



Office of the City Clerk

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Legislation Details (With Text)

File #: O2016-6442
Type: Ordinance
File created: 9/14/2016
Status: Passed
In control: City Council
Final action: 10/5/2016
Title: Sale and Purchase Agreement for City-owned property at 1217 N Bosworth Ave for Near North Montessori School
Sponsors: Emanuel, Rahm
Indexes: Sale
Attachments: 1. O2016-6442 (V1).pdf, 2. O2016-6442.pdf

Date	Ver.	Action By	Action	Result
10/11/2016	1	City Council	Signed by Mayor	
10/5/2016	1	City Council	Passed	Pass
9/29/2016	1	Committee on Housing and Real Estate	Recommended to Pass	Pass
9/14/2016	1	City Council	Referred	

ORDINANCE

WHEREAS, the City of Chicago ("City") is a home rule unit of government by virtue of the provisions of the Constitution of the State of Illinois of 1970, and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City is the owner of the real property commonly known as 1217 North Bosworth Avenue, Chicago, Illinois, which is improved with a surface parking lot, and legally described on Exhibit A attached hereto (the "Property"); and

WHEREAS, Near North Montessori School, an Illinois not-for-profit corporation with a principal place of business of 1434 West Division Street, Chicago, IL 60642 (the "Grantee") submitted a bid to purchase the Property at the appraised fair market value of Three Million Six Hundred Ninety Thousand and No/100 Dollars (\$3,690,000); and

WHEREAS, public notice advertising the City's intent to sell the Property to the Grantee appeared in the Chicago Sun-Times, a newspaper of general circulation, on August 27, September 1, and September 7, 2016; and

WHEREAS, no alternative proposals were received by the due date of September 14, 2016; and

WHEREAS, pursuant to Resolution No. 16-073-21 adopted on August 18, 2016, by the Plan Commission of the City (the "Commission"), the Commission recommended that the City through its Department of Planning and Development ("DPD") enter into a negotiated sale with the Grantee for the purchase of the Property; and

WHEREAS, as conditions of the sale, upon redevelopment of the Property the Grantee must remediate any environmental contamination found on the Property to a standard acceptable to the City, and

the Grantee is prohibited from disposing of the Property to a third party without the consent of the City for ten (10) years following conveyance of the Property to the Grantee, and if such permission is granted, Grantee is obligated to share with the City any profits from such sale; and

WHEREAS, the City engaged the brokerage firm CBREJnc. ("CBRE") to market the Property on the City's, behalf and advise the City, and pursuant to the terms of its master consulting agreement, CBRE is due a three and three-quarters percent (3.75%) brokerage commission fee, which fee will be paid to CBRE by the City; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are expressly incorporated in and made part of this ordinance as though fully set forth herein.

SECTION 2. The City Council of the City hereby approves the sale of the Property to the Grantee for the amount of Three Million Six Hundred Ninety Thousand and No/100 Dollars (\$3,690,000). The approval is expressly conditioned upon the City entering into a purchase agreement with the Grantee (the "Purchase Agreement") substantially in the form attached hereto as Exhibit B. The Commissioner of DPD (the "Commissioner") or a designee of the Commissioner is each hereby authorized, with the approval of the City's Corporation Counsel as

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*to form and legality, to negotiate, execute and deliver the ..Purchase Agreement, and such other supporting documents as may be necessary or appropriate to carry out and comply with the provisions of the Purchase Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Purchase Agreement.

SECTION 3. The Mayor or his proxy is authorized to execute, and the City Clerk or Deputy City Clerk is authorized to attest, one or more quitclaim deed(s) conveying the Property to the Grantee.

SECTION 4. If any provision of this ordinance shall,-be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

* *

SECTION 5. All ordinances, resolutions, motions or orders inconsistent with this ordinance are hereby repealed to the extent of such conflict.

SECTION 6. This ordinance shall take effect upon its passage and approval.

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EXHIBIT A

Purchaser:

Purchaser's Address:

Near North Montessori School
1434 W. Division Street, Chicago Illinois 60642

Purchase Amount: Appraised Value:

\$3,690,000 \$3,690,000

Legal Description (Subject to Title Commitment and Survey):

Lots 16, 17, 18, 19, 20, 31, 32, 33 and 34, and the south 6 feet of Lot 35, and the vacated north south alley lying east and adjoining the south 6 feet of lot 16 and all of lots 17 through 20 and west of and adjoining lots 31 through 34 and the south 6 feet of lot 35, all in in Dickson and Echols Subdivision of Block 12 in Canal Trustee's Subdivision of the West 14 of Section 5, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Address: 1217 N. Bosworth Avenue
Chicago, Illinois 60642

