seal of the Town to such documentation as is deemed necessary. The Town Clerk or a designee of the same is further directed and authorized to publish notice of this Resolution, at the first opportunity after its passage, in a newspaper published and of general circulation in the Town.

Section 3.01 Other Actions Authorized.

The officers, employees and/or agents of the Town shall take all action necessary or reasonably required by the Town to carry out, give effect to and consummate the transaction contemplated herein and shall take all acts necessary in conformity therewith including, without limitation, the execution and delivery of any closing and other

documents required to be delivered in connection with the Agreement or the sale of the Property, including posting this Resolution and the Agreement on the Town's website for public inspection. Any and all actions previously performed by officials, employees and/or agents of the Town in connection with carrying out and consummating the transaction contemplated by this Resolution are hereby authorized, approved and ratified by this reference.

**ARTICLE III.
HEADINGS, SAVINGS CLAUSES, PUBLICATION,
EFFECTIVE DATE**

Section 4.0 Headings.

The headings of the articles, sections, paragraphs and subparagraphs of this Resolution are inserted solely for the convenience of reference and form no substantive part of this Resolution nor should they be used in any interpretation or construction of any substantive provision of this Resolution.

Section 5.0 Severability.

The provisions of this Resolution are hereby declared to be severable and should any provision of this Resolution be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision shall be excluded and deemed inoperative, unenforceable and as though not provided for herein, and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect.

Section 6.0 Superseder.

All code provisions, ordinances, resolutions, rules and orders, or parts thereof, in conflict herewith are, to the extent of such conflict, hereby superseded.

Section 7.0 Publication.

A full, true and complete copy of this Resolution shall be published in pamphlet form or in a newspaper published and of general circulation within the Town as provided by the Illinois Municipal Code, as amended.

Section 8.0 Effective Date.

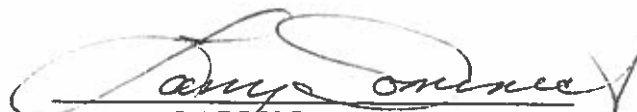
This Resolution shall be effective and in full force immediately upon passage and approval.

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ADOPTED this 13 day of JUNE, 2017, pursuant to a roll call vote as follows:

	YES	NO	ABSENT	PRESENT
Viruso	X			
Cundari	X			
Reitz	X			
Garcia	X			
Banks	X			
Raleigh	X			
Porod	X			
(President Dominick)	—	—	—	—
TOTAL	7	0	0	0

APPROVED by the President on JUNE 13, 2017


LARRY DOMINICK
PRESIDENT

ATTEST:



MARIA PUNZO-ARIAS
TOWN CLERK

EXHIBIT A

LEGAL DESCRIPTION

LOT 33 IN RESUBDIVISION OF BLOCK 26 IN HAWTHORNE, A SUBDIVISION OF THE SOUTHEAST 1/4 OF SECTION 28, AND THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address for the Property: 3131 South 49th Avenue, Cicero, Illinois 60804.

PIN: 16-33-208-015-0000

Size of the Property: Approximately 4,356 Square Feet.

Use of the Property: Vacant Land.

Zoning for the Property: R-3 District.

Terms of Sale of the Property: The property will be sold for \$16,000 in accordance with the provisions set forth in the Purchase and Sale Agreement, which is available for inspection at the Office of the Town Clerk.

REAL ESTATE CONVEYANCE AGREEMENT

By and Between

The Town of Cicero,

An Illinois Municipal Corporation,

Seller

and

Susan Bogusch,

An individual residing in Illinois,

Purchaser

Dated: May 9, 2017

* * * * *

The mailing, delivery, or negotiation of this Agreement (as defined herein) by Seller (as defined herein) or its agent or attorney shall not be deemed an offer by Seller to enter into any transaction or to enter into any other relationship with Purchaser (as defined herein), whether on the terms contained herein or on any other terms. This Agreement shall not be binding upon Seller, nor shall Seller have any obligations or liabilities or Purchaser any rights with respect thereto, or with respect to the Subject Property (as defined herein), unless and until Seller has executed and delivered this Agreement to Purchaser. Until the execution and delivery of this Agreement, Seller may terminate all negotiations and discussions regarding the subject matter hereto, without cause and for any or no reason, without recourse or liability.

* * * * *

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is made and effective as of the Effective Date (as hereinafter defined), by and between Susan Bogusch, an individual residing in Illinois, (the "Purchaser"), and the Town of Cicero, an Illinois Municipal Corporation ("Seller"). Seller and Purchaser may, for convenience, be referred to collectively as the "Parties" and individually as a "Party."

WITNESSETH:

WHEREAS, Seller is the owner of that certain real property located at the address commonly known as 3131 S. 49th Avenue, Cicero, Illinois 60804, together with the improvements thereon, and all such interests, easements, rights-of-way and appurtenances used in connection with the beneficial use and enjoyment of the real property (collectively, the "Subject Property") and which is legally described as set forth in Exhibit A, attached hereto and incorporated herein; and

WHEREAS, Seller desires to sell and Purchaser desires to acquire the Subject Property in accordance with the terms and conditions set forth herein; and

NOW, THEREFORE, incorporating the above Recitals with this reference and in consideration of Ten and No/100 U.S. Dollars (\$10.00), the mutual covenants and promises contained herein, the respective undertakings of the Parties hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