Property Index Numbers:

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EXHIBIT B

Purchase Agreement [Attached]

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REAL ESTATE PURCHASE AND SALE AGREEMENT -

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (this "Agreement") is entered into by and between.-NEAR NORTH MONTESSORI SCHOOL, an Illinois **nonprofit corporation, with a principal business address at [] ("Buyer"), and the CITY OF CHICAGO**, a municipal corporation and home rule unit of government, having its principal offices at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602 ("Seller" or the "City"), acting by and through its Department of Planning and Development (together with any successor **department thereto, the "Department"), on or as of , 2016 (the "Effective Date").**

Section 1. The Property. The "Property" as referred to in this Agreement consists of the real property legally described on Exhibit A attached hereto, which is improved with a surface parking lot.

Section 2. Purchase Price. The purchase price for the Property is Three Million Six Hundred Ninety Thousand Dollars (\$3,690,000) (the "Purchase Price").

Section 3. Earnest Money; Default.

a) Buyer has delivered a security deposit in the amount of Three Hundred Sixty Nine Thousand

Dollars (\$369,000) to Seller (the "Earnest Money"). Except as otherwise provided under this Agreement, the Earnest Money shall be non-refundable and shall be applied to the Purchase Price at the Closing (as defined below). The Seller shall not pay interest on the Earnest Money.

b) With respect to a default prior to the Closing (as defined below): If either party shall default in any of their respective obligations under this Agreement, the defaulting party shall have thirty (30) days after written notice from the non-defaulting party to cure such default, or such longer period as shall be reasonably necessary to cure such default, provided the defaulting party promptly commences such cure and thereafter diligently pursues such cure to completion, but in no event longer than an additional thirty (30) day period. If the default is not cured by the end of such cure period, the non-defaulting party may terminate this Agreement. In the case of any material default by Buyer, the Earnest Money shall be promptly forfeited to Seller as Seller's sole and exclusive remedy. In the case of any material default by Seller, Buyer's sole and exclusive remedy is termination of this Agreement and return of the Earnest Money to Buyer.

Section 4. Closing. The closing of the conveyance of the Property from the Seller to the Buyer (the "Closing") shall occur on a date and at a time reasonably determined by the Seller and Buyer within thirty (30) days following the later of (i) the publication of the ordinance authorizing the Seller's sale of the Property to the Buyer, or (ii) the satisfaction of the closing conditions in Section 10, in accordance with the timeframe set forth in Section 10 (the date on which the Closing occurs, the "Closing Date"). The Closing shall occur at the downtown offices of [] (the "Title Company"). All closing, recording, escrow and title costs and fees shall be paid by Buyer.

Section 5. Payments at Closing. The Buyer shall pay the balance of the Purchase Price to the Seller at the Closing, by one or more cashier's checks or certified checks made payable to "City of Chicago", in the total amount of Three Million Three Hundred Twenty One Thousand Dollars (\$3,321,000).

Section 6. Prorations and Real Estate Taxes. The Property currently is exempt from real estate taxes. There shall be no prorations of real estate taxes or liens. Following the Closing, the Buyer shall take such actions as are necessary to put the Property on the tax rolls, or apply with the Board of Review for Cook County for an exemption from real estate property taxes, as applicable, including issuing a notification of the sale with the new tax address to the Cook County Assessor's Office.

Section 7. Transfer Taxes. The transaction contemplated by this Agreement is exempt from transfer taxes as a transfer from a governmental body.

Section 8. Deed and Closing Documents.

a) At the Closing, Seller shall execute and deliver to Buyer, or cause to be executed and delivered to Buyer, a recordable quit claim deed (the "Deed"). The Deed shall contain the covenants running with the land described in Sections 15. 16. and 17 of this Agreement.

b) Seller agrees to provide the Title Company with a completed ALTA owner's statement. Seller will not provide any "gap" undertakings or similar title indemnities and similar liabilities. At or prior to the Closing, Buyer shall deliver all documents and instruments, each executed and acknowledged (where appropriate) by Buyer, which Seller may reasonably determine are necessary to evidence the authority of Buyer

to enter into and perform this Agreement. In addition, the Buyer, and any entity with an interest in Buyer that is required to submit an Economic Disclosure Statement and Affidavit ("EDS"), shall each provide an EDS (or a recertification to an EDS previously accepted by the Seller) executed and notarized on the Closing Date, and acceptable to the Seller. As a condition to Closing, the Buyer must be qualified to do business with the City (including but not limited to satisfaction of all anti-scofflaw requirements).