- I. Purchase and Sale; Purchase Price. Subject to the terms and conditions of this Agreement, Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller the Subject Property. The purchase price of the Subject Property (the "Purchase Price") shall be Sixteen Thousand and No/U.S. Dollars (\$16,000.00), plus or minus applicable prorations and closing costs. The Purchase Price shall be paid as follows:
 - A. Earnest Money. Within five (5) calendar days after the Effective Date, Purchaser shall deposit, as earnest money, via certified check in the amount of \$1,000.00 (the "Earnest Money") with Seller at Town Hall. At the expiration of the Inspection Period (as defined below) the Earnest Money shall become non-refundable, except in the event of a Seller default. The Earnest Money shall be fully refundable to Purchaser in the event that Purchaser terminates the Agreement in writing pursuant to the terms of this Agreement prior to the expiration of the Inspection Period, except as set forth in Section 4 of this Agreement. In the event that Purchaser fails to perform under this Agreement after the expiration of the Inspection Period or otherwise (by act or omission) defaults on any obligation under this Agreement, the Earnest Money shall be deemed non-refundable and shall be immediately forfeited and directly paid to Seller in accordance with the terms of this Agreement as the sole remedy for such default. The Earnest Money shall be fully refundable to Purchaser at any time in event of Seller's default of this Agreement.

- B. Cash Balance. The balance of the Purchase Price, plus or minus Purchaser's share of the closing costs, prorations and credits hereinafter provided for, shall be paid by Purchaser with a certified or cashier's check or by wire transfer at the Closing (as hereinafter defined).
2. Closing. The closing of the transaction contemplated by this Agreement (the "Closing" or "Closing Date") shall be held at the office of Chicago Title Insurance Company, or other mutually agreeable title insurance company duly authorized to do such business in the State of Illinois, as escrowee (the "Escrowee" or "Title Company") not later than fifteen (15) calendar days after the later of (i) the expiration of the Inspection Period (as hereinafter defined); or (ii) the satisfaction of the Conditions Precedent to Closing, unless the Parties, by written, mutual agreement, agree to have the Closing on another date. If the scheduled Closing Date does not fall on a business day, the Closing Date shall be on the next business day thereafter. The transaction contemplated by this Agreement shall be closed by means of a Deed and Money "New York Style" Escrow (the "Closing Escrow") to be opened with the Escrowee on or before the Closing Date. The Closing Escrow shall be in accordance with the general provisions of the usual form of Deed and Money "New York Style" Escrow Agreement (the "Escrow Agreement") currently in effect and used by the Escrowee, with such special provisions inserted in the Escrow Agreement as may be required to conform to this Agreement; provided, however, in the event of a conflict between the terms of this Agreement, the Closing Escrow (or any additional or collateral escrows opened hereunder) and/or the Escrow Agreement, the terms of this Agreement shall in all instances control.
3. Deed Restriction. Purchaser agrees that no auxiliary structures such as a garage or other permanent structures shall be affixed to or constructed on the Subject Property to serve any other property unless the two parcels are consolidated under one Cook County Property Identification Number or unless the same are constructed concurrently with or after the construction of single family home on the Subject Property. The Subject Property shall not be used for multi-family residential or commercial uses and shall only be used for residential purposes. The restrictions set forth in this Section (the "Deed Restriction") shall run with the land and be binding upon successive owners of the Subject Property.
4. Tree Removal. Seller, at its sole cost and expense, hereby agrees to remove one (1) tree located on the Subject Property prior to Closing. In the event that the tree is removed prior to Closing, but Closing does not occur as set forth herein, Seller shall retain the Earnest Money as liquidated damages, regardless of any other rights or obligations set forth in this Agreement.
5. Seller's Deliveries at the Closing. At the Closing, Seller shall deliver to the Escrowee or Purchaser directly the following documents and items, each in a form mutually agreed to by the Parties:
- A. A special warranty deed (the "Deed") conveying the Subject Property from Seller to Purchaser and subject only to the Permitted Exceptions, which includes any exceptions as expressly agreed to herein;

- B. A standard form Bill of Sale executed by Seller and conveying any personal property located on the Subject Property to Purchaser in an "as is," "where is" and "with all faults" condition;
 - C. A Certificate of Non-Foreign Status of Seller, as required by Section 1445 of the Internal Revenue Code (and any amendment thereto), which certifies that Seller is not a foreign transferor and which is in a form and substance reasonably satisfactory to Purchaser;
 - D. Any and all reasonable and customary documentation required by the Title Company (as hereinafter defined) in order for the Title Company to issue the Title Policy (as hereinafter defined), with any title endorsements required by Purchaser and any other documentation necessary to complete the transaction contemplated herein;
 - E. An ALTA Statement and a personal "Gap" undertaking if required by the Title Company to effectuate a "New York Style" Closing;
 - F. Five (5) original closing statements prepared by Seller in a manner which reflects the terms and conditions of this Agreement, as applicable, and that is otherwise in a form reasonably acceptable to Purchaser (the "Closing Statement");
 - G. Such proof of Seller's authority and authorization to enter into this transaction as may be required by the Title Company;
 - H. Possession (and use, as applicable) of the Subject Property, free of parties in possession (except as specifically set forth herein or as otherwise mutually agreed to by a written agreement of the Parties) and reasonably free of personal property and Debris (as hereinafter defined), in the same condition as of the Effective Date (excepting normal wear and tear and environmental remediation, as applicable); and
 - I. Originals of all items necessary for Purchaser to enter, exit, secure and use the Subject Property as applicable.
6. Purchaser's Deliveries at the Closing. At the Closing, Purchaser shall deliver to the Escrowee or Seller directly the following, each in a form mutually agreed to by the Parties:
- A. The balance of the Purchase Price in accordance with the Agreement, plus or minus Purchaser's share of the closing costs;
 - B. Such proof of Purchaser's authority and authorization to enter into this transaction as may be required by the Title Company;
 - C. Any and all reasonable and customary documentation required by the Title Company in order for the Title Company to issue the Title Policy with any title endorsements required by Purchaser and any other documentation necessary to complete the transaction contemplated herein; and

D. Executed counterparts of the Closing Statement.

7. Joint Deliveries at Closing. At the Closing, the Parties shall jointly deliver the following fully-executed documents to the Escrowee and pursuant to the terms set forth herein:
- A. State, county and municipal Transfer Tax Declarations, to the extent required by law; and
 - B. Any and all other documents reasonably required to effectuate the transaction contemplated herein.
 - C. All documents or other deliveries required to be made by Purchaser or Seller at the Closing, and all transactions required to be consummated concurrently with the Closing, shall be deemed to have been delivered and to have been consummated simultaneously with all other transactions and all other deliveries, and no delivery shall be deemed to have been made and no transactions shall be deemed to have been consummated, until all deliveries required by the Parties have been made and all concurrent and other transactions have been consummated.
8. Allocation of Closing Costs and Expenses/Municipal Approval. Seller shall be liable for the following expenses: (A) the cost of obtaining the Title Policy, excluding any endorsements unless Seller elects to purchase such endorsements to correct any Unpermitted Exceptions (as hereinafter defined); (B) the cost to record any instruments necessary to clear Seller's title; (C) one-half (1/2) of the total cost of the escrow services, including the Closing Escrow; (D) one-half (1/2) of the total cost of the "New York Style" closing fee; and (E) one-half (1/2) the total cost of any state, county and municipal transfer taxes applicable to this transaction by law or ordinance. Purchaser shall bear the following expenses: (T) the cost of any recording fees with respect to the Deed; (U) one-half (1/2) of the total cost of the escrow services, including the Closing Escrow; (V) one-half (1/2) of the total cost of the "New York Style" closing fee; (W) the charges for any endorsements required by Purchaser; and (X) one-half (1/2) the total cost of any state, county and municipal transfer taxes applicable to this transaction by law or ordinance.
9. Prorations. Any *ad valorem* real property taxes and assessments levied upon the Subject Property shall be prorated on a per diem basis between the Parties as of the Closing Date based upon one hundred five percent (105%) of the most recent ascertainable full year's tax bill pertaining to the Subject Property, as applicable. Seller shall order a final reading on all utilities, if applicable, and be responsible for all costs and expenses associated with the same for all days prior to the Closing Date. Seller shall pay the utility provider the ascertainable amount due and owing regarding the utilities as of the Closing and provide a copy of all such documents to Purchaser to ensure the payment of the same is made. The Parties shall cooperate to cause the transfer of the Subject Property's utility accounts, if any, from Seller to Purchaser. All prorations shall be deemed final.

10. Documents.

- A. Title Commitment. Within fifteen (15) business days after the Effective Date, Seller shall, at its sole cost and expense, deliver or cause to be delivered to Purchaser a commitment for ALTA Form 2006 Owner's Title Insurance Policy (the "Preliminary Commitment"), together with the underlying documentation supporting any proposed exception(s) to coverage (commonly referred to as the Schedule B documents), issued by Title Company in the amount of the Purchase Price showing title to the Subject Property in Seller. The Preliminary Commitment shall be subject only to: (i) the standard permitted exceptions and general exceptions contained in the Preliminary Commitment; (ii) general real estate taxes not yet due and owing; (iii) matters created by, through, or under Purchaser; and (iv) all matters approved or waived by Purchaser pursuant to the applicable terms of the Agreement (collectively, the "Permitted Exceptions"). The Preliminary Commitment may also reflect title exceptions pertaining to liens, taxes, or encumbrances of a definite or ascertainable amount, which may be removed by the payment of money at the Closing and which, if existing, Seller shall so remove at that time by using the funds to be paid to Seller hereunder.
- B. Title Policy. As of the Closing Date, Seller, at its sole cost and expense, shall cause the Title Company to issue to Purchaser its ALTA Form 2006 Owner's Policy of Title Insurance covering the Subject Property in the amount of the Purchase Price (the "Title Policy").
- C. Reports. No later than five (5) calendar days after the Effective Date, Seller shall provide to Purchaser all site plans and specifications, previous environmental reports, soil reports, existing governmental permits/approvals, zoning information, real property tax information, the current Phase I environmental study, if any, and any other documents, which are in Seller's possession or readily available relating to the Subject Property without independent search or review for the documents.
- D. Survey. Purchaser hereby agrees and acknowledges that Seller has provided an existing Survey of the Subject Property to Purchaser. Seller agrees to execute documentation and/or an affidavit necessary for the Title Company to issue extended coverage on the Subject Property based on the existing Survey.
11. Title Approval. Purchaser shall have a period of five (5) calendar days following the receipt of the Preliminary Commitment and all documents of record listed therein to review such items and deliver to Seller a notice of the objections that Purchaser may have to anything contained or set forth in or disclosed by the Preliminary Commitment ("Unpermitted Exceptions"). If Purchaser shall expressly waive any objection to or fail to object to any Unpermitted Exception in the manner and time frame set forth herein, said Unpermitted Exception shall be deemed a "Permitted Exception." If Purchaser timely delivers notice of any Unpermitted Exception to Seller, Seller may within five (5) calendar days after receipt of said notice, elect to eliminate or satisfy the Unpermitted Exception(s) to the satisfaction of Purchaser. If Seller is unable or unwilling to correct any Unpermitted Exception within the