Section 9. As-Is Sale.

a) Seller shall grant Buyer a right of entry, in the City's customary form and subject to Seller's receipt from Buyer of required documentation (e.g., evidence of insurance and an Economic Disclosure Statement and Affidavit that is current as of the date of the right of entry), in order to Buyer to perform or cause to be performed any structural, physical and environmental inspections of the Property as Buyer deems necessary; provided, however, Seller shall have the right to review and approve the scope of work for any environmental testing.

b) Subject to the Seller having granted Buyer a right of entry, Buyer acknowledges that it has had adequate opportunity to inspect and evaluate the structural, physical and environmental condition and risks of the Property and accepts the risk that any inspection may not disclose all material matters affecting the Property. Notwithstanding anything to the contrary contained in this Agreement, it is expressly understood and agreed that Buyer is buying the Property in its "as is" and "where is" condition as of the time of the Closing, and with all faults

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and defects, latent, or otherwise, and that Seller has not made and does not make any covenant, representation or warranty, express or implied, of any kind, or give any indemnification of any kind to Buyer, with respect to the physical, structural or environmental condition or value of the Property, its compliance with any statute, ordinance or regulation, or its habitability, suitability, merchantability or fitness for any purpose whatsoever. Buyer acknowledges that it is relying solely upon its own inspection and other due diligence activities and not upon any information (including, without limitation, environmental studies or reports of any kind) provided by or on behalf of the Seller or its agents or employees with respect thereto. Buyer agrees that it is Buyer's sole responsibility and obligation to perform any work and take such other action as is necessary to put the Property in a condition which is suitable for its intended use.

c) Buyer acknowledges that Seller is not liable for, or bound in any manner by, any express or implied warranties, guarantees, promises, statements, inducements, representations or information pertaining to the Property made or furnished by any real estate agent, broker, employee, or other person representing or purporting to represent the Seller, including, without limitation, with respect to the physical condition, size, zoning, income potential, expenses or operation thereof, the uses that can be made of the same or in any manner or thing with respect thereof.

d) Buyer, on behalf of itself and its successors and assigns, and their respective officers, directors, employees, members, managers, agents and representatives (collectively, "Buyer Parties"), expressly releases, renounces and waives any claims or causes of action it may have against Seller, its officials, agents and employees, under any existing or future theory of law (federal, state or local, or by common law), whether grounded in tort or contract or otherwise, in any and all courts or other forums, of whatever kind or nature, whether known or unknown, foreseen or unforeseen, now existing or occurring after the Closing, based upon, arising out of or in any way connected with, directly or indirectly, the structural, physical or environmental condition of the Property, including, without limitation, the presence or suspected presence of hazardous or toxic materials, substances, wastes or other environmentally regulated substances, or other contaminants or

pollutants in, on, under or about the Property, and shall undertake and discharge all liabilities (including, without limitation, claims arising under CERCLA) of the Seller arising from any structural, physical or environmental condition that existed on the Property prior to the Closing.

Section 10. Conditions to Closing. The obligation of the Seller to close on the conveyance of the Property to the Buyer is contingent upon the satisfaction of each of the following items:

(a) The Buyer shall provide the Seller with a Phase I Environmental Assessment ("Phase I") of the Property conducted in conformance with ASTM E 1527-13 within 180 days prior to the Closing Date. The City's Department of Fleet and Facility Management (together with any successor department thereto, "DFFM") shall have the right to review and approve the sufficiency of the Phase I report for the Property. Upon DFFM's request, the Buyer shall perform additional tests for the purpose of determining whether any environmental or health risks would be associated with the development of the Property, including, without limitation, updated or expanding the Phase I report(s) and performing initial or additional Environmental Site Assessment(s) (collectively, the "Reports"). The environmental consultant must provide a reliance letter naming the City of Chicago as an authorized user of the Reports.

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(b) After the Phase I has been prepared, the Buyer shall perform a Comprehensive Site Investigation ("CSI") in accordance with the requirements of Section 740.420 of Title 35 of the Illinois Administrative Code ("IAC") to ascertain the presence of any environmental impacts at the site that may affect the development of the Property as a school, open space, or urban garden, including but not limited to any Recognized Environmental Conditions that were identified in the Phase I. Regardless of the findings of the Phase I, the CSI must include sampling for, at a minimum, all compounds on the Target Compound List of Section 740.APPENDIX A, 35 IAC. DFFM shall have the right to review, modify, and approve the scope of work for the CSI before it is conducted. The Buyer shall prepare and submit to DFFM a Site Investigation Report - Comprehensive Site Investigation in accordance with the requirements of Section 740.425, 35 IAC.