five (5) calendar day period, Seller shall be deemed to have elected not to make such cure, in which event Purchaser shall have the right, at its election, within five (5) calendar days after the expiration of Seller's five (5) calendar day cure period, to: (a) waive any and all Unpermitted Exceptions and accept title to the Subject Property subject to such Unpermitted Exceptions (in which event such Unpermitted Exceptions shall be deemed "Permitted Exceptions") and deduct from the Purchase Price any liens or encumbrances of a definite or ascertainable amount if Seller does not do so or (b) terminate this Agreement. In the event that Purchaser elects or is deemed to have terminated this Agreement, the Earnest Money shall be immediately refunded to Purchaser, this Agreement shall be null and void, and neither Party hereto shall have any further obligations or liability under this Agreement, except as otherwise provided to the contrary in this Agreement.

12. Inspection/As Is. This Agreement is for the sale and purchase of the Subject Property, and any and all personal property and fixtures located therein and thereon, in an "As Is" condition as of the Effective Date. Notwithstanding the foregoing, commencing on the Effective Date and expiring thirty (30) calendar days after the Effective Date ("Inspection Period"), Purchaser, at its sole cost and expense, shall have the full and unfettered right, to the fullest extent of the law to inspect and take any and all steps, including and without limitation commissioning studies, surveys, soil borings, structural assessments, environmental assessments and otherwise inspect the Subject Property. In that event, Seller shall make the Subject Property available to Purchaser's inspectors at reasonable times. Purchaser shall indemnify Seller and hold Seller harmless from and against any loss or damage caused by the acts or negligence of Purchaser or any person performing any inspection(s). Prior to entering the Subject Property during the Inspection Period, Purchaser shall provide Seller with proof of such policies of liability insurance as are reasonably required by the Seller.

Other than as specifically set forth herein, the Seller makes no representations as to the condition of the Subject Property. As stated above, the Parties agree and acknowledge, that the Subject Property is being conveyed from the Seller to the Purchaser in an "as-is, where is, with all faults" manner, subject only to those specifically enumerated representations and warranties set forth herein. The Purchaser is solely relying on its investigations and shall not rely upon information, documents or materials provided to it by the Seller in making its decision to acquire the Subject Property. NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, IT IS UNDERSTOOD AND AGREED THAT, EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED HEREUNDER, THE SELLER AND ITS AFFILIATES AND AGENTS HAVE NOT MADE AND ARE NOT NOW MAKING, AND THEY HEREBY SPECIFICALLY DISCLAIM, ANY WARRANTIES, REPRESENTATIONS OR GUARANTIES OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, WITH RESPECT TO THE SUBJECT PROPERTY, INCLUDING, BUT NOT LIMITED TO, STATEMENTS, WARRANTIES, REPRESENTATIONS OR GUARANTIES AS TO (1) MATTERS OF TITLE (OTHER THAN THE SELLER'S WARRANTY OF TITLE SET FORTH IN THE DEED TO BE DELIVERED AT CLOSING), (2) ENVIRONMENTAL MATTERS RELATING TO THE SUBJECT PROPERTY OR ANY PORTION THEREOF, (3) GEOLOGICAL CONDITIONS, INCLUDING, WITHOUT LIMITATION, SUBSIDENCE, SUBSURFACE CONDITIONS, WATER TABLE, UNDERGROUND WATER RESERVOIRS, LIMITATIONS