The Buyer shall have until December 31, 2016 to satisfy the conditions to closing in this Section 10. If the Buyer does not satisfy the conditions within that period, the Seller may either (i) terminate this Agreement by delivery of written notice to the Buyer, in which event the Seller will return the Earnest Money to the Buyer and this Agreement shall be null and void, and neither party shall have any further right, duty or obligation hereunder, or (ii) Seller may extend such completion date for the conditions to closing for up to thirty (30) days.

Section 11. Seller Representations and Warranties. Seller represents and warrants to Buyer on the Effective Date, which representations and warranties shall be deemed to be remade as of the Closing and shall survive the Closing for a period of one (1) year, as follows:

a) Seller is authorized to enter into this Agreement and consummate the transaction contemplated by this Agreement, and the person signing this Agreement on behalf of the Seller has the authority to do so.

b) After the Effective Date, Seller shall not enter into any new leases, license agreements or other contracts with respect to the Property that will survive the Closing without the prior written consent of Buyer.

Section 12. Buyer Representations and Warranties. Buyer represents and warrants to the Seller on the Effective Date, which representations and warranties shall be deemed to be remade as of the Closing and shall survive the Closing for a period of one (1) year, as follows:

a) Buyer is a corporation duly organized under the laws of the State of Illinois and validly existing and in good standing under the laws of the State of Illinois with full power and authority to execute, deliver and perform this Agreement. The person signing this Agreement on behalf of Buyer has the authority to do so.

b) All certifications and statements contained in the EDS (or EDSs) last submitted to the Seller by Buyer (and any legal entity holding an interest in Buyer) are true, accurate and complete.

c) Buyer's execution, delivery and performance of this Agreement and all instruments and agreements contemplated hereby will not, upon the giving of notice or lapse of time, or both, result in a breach or violation of, or constitute a default under Buyer's by-laws or

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operating agreement, as applicable, or any agreement to which Buyer, or any party affiliated with Buyer, is a party or by which Buyer or the Property is bound.

(d) To the best of Buyer's knowledge, no action, litigation, investigation or proceeding of any kind is pending or threatened against Buyer, or any party affiliated with Buyer, and Buyer knows of no facts which could give rise to any such action, litigation, investigation or proceeding, which could: (i) affect the ability of Buyer to perform its obligations hereunder; or (ii) materially affect the operation or financial condition of Buyer.

Section 13. Possession; Condition of Property at Closing. Seller agrees to surrender possession of the Property at the Closing. Notwithstanding anything to the contrary contained in this Agreement, Seller shall have no obligation in the event of casualty or other loss or destruction to restore the Property to its prior condition.

Section 14. Title and Survey. Buyer acknowledges that the Seller has obtained a commitment for an owner's policy of title insurance for the Property, Commitment No. 40018089, with an effective date of July 10, 2015, issued by Greater Illinois Title Company, showing the Seller in title to the Property (the "Initial Commitment"). Buyer has obtained and given the Seller a copy of an updated title commitment for an owner's policy of title insurance for the Property, Commitment No. [-], with an effective date of [-] (the "Second Commitment"). Buyer shall be solely responsible for and shall pay all costs associated with updating the Second Commitment or obtaining a new title commitment (including all search, continuation and later-date fees), and obtaining title insurance, extended coverage or any other endorsements it deems necessary (the "Title Policy"). Buyer shall be responsible for obtaining any utility letters or other documents needed to obtain extended coverage. Buyer shall also be responsible for obtaining any survey it deems necessary. Buyer shall deliver to Seller a copy of any survey and of any updated or new title commitment that Buyer obtains. Buyer agrees to accept title subject to all covenants, conditions and restrictions of record and not shown of record, including, without limitation, (a) all exceptions disclosed in the Initial Commitment, the Second Commitment, and any new or updated commitments, and (b) all matters that may be disclosed by survey; provided, however, if Buyer shall give the Seller written notice of any unacceptable exceptions, the Seller shall use reasonable efforts, but not be required to expend any funds, to obtain the waiver or release of any such exceptions. If, after using such reasonable efforts, the Seller is unable to obtain the waiver or release of any such exceptions or is unable to cause the Title Company to insure over such exceptions within ninety (90) days of notice from Buyer, the Buyer shall have the option to do one of the following: (1) accept title to the Property subject to the exceptions, without reduction in the Purchase Price; or (2) terminate this Agreement by delivery of written notice to the Seller, in which event

the Seller will return the Earnest Money to the Buyer and this Agreement shall be null and void, and neither party shall have any further right, duty or obligation hereunder. If the Buyer elects not to terminate this Agreement as aforesaid, the Buyer agrees to accept title subject to all exceptions that were not waived or released.

Section 15. Restrictions on Use.