REGARDING THE WITHDRAWAL OF WATER AND EARTHQUAKE FAULTS AND THE RESULTING DAMAGE OF PAST AND/OR FUTURE EARTHQUAKES, (4) WHETHER, AND THE EXTENT TO WHICH, THE SUBJECT PROPERTY OR ANY PORTION THEREOF IS AFFECTED BY ANY STREAM (SURFACE OR UNDERGROUND), BODY OF WATER, FLOOD-PRONE AREA, FLOOD PLAIN, FLOODWAY OR SPECIAL FLOOD HAZARD, (5) DRAINAGE, (6) SOIL CONDITIONS, INCLUDING THE EXISTENCE OF INSTABILITY, PAST SOIL REPAIRS, SOIL ADDITIONS, CONDITIONS OF SOIL FILL, SUSCEPTIBILITY TO LANDSLIDES OR THE SUFFICIENCY OF ANY UNDERSCORING, (7) ZONING TO WHICH THE SUBJECT PROPERTY OR ANY PORTION THEREOF MAY BE SUBJECT, (8) THE AVAILABILITY OF ANY UTILITIES TO THE SUBJECT PROPERTY OR ANY PORTION THEREOF, INCLUDING, WITHOUT LIMITATION, WATER, SEWAGE, GAS AND ELECTRIC, (9) USAGES OF ADJOINING PROPERTY, (10) ACCESS TO THE SUBJECT PROPERTY OR ANY PORTION THEREOF, (11) THE VALUE, COMPLIANCE WITH THE PLANS AND SPECIFICATIONS, SIZE, LOCATION, AGE, USE, DESIGN, QUALITY, DESCRIPTION, SUITABILITY, STRUCTURAL INTEGRITY, OPERATION OR PHYSICAL OR FINANCIAL CONDITION OF THE SUBJECT PROPERTY OR ANY PORTION THEREOF, OR ANY INCOME, EXPENSES, CHARGES, LIENS, ENCUMBRANCES, RIGHTS OR CLAIMS ON OR AFFECTING OR PERTAINING TO THE SUBJECT PROPERTY OR ANY PART THEREOF, (12) THE PRESENCE OF HAZARDOUS SUBSTANCES OR VIOLATIONS OF ENVIRONMENTAL LAWS IN, ON, UNDER OR IN THE VICINITY OF THE SUBJECT PROPERTY, (13) THE CONDITION OR USE OF THE SUBJECT PROPERTY OR COMPLIANCE OF THE SUBJECT PROPERTY WITH ANY OR ALL PAST, PRESENT OR FUTURE FEDERAL, STATE OR LOCAL ORDINANCES, RULES, REGULATIONS OR LAWS, BUILDING, FIRE OR ZONING ORDINANCES, CODES OR OTHER SIMILAR LAWS, (14) THE EXISTENCE OR NON-EXISTENCE OF UNDERGROUND STORAGE TANKS ON THE SUBJECT PROPERTY, (15) ANY OTHER MATTER AFFECTING THE STABILITY OR INTEGRITY OF THE SUBJECT PROPERTY, (16) THE POTENTIAL FOR FURTHER DEVELOPMENT OF THE SUBJECT PROPERTY, (17) THE EXISTENCE OF VESTED LAND USE, ZONING OR BUILDING ENTITLEMENTS AFFECTING THE SUBJECT PROPERTY, (18) THE MERCHANTABILITY OF THE SUBJECT PROPERTY OR THE FITNESS OF THE SUBJECT PROPERTY FOR ANY PARTICULAR PURPOSE (PURCHASER AFFIRMING THAT PURCHASER HAS NOT RELIED ON THE SELLER'S OR ITS AFFILIATES' OR AGENTS' SKILL OR JUDGMENT TO SELECT OR FURNISH THE SUBJECT PROPERTY FOR ANY PARTICULAR PURPOSE, AND THAT SELLER MAKES NO WARRANTY THAT THE SUBJECT PROPERTY IS FIT FOR ANY PARTICULAR PURPOSE), OR (19) TAX CONSEQUENCES.

13. Termination & Satisfaction. In the event the inspection(s) reveals that the condition of the Subject Property, improvements, fixtures or personal property to be conveyed or transferred is unacceptable to Purchaser, in its sole and absolute discretion and with or without cause, and Purchaser so notifies Seller in writing within the Inspection Period, this Agreement shall be null and void, and the Earnest Money shall be returned to Purchaser. Failure of Purchaser to so notify Seller or to conduct said inspection(s) operates as a waiver of Purchaser's right to

terminate this Agreement under this paragraph and this Agreement shall remain in full force and effect.

In the event that Purchaser and/or its agent(s) undertake any destructive testing of the Subject Property (including, but not limited to, soil borings) and the transaction is terminated, Purchaser shall take all steps necessary, within a reasonable time after the termination of this Agreement, to restore the Subject Property to the condition it was in prior to Purchaser causing the destructive testing. Furthermore, upon Seller's receipt of Purchaser's written notice to terminate this Agreement, the Parties agree that each Party shall be deemed to have released the other Party from all claims arising out of this Agreement, except as otherwise provided herein.

14. Environmental Matters.

- A. Definitions. The following words, terms and phrases, when used in this Agreement, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. Where applicable, words used in the present tense include the future tense of the word and words in the singular include the plural form of the word.

"**Engineering and Institutional Controls**" shall mean any and all restrictions, measures, covenants and obligations that may be used in lieu of, in conjunction with or as a component of Hazardous Substance (as defined herein) removal to satisfy the Seller's obligations under this Agreement and Environmental Laws (as defined herein) including, without limitation: (a) requirements for engineering and institutional controls; (b) proscriptions against residential and groundwater use; (c) rights of access to the Subject Property; (d) rights enforceable by Governmental Authorities (as defined herein) and other parties; (e) environmental land use controls; and (f) any documents, instruments, agreements, rights and obligations embodying, establishing or necessary or ancillary to the foregoing including, without limitation, certifications, deed notices, deed restrictions, easements, access agreements and restrictive covenants.

"**Environmental Laws**" shall mean any and all laws, statutes, treaties, regulations, codes, ordinances, rules, notices of violation or noncompliance, permits, licenses, standards or requirements (including decrees, judicial decisions, judgments, injunctions and administrative orders issued or approved thereunder), together with all related amendments and similar statutes and implementing regulations, issued by any Governmental Authority, and all common law, pertaining to or regulating pollution, environmental protection, health or safety of person, nuisance, noise, pipeline safety, natural resources damages, conservation of resources, wildlife, waste management, the use, storage, generation, production, treatment, emission, remediation, design, formulation, packaging or any other activity related to Hazardous Substances or any other environmental matter including, without limitation: the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. Section 9601 *et seq.*; the Resource Conservation and Recovery Act, as

amended ("RCRA"), 42 U.S.C. Section 6901 *et seq.*; the Toxic Substances Control Act, as amended, 42 U.S.C. Section 7401 *et seq.*; the Clean Air Act, as amended, 33 U.S.C. Section 7401 *et seq.*; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 *et seq.*; the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. Section 3009(f) *et seq.*; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Section 11001 *et seq.*; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 *et seq.* (1996); the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. Section 651 *et seq.* (as it relates to protection of the environment); the Hazardous Liquid Pipeline Safety Act, as amended, 49 U.S.C. Section 60101 *et seq.*; and the Federal Hazardous Materials Transportation Act 49 U.S.C. §§ 100-185 (1999).