(a) Prior to the date that is ten (10) years following the Closing Date (the "Restriction Period"), the Buyer shall use and maintain the Property for a use related to the

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Buyer's school, unless an alternative use is approved in writing in the sole discretion of the Commissioner of the Department. This covenant shall terminate upon the expiration of the Restriction Period, unless terminated in writing at an earlier date in...the sole discretion of the Commissioner of the Department.

(b) If Buyer violates the use restrictions in Section 17(a) above, the Seller shall deliver written notice of such default, after which the Buyer shall have a 45-day cure period to remedy such default. If the default is not capable of being cured within the 45-day period, then provided the Buyer has commenced to cure the default and is diligently proceeding to cure the default within the 45-day period, and thereafter diligently prosecutes such cure through to completion, then the 45-day period shall be extended for the length of time that is reasonably necessary to cure the default. If the default is not cured in the time period provided for herein, the Seller may institute such proceedings at law or in equity as may be necessary or desirable to cure and remedy the default, including but not limited to, the right to buy back the Property at Ninety percent (90%) of the Purchase Price. The Buyer shall pay Seller's legal fees incurred in enforcing Buyer's obligations under this Section 15.

Section 16. Development on the Property'.

a) During the Restriction Period, the Buyer must deliver written notice to the City if Buyer intends to redevelop the Property and remove or improve any portion of the existing surface parking lot (the "Project"). Prior to the delivery of such notice and compliance with the conditions in this Section 16, the Buyer may not use the Property for anything other than a surface parking lot.

b) Buyer shall provide DFFM with all applicable drawings, constructions plans, and environmental testing reports to demonstrate that the Property is suitable for the Project. DFFM shall have the right to review, modify, and approve any plans, including engineered barriers, planting beds, and imported fill soil, before construction of the Project. If, in the opinion of DFFM, an environmental condition exists on the Property that requires environmental remediation, including any exceedance of Illinois Environmental Protection Agency's ("IEPA") Tiered Approach to Corrective Action Objectives ("TACO") Tier 1 residential criteria, then the Buyer shall enroll the Property into the IEPA Site Remediation Program ("SRP") and take all necessary and proper steps to obtain a draft comprehensive residential No Further Remediation Letter ("Draft Residential NFR Letter").

c) After DFFM approves the Draft Residential NFR Letter, the Buyer covenants and agrees to complete all investigation, removal, response, disposal, remediation and other activities ("Remediation Work") necessary to obtain (as applicable) a final comprehensive No Further Remediation Letter from the IEPA approving the use of the Property for residential use, based on the Draft Residential NFR Letter ("Final Residential NFR Letter"). The Final Residential NFR Letter may be reasonably conditioned upon use and

maintenance of engineered barriers and other institutional or engineering controls acceptable to the IEPA. DFFM shall have the right to review in advance and approve all documents submitted to the IEPA under the SRP, as amended or supplemented from time to time, including, without limitation, the Comprehensive Site Investigation and Remediation Objectives Report, the Remedial Action Plan, and the Remedial

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Action Completion-Report (collectively, the "SRP Documents"), the Draft Residential NFR Letter and the Final Residential NFR Letter and any changes thereto.

d) The Buyer shall cooperate and consult with the Seller at all relevant times (and in all cases upon the Seller's request) with respect to environmental matters. The Buyer shall promptly transmit to the Seller copies of all final environmental studies, reports, field data, correspondence with any environmental agency and similar documents prepared by or for the Buyer (or otherwise obtained by the Buyer) regarding the environmental condition of the Property, prepared or received after the date hereof, including, without limitation, any written communications delivered to or received from the IEPA or other regulatory agencies with respect to the Remediation Work.

e) The Buyer shall bear sole responsibility for all costs of the Remediation Work necessary to obtain the Final Residential NFR Letter, and the costs of any other investigative and cleanup costs associated with the Property.

f) AH construction on the Property shall be in accordance with all applicable federal, state and local statutes, laws, ordinances, codes, rules, regulations, orders and judgments, including, without limitation, the requirements of the Environmental Protection Act 415 ILCS 5/58.16 regarding the construction of schools. .

g) The Buyer shall complete the Project in accordance with the drawings and construction plans approved by DFFM. Upon the completion of the Project, which includes completion of the environmental requirements in this Section 16, the Buyer shall request from the Seller a Certificate of Compliance (the "Certificate of Compliance"). Within forty-five (45) days thereof, the Seller shall provide the Buyer with either the Certificate of Compliance or a written statement indicating in adequate detail how the Buyer has failed to complete the Project in compliance with this Agreement, or is otherwise in default, and what measures or acts are necessary, in the sole reasonable opinion of DFFM, for the Buyer to take or perform in order to obtain the Certificate of Compliance. The Certificate of Compliance shall be in recordable form, and shall, upon recording, constitute a conclusive determination of satisfaction and termination of this covenant with respect to the Buyer's obligation to complete the Remediation Work.