"Governmental Authority" shall mean any and all federal, state or local government or governmental or public agency, board, department, judicial body or entity of any kind with jurisdiction over environmental, health and safety matters relating to the Subject Property.

"Hazardous Substances" shall mean any chemical, substance, waste, material, organism, gas or emission (collectively, for convenience purposes only, "Substances") which is deemed hazardous, toxic, a pollutant or a contaminant under any Environmental Law or which has been shown to have significant adverse effects on human health or the environment. "Hazardous Substances" shall include, without limitation, crude oil, lead, petroleum and petroleum products, urea formaldehyde, asbestos, chlorofluorocarbons, radon gas, radioactive nuclear materials, toxic mold and bacteria, polychlorinated biphenyls and all other Substances regulated by the Environmental Laws.

"NFR Letter" shall mean an environmental "no further remediation" letter or any other similar environmental closure document issued by any Governmental Authority having jurisdiction to do so, including any such documents issued in connection with voluntary programs.

B. Environmental Acknowledgement and Agreements.

1. In the event that it is determined that the Subject Property is contaminated or in violation of an Environmental Law due to the release of Hazardous Substances from prior activities occurring on the Subject Property and the Purchaser does not elect to terminate this Agreement during the Inspection Period, the Purchaser shall perform, or cause a third party to perform, any and all actions required by applicable Governmental Authorities to ensure that the Purchaser can use the Subject Property for its intended use. The Purchaser acknowledges and agrees that previous owners of the Subject Property may have used the Subject Property for industrial or commercial purposes in the past, and that the appropriate cleanup standards (if any) previously performed were the least-stringent standards consistent with Environmental Laws for the commercial or industrial use of the Subject Property, which standards may include, at the Seller's discretion and in

compliance with Environmental Laws, site-specific standards determined by risk assessments and standards requiring Engineering and Institutional Controls.

2. Effective at and as of the Closing, the Purchaser, on behalf of himself and his successors and assigns shall unconditionally covenant not to sue the Indemnified Parties (as defined below) for any and all liability (whether arising under contract, statute, regulation, common law or otherwise) known and unknown, arising from or relating to the presence, release or migration of Hazardous Substances at, to or from the Subject Property, or compliance with the Environmental Laws, on or after the Closing Date, except as otherwise provided below.
3. The Parties, notwithstanding any provision set forth in this Section of this Agreement, acknowledge and agree that the Subject Property is being conveyed "AS IS, WHERE IS, WITH ALL FAULTS" inclusive of violations of Environmental Laws except where specifically set forth in the remainder of this Agreement; provided, that the Subject Property shall be in substantially the same condition on the Closing Date as it was on the Effective Date and expiration date of Inspection Period, normal wear and tear and acts of the Purchaser, excluded.
4. Notwithstanding any other provision of this Agreement, the Seller shall not be responsible for special, incidental or consequential damages of any kind in any action (arbitration or otherwise), dispute, controversy or claim related to the presence, release or migration of Hazardous Substances at, to or from the Subject Property on or after the Closing Date, and the Purchaser hereby covenants not to sue the Seller from any and all claims for such damages, unless the Seller caused or permitted such damages to occur after the Purchaser's completion of its environmental investigation and prior to the Closing Date.
5. In the event of any conflict between the provisions of this Section, and any other provision of this Agreement regarding matters addressed by this subsection, the provisions of this subsection shall govern. The terms and conditions of this Section, shall survive the Closing and the presentation, delivery and recordation of the Deed and shall not merge with the Deed.

15. Seller's Representations. The following constitute additional representations, warranties and covenants of Seller:

- A. Seller's Authority. Seller has the legal power, right and authority to enter into this Agreement, to consummate the transactions contemplated hereby and to execute and deliver all documents and instruments to be delivered by Seller hereunder. This Agreement and all agreements, instruments and documents herein provided to be executed by Seller are duly authorized, executed and delivered by and binding upon Seller in accordance with their terms. All requisite action has been taken or obtained or will be taken prior to the Closing Date by Seller or its

agent(s) in connection with entering into this Agreement and the consummation of the transactions contemplated hereby.

B. No Conflict. The execution, delivery and consummation of the transactions contemplated by this Agreement are not prohibited by, and will not conflict with, constitute grounds for termination of, or result in the breach of any of the agreements or instruments to which Seller is now a party or by which the Subject Property is bound or, to Seller's knowledge, any order, rule or regulation of any court or other governmental agency or official.

C. Government Representations & Governmental Notices. Seller makes the following warranties and representations to the best of Seller's knowledge, without independent inquiry or examination:

1. The Subject Property is not currently subject to a levy for a special assessment for public improvements with respect to the Subject Property;
2. Seller is not currently named as a defendant in any administrative, civil, quasi-criminal or criminal lawsuit or prosecution (as applicable), brought by a governmental body with authority to do so, wherein it is alleged that Seller has violated any building code or any other local ordinance, rule, regulation or law enacted by a governmental body with appropriate jurisdiction to regulate the Subject Property; and
3. Seller has no knowledge of nor has Seller received written notice of any present, threatened, pending, planned or proposed: (A) special assessment for a planned public improvement with respect to the Subject Property; (B) litigation for violation(s) of the building code or any other local ordinance, rule, regulation or law enacted by a governmental body with appropriate jurisdiction to regulate the Subject Property; (C) modification of land use controls for the Subject Property or area surrounding the Subject Property; or (D) action to condemn or otherwise acquire any of the adjacent or abutting rights of way of the Subject Property.