h) If Buyer fails to deliver notice of the Project to the City pursuant to Section 16(a) above, complete the Remediation Work, or obtain a Certificate of Compliance in connection with development of the Project, the Seller shall deliver written notice of such default, after which the Buyer shall have a 45-day cure period to remedy such default. If the default is not capable of being cured within the 45-day period, then provided the Buyer has commenced to cure the default and is diligently proceeding to cure the default within the 45-day period, and thereafter diligently prosecutes such cure through to completion, then the 45-day period shall be extended for the length of time that is reasonably necessary to cure the default. If the default is not cured in the time period provided for herein, the Seller may institute such proceedings at law or in equity as may be necessary or desirable to cure and remedy the default, including but not limited to, the right to buy back the Property at Ninety percent (90%) of the Purchase Price, or extending the Restriction Period with respect to the Restriction on Transfer in Section 17 below. The Buyer shall pay Seller's legal fees incurred in enforcing

Buyer's obligations under this Section 16.

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(i) If the Restriction Period expires and the Buyer has not redeveloped the Property, the use of the Property shall remain restricted to a surface parking lot until the Buyer enrolls the site in the SRI⁵ and completes all investigation, removal, response, disposal, remediation and other activities necessary to obtain (as applicable) a final comprehensive No Further Remediation Letter from the IEPA approving the use of the Property for residential use.

Section 17. Restriction on Transfer.

a) Prior to the expiration of the Restriction Period, the Buyer shall not directly or indirectly sell, transfer or otherwise dispose of the Property or any part thereof or any interest therein, or the Buyer's controlling interests therein, without the prior written consent of the Seller, which consent shall be in the Seller's sole and absolute discretion. This covenant shall terminate upon the expiration of the Restriction Period, unless terminated in writing at an earlier date in the sole discretion of the Commissioner of the Department.

b) If the Buyer does directly or indirectly sell, transfer or otherwise dispose of the Property during the Restriction Period, the following terms will apply:

i) "Buyer Costs" means all costs and expenses incurred by Buyer in connection with acquiring the Property and developing the Project, limited to professional fees (such as architectural, engineering, environmental and legal), title fees, development expenses, permit fees, financing and equity costs, interest expense, carry costs, insurance, property maintenance costs and property taxes, land acquisition costs and expenses (including the Purchase Price), hard and soft construction costs, environmental remediation costs and expenses and building commissioning costs.

ii) "Gross Resale Price" means the gross price at which the Buyer offers to sell and a purchaser agrees to pay to purchase all or a portion of the Property, or the appraised market value of the Property, whichever is greater, without any set-offs or credits.

iii) "Proposed Property Sale" means the Buyer's sale of all or a portion of the Property (i.e., the land, the air rights or both the land and air rights).

iv) In the event of a Proposed Property Sale on or prior to the date that is five (5) years following the Closing Date, the following terms shall apply: If the Gross Resale Price is greater than the Buyer Costs, then the Buyer shall pay to the Seller, immediately following Buyer's sale of the Property, an amount equal to ninety percent (90%) of the difference between the Gross Resale Price and the Buyer Costs. ■

v) In the event of a Proposed Property Sale on or between five (5) years and one (1) day following the Closing Date and the end of the Restriction Period, the following terms shall apply: If the Gross Resale Price is greater than the Buyer Costs, then the Buyer shall pay to the Seller, immediately following Buyer's sale of the Property, an amount equal to fifty percent (50%) of the difference between the Gross Resale Price and the Buyer Costs.

(vi) In the event of a Proposed Property Sale, Buyer shall provide the Seller copies of any and all sales contracts, legal descriptions, descriptions of intended use, certifications from the proposed buyer regarding this Agreement and such other information as the Seller may reasonably request. The proposed buyer must be qualified to do business with the City (including but not limited to anti-scofflaw requirement).

Section 18. Covenants Running with the Land. The parties agree, and the Deed shall so expressly provide, that the covenants provided in Sections 15. 16 and 17 will be covenants running with the land, binding on the Buyer and its successors and assigns to the fullest extent permitted by law and equity for the benefit and in favor of the Seller, and shall be enforceable by the Seller.