16. Condition of Subject Property. Until the Closing Date, Seller shall maintain the Subject Property substantially in the same condition it is in on the Effective Date, ordinary wear and tear and casualty damage excepted. Seller shall notify Purchaser promptly if Seller becomes aware of any transaction, occurrence or other matter prior to the Closing Date that would make any of the representations or warranties of Seller untrue in any material respect. Purchaser shall notify Seller promptly if Purchaser becomes aware of any transaction, occurrence or other matter prior to the Closing Date that would make any of the representations or warranties of Seller untrue in any material respect. Any items of personal property remaining at the Property as of the date prior to the Closing shall be considered surrendered and abandoned by Seller and shall be deemed rubbish and debris ("Debris") by Purchaser. As of the Closing, Purchaser shall have the full and unfettered right to remove and dispose of Debris in any manner it deems appropriate.

17. Purchaser's Representations. The following constitute the representations and warranties of Purchaser:

A. Purchaser's Authority. Purchaser has the legal power, right and authority to enter into this Agreement, to consummate the transactions contemplated hereby, and to execute and deliver all documents and instruments to be delivered by Purchaser hereunder.

B. No Conflict. The execution, delivery and consummation of the transactions contemplated by this Agreement are not prohibited by, and will not conflict with, constitute grounds for termination of, or result in the breach of any of the agreements or instruments to which Purchaser is now a party, or to Purchaser's knowledge, any order, rule or regulation of any court or other governmental agency or official. Purchaser shall notify Seller promptly if Purchaser becomes aware of any transaction, occurrence or other matter prior to the Closing Date that would make any of the representations or warranties of Purchaser untrue in any material respect. Seller shall notify Purchaser promptly if Seller becomes aware of any transaction, occurrence or other matter prior to the Closing Date that would make any of the representations or warranties of Purchaser untrue in any material respect. All representations and warranties set forth hereunder shall survive the Closing and the delivery of the Deed for a period of eighteen (18) months.

18. Condemnation. In the event that between the Effective Date and the Closing Date any condemnation or eminent domain proceedings are initiated that might result in the taking of any part of the Subject Property, Purchaser shall have the right to terminate this Agreement and have the Earnest Money returned to it, in which event the rights and obligations of the Parties under this Agreement shall cease with the exception of those specifically exempted therefrom pursuant to the provisions of this Agreement.

19. Brokerage. Seller warrants and represents to Purchaser that it has not authorized any broker to act on its behalf in respect of the transactions contemplated hereby and Purchaser warrants and represents to Seller that it has not authorized any broker to act on its behalf in respect to the transactions contemplated hereby. Seller shall indemnify and save Purchaser harmless from any claim by any broker or other person for commissions or other compensation for bringing about the transaction contemplated hereby, where such claim is based on the purported employment or authorization of such broker or other person by Seller. Purchaser shall indemnify and save Seller harmless from any claim by any broker or other person for commissions or other compensation for bringing about the transaction contemplated hereby where such claim is based on the purported employment or authorization of such broker or other person by Purchaser. Notwithstanding anything contained in this Agreement to the contrary, the terms, provisions, conditions and indemnifications of this paragraph shall survive Closing and the delivery of the Deed or the termination of this Agreement for a period of six (6) months.

20. Default.

Any of the following will constitute an act of default hereunder by Seller:

- A. Seller's failure to deliver the Deed or any of the required and material documentation at the Closing;
- B. Seller's material misrepresentation or material breach of any representation or warranty (as such representations and warranties may be amended by an amendatory notice); or
- C. Seller's failure to perform any of its material obligations hereunder to the extent any obligations are required to be performed before Closing.

Any one of the following will constitute an act of default hereunder by Purchaser:

- A. Purchaser's failure to deliver the balance of the Purchase Price or any of the required documentation at the Closing;
- B. Purchaser's material misrepresentation or material breach of any representation or warranty (as such representations and warranties may be amended by an amendatory notice); or
- C. Purchaser's failure to perform any of its material obligations hereunder.

- 21. Remedies; Cure.** In the event that Seller fails to comply with any of the obligations to be performed by Seller hereunder, on or prior to the Closing Date, then Purchaser shall have available to it any remedies in law or equity including the equitable remedy of Specific Performance. Except as set forth above, in no event shall Seller be liable to Purchaser for any third party damages including, without limitation, any loss or damage suffered by Purchaser in connection with any agreement or understanding with any third party with respect to the use, lease or purchase of the Subject Property.

In the event that Purchaser fails to comply with any of the obligations to be performed by Purchaser hereunder, on or prior to the Closing Date, Seller shall have the right to retain the Earnest Money as liquidated damages. The Parties agree and acknowledge that the (A) retention of the Earnest Money is a reasonable and not punitive remedy; (B) actual damages would be difficult or impossible to determine or quantify; and (C) there is no superior remedy available to Seller in the event Purchaser breaches hereunder.

- 22. Notices.** Any notice, termination, waiver, request, demand, or other communication provided for by this Agreement shall be in writing and shall be deemed to have been duly received upon: (A) actual receipt if personally delivered and the sender received written confirmation of personal delivery; (B) receipt as indicated by the written or electronic verification of delivery when delivered by overnight courier; (C) upon receipt, or refusal, as the case may be, after the sender posts notice with the U.S. Post Office when sent by certified or registered mail, return receipt requested; or (D) upon confirmation receipt of any facsimile sent on a business day during normal business hours between 8:00 a.m. and 6:00 p.m.; any

facsimile sent after the close of business hours will be deemed to be valid on the next business day. Notice shall be sent to the addresses set forth below or to such other address as either Party may specify in writing.