Section 19. Brokerage Commissions. Seller and Buyer represent and warrant to each other that, other than to CBRE, Inc., there are no real estate sales or brokerage commissions or like commissions that are or may be due in connection with this transaction. The fees of CBRE, Inc. shall be paid by Seller pursuant to a separate agreement. Each party shall indemnify, defend (with legal counsel reasonably acceptable to the other party) and hold harmless the other party for, from and against any claims by third parties made by or through the acts of such party, for real estate or brokerage commissions, or a finder's fee, in connection with the transactions provided herein, and all costs and expenses incurred by the other party in connection therewith including, but not limited to, reasonable attorneys' fees.

Section 20. Days and Time. Any reference in this Agreement to a "day" or "days" shall mean a calendar day or days, and not a business day or days, unless the provision expressly refers to a "business" day or day. In the event that a day or date or the last day of a period provided for or referred to in this Agreement shall fall on a Saturday, Sunday or legal holiday in the City of Chicago, then such day or date or the last day of such period shall be automatically extended to the next day which is not a Saturday, Sunday or legal holiday in the City of Chicago. If the term "business day" is used in this Agreement, such term means any day which is not a weekend or legal holiday in the City of Chicago.

Section 21. Time of Essence. Time is of the essence of this Agreement and of each and every provision hereof.

Section 22. Notices. All notices and other communications provided for in this Agreement ("Notices") shall be in writing. A Notice may be given by a party to this Agreement or by a party's attorney. The "Notice Addresses" of the parties for purposes of this Agreement are the respective addresses set forth on the signature page of this Agreement. A Notice to a party shall be effective when delivered during normal business hours to such party's Notice Address by any means, including, without limitation, personal delivery by the party giving the Notice, delivery by United States regular, certified or registered mail, delivery by a commercial courier or delivery service or delivery by facsimile or other electronic transmission. If delivery of a Notice is refused, it shall be deemed to have been delivered at the time of such refusal of delivery. The party giving a Notice shall have the burden of establishing the fact and date of delivery or refusal of delivery of a Notice.

Section 23. Entire Agreement; No Reliance. This Agreement sets forth the entire agreement of the parties and supersedes all prior agreements and understandings of the parties. Each party acknowledges that it is executing this Agreement without relying on any statements, representations or warranties, either oral or written, that are not expressly set forth herein.

Section 24. Assignability. Buyer may not assign its rights under this Agreement without the consent of Seller, which consent may be given or withheld by Seller in its sole discretion.

Section 25. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 26. Modifications and Amendments. This Agreement may be modified or amended only by a written instrument signed by the party sought to be bound by such modification or amendment.

Section 27. Counterparts; Electronic Signatures. This Agreement and any modification or amendment to this Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same document. Receipt of an executed signature page to this Agreement or any modification or amendment of this Agreement by facsimile or other electronic transmission shall constitute effective delivery thereof.

Section 28. Governing Law. This Agreement shall be governed by the law of the State of Illinois, without regard to its choice of law principles.

Section 29. City's Representatives Not Individually Liable. No agent, official or employee of the City shall be personally liable to Buyer, or any successor in interest to Buyer, in the event of any default or breach by the City under the terms of this Agreement.

Section 30. Conflict of Interest. Buyer represents and warrants that no agent, official or employee of the City shall have any personal interest, direct or indirect, in Buyer, this Agreement, the Property or the intended use of the Property, nor shall any such agent, official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, association or other entity in which he or she is directly or indirectly interested.

Section 30. Business Relationships Buyer acknowledges (1) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (2) that it has read such provision and understands that pursuant to such Section 2-156-030 (b) it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as described in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship, and (3) notwithstanding anything to the contrary contained in this Agreement, that a violation of Section 2-156-030 (b)

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by an elected official, or any person acting at the direction of such official- with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. Buyer hereby represents and warrants that no violation "of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

Section 31. Patriot Act Certification. Buyer represents and warrants that neither Buyer nor any Affiliate thereof (as defined in the next paragraph) is listed on any of the following lists maintained by the Office of Foreign

Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

As used in the above paragraph, an "Affiliate" shall be deemed to be a person or entity related to Buyer that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with Buyer, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

Section 32. Mayoral Executive Order 2011-4. Buyer acknowledges receipt of Mayoral Executive Order No. 2011-4 and agrees to comply with the terms of Mayoral Executive Order No. 2011-4.

Section 33. Failure to Maintain Eligibility to do Business with the City. Failure by Buyer or any controlling person (as defined in Section 1-23-010 of the Municipal Code of Chicago) thereof to maintain eligibility to do business with the City of Chicago as required by Section 1-23-030 of the Municipal Code of Chicago shall be grounds for termination of the Agreement and the transactions contemplated thereby. Buyer shall at all times comply with Section 2-154-020 of the Municipal Code of Chicago.