To Seller: Town of Cicero
4949 W. Cermak Road
Cicero, Illinois 60804
Attention: Legal Department
Facsimile: (708) 656-2381

With a copy to: Del Galdo Law Group, LLC
1441 S. Harlem Avenue
Berwyn, Illinois 60402
Attention: Jessica R. Fese
Facsimile: (708) 222-7001

Purchaser: Susan Bogusch

Facsimile:

With a copy to: Alan T. Kaminski
Law Office of Alan T. Kaminski
220 E. North Avenue
Northlake, Illinois 60164
Facsimile: 708-531-0591

23. Attorneys' Fees. In the event that either Party shall bring an action or legal proceeding for an alleged breach of any provision, representation, warranty, covenant or agreement set forth in this Agreement or to enforce, interpret, protect, determine or establish the meaning of any term, covenant or provision of this Agreement or to establish a Party's rights or obligations hereunder, each Party shall pay its own costs and expenses incurred in connection therewith.

24. Miscellaneous. The Parties agree to the following terms and provisions:

- A. This Agreement contains the entire agreement between the Parties respecting the matters herein set forth and supersedes all prior agreements between the Parties regarding such matters, if any. The Parties acknowledge that there are no additional oral or written promises, conditions, representations, understandings, warranties or terms of any kind as conditions or inducements to execute this Agreement and none have been relied upon by either Party. No representations, promises, agreements or understandings, whether written or oral, not contained herein shall be of any force or

effect. No change or modification hereof shall be valid or binding unless the same is in writing and signed by both of the Parties or authorized representatives thereof.

- B. The Parties acknowledge that time is of the essence of this Agreement.
- C. The headings used herein form no substantive part of this Agreement, are for the convenience of the Parties only, and shall not be used to define, enlarge or limit any term of this Agreement.
- D. Except as herein expressly provided, no waiver by a Party of any breach of this Agreement by the other Party shall be deemed to be a waiver of any other breach by such other Party (whether preceding or succeeding and whether or not of the same or similar nature). Further, no acceptance of payment or performance by a Party after any breach by the other Party shall be deemed to be a waiver of any breach of this Agreement or of any representation or warranty hereunder by such other Party, whether or not the first Party knows of such breach at the time it accepts such payment or performance.
- E. No failure or delay by a Party to exercise any right it may have by reason of the default of the other Party shall operate as a waiver of default or as a modification of this Agreement or shall prevent the exercise of any right by the first Party while the other Party continues to be in default.
- F. Construction and interpretation of this Agreement shall at all times and in all respects be governed by the laws of the State of Illinois, without regard to its conflicts of laws principles. Both of the Parties acknowledge that they have had an opportunity to review and revise this Agreement and have it reviewed by legal counsel, if desired, and therefore, the normal rules of construction, to the extent that any ambiguities are to be resolved against the drafting Party, shall not be employed in the interpretation of this Agreement.
- G. If any term, covenant or condition of this Agreement is held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.
- H. No agreement, amendment, modification, understanding or waiver of or with respect to this Agreement or any term, provision, covenant or condition hereof, nor any approval or consent given under or with respect to this Agreement, shall be effective for any purpose unless contained in a writing signed by the Party against which such agreement, amendment, modification, understanding, waiver, approval or consent is asserted.
- I. Neither this Agreement nor a memorandum thereof shall be recorded by Purchaser.
- J. If the final day of any period or any date of performance under this Agreement falls on a Saturday, Sunday or federal legal holiday, then the final day of the period or the

date of such performance shall be extended to the next business day. All time periods set forth herein expire at 11:59 p.m. on the date of expiration.

- K. The effective date of this Agreement (the "Effective Date") shall be the later of the respective dates set forth next to the signatures of Seller and Purchaser contained below.
 - L. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A signature affixed to this Agreement and transmitted by facsimile or electronic mail shall have the same effect as an original signature.
 - M. The Recitals set forth in the preambles to the Agreement are hereby incorporated as if fully restated herein.
 - N. No representation or warranty contained herein and no statement or information contained in any certificate or other instrument furnished or to be furnished by either Party in connection with the transaction contemplated hereunder, shall contain any untrue statement of a material fact or omit to state a material fact thereby making the information misleading. All representations and warranties contained herein shall be deemed restated on and as of the Closing Date.
 - O. Where permitted, all documents to be delivered hereunder shall be fully executed prior to the presentation and delivery of each to ensure the enforceability and effectiveness of the same. The Parties agree to exchange all documents required for the Closing at a reasonable time prior to the Closing to allow each Party to review all relevant documentation.
 - P. This Agreement shall be a valid and binding obligation of the Seller only after all governmentally required steps to do so have been satisfied.
 - Q. Both Parties hereby acknowledge having read and fully understood this Agreement and all its terms and conditions.
25. Assignment. This Agreement shall not be assigned without Seller's express written consent which shall not be unreasonably withheld.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

Date: May 9, 2017

PURCHASER:

Susan Bogusch,
an individual residing in Illinois

By: Susan A. Bogusch

Date: _____, 201__

SELLER:

Town of Cicero,
an Illinois Municipal Corporation

By: _____
Name: _____
Title: _____

EXHIBIT A
LEGAL DESCRIPTION OF SUBJECT PROPERTY