Section 34. Inspector General and Legislative Inspector General. It is the duty of every officer, employee, department, agency, contractor, subcontractor, Buyer and licensee of the City, and every applicant for certification of eligibility for a City contract or program, to cooperate with the City's Legislative Inspector General and with the City's Inspector General in any investigation or hearing undertaken pursuant to Chapters 2-55 and 2-56, respectively, of the Municipal Code of Chicago. Buyer understands and will abide by all provisions of Chapters 2-55 and 2-56 of the Municipal Code of Chicago.

Section 35. 2014 City Hiring Plan.

(a) The City is subject to the June 16, 2014 "City of Chicago Hiring Plan" (as amended, the "2014 City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United States District Court for the Northern District of

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Illinois). Among other things, the 2014 City Hiring Plan prohibits the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

(b) Buyer is aware that City policy prohibits City employees from directing any individual to apply for a position with Buyer, either as an employee or as a subcontractor, and from directing Buyer to hire an individual as an employee or as a subcontractor. Accordingly, Buyer must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Buyer under this Agreement are employees or subcontractors of Buyer, not employees of the City of Chicago. This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Buyer.

c) Buyer will not condition, base, or knowingly prejudice or affect any term or aspect to the employment of any personnel provided under this Agreement, or offer employment to any individual to provide services under this Agreement, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Agreement, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

d) In the event of any communication to Buyer by a City employee or City official in violation of subparagraph (b) above, or advocating a violation of subparagraph (c) above, Buyer will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General (the "OIG"), and also to the head of the relevant City Department utilizing services provided under this Agreement. Buyer will also cooperate with any inquiries by the OIG.

Section 36. No Merger. The terms of this Agreement shall not be merged with any deed conveying the Property, and the delivery of any such deed shall not be deemed to affect or impair the terms of this Agreement.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

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Buyer:

NEAR NORTH MONTESSORI SCHOOL
an Illinois nonprofit corporation

By:
Printed Name:
Title:
Date:

Address:
Near North Montessori School

Chicago, Illinois 60642 Attn:

Seller:.

CITY OF CHICAGO,

an Illinois municipal corporation

By:

Printed Name:

Title:

Date:

Address:

Department of Planning and Development 121 N. LaSalle Street, Room 1000 Chicago, IL 60602 Attn:

Commissioner Re: 1217NBosworth

EXHIBIT A LEGAL DESCRIPTION

LOTS 16, 17, 18, 19, 20, 31, 32, 33 AND 34, AND THE SOUTH 6 FEET OF LOT 35, AND THE VACATED NORTH SOUTH ALLEY LYING EAST AND ADJOINING THE SOUTH 6 FEET OF LOT 16 AND ALL OF LOTS 17 THROUGH 20 AND WEST OF AND ADJOINING LOTS 31 THROUGH 34 AND THE SOUTH 6 FEET OF LOT 35, ALL IN IN DICKSON AND ECHOLS SUBDIVISION OF BLOCK 12 IN CANAL TRUSTEE'S SUBDIVISION OF THE WEST V₂ OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS: 1217 NORTH BOSWORTH AVENUE
CHICAGO, ILLINOIS 60642

PROPERTY INDEX NUMBER: 17-05-116-129

RAHM EMANUEL
MAYOR

September 14, 2016

TO THE HONORABLE, THE CITY COUNCIL OF THE CITY OF
CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Planning and Development, I transmit herewith ordinances authorizing the sale of city-owned property.

Your favorable consideration of these ordinances will be appreciated.

Mayor

Very truly yours,

JOSEPH A. MOORE

Alderman, 49th Ward 7356 North Greenview Avenue Chicago, Illinois 60626 telephone 773-338-5796 ward49@cityofchicago.org www.ward49.com

CITY COUNCIL

CITY OF CHICAGO COUNCIL CHAMBER

City Hall, Room 200 121 North LaSalle Street Chicago, Illinois 60602 Telephone 312-744-3067

COMMITTEE MEMBERSHIPS

HOUSING AND REAL ESTATE

Chairman

Budget and Government Operations

Committees, Rules and Ethics

Education and Child Development

Finance

Health and Environmental Protection

Human Relations

October 5, 2016

To the President and Members of the City Council:

Your Committee on Housing and Real Estate, for which a meeting was held on September 29, 2016, having had under consideration the substitute ordinance introduced by Mayor Rahm Emanuel on September 14, 2016, this being the negotiated sale of City-owned property at 1217 N. Bosworth Ave., begs leave to recommend that Your Honorable Body Approve said ordinance transmitted herewith.

This recommendation was concurred in by a voice vote of all committee members present with no dissenting votes.

Respectfully submitted,

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