

STATE OF ILLINOIS)
) SS
COUNTY OF WINNEBAGO)

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, the undersigned, do hereby certify that I am the duly qualified and acting Legal Director and ex officio Keeper of the Records and Seal of the City of Rockford, Winnebago and Ogle Counties, Illinois (the "City"), and as such official I am the keeper of the official journal of proceedings, books, records, minutes and files of the City and of the City Council (the "City Council") thereof.

I do further certify that on the 4th day of October 2023 there was published in pamphlet form, by authority of the City Council, a true, correct and complete copy of Ordinance No. **2023-197-O** and said resolution was so published on said date readily available for public inspection and distribution, in sufficient number, at my office as Legal Director and ex officio Keeper of the Records and Seal located in the City.

IN WITNESS WHEREOF I have affixed hereto my official signature and the seal of
the City, this 4th day of October 2023.



W. J. Conroy
LEGAL DIRECTOR AND *EX OFFICIO*
KEEPER OF THE RECORDS AND SEAL

NOM/cb Committee report passed: 10/2/23

ORDINANCE NO. 2023-197 - O

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKFORD,
WINNEBAGO COUNTY AND OGLE COUNTY, ILLINOIS, THAT:**

By passage and approval of this Ordinance, the Mayor and Legal Director are hereby authorized to approve and execute the attached Purchase Agreement between City of Rockford and Oliver Emerson Development, LLC for the purchase of the building at 215 South Madison (Watch Factory) for \$55,000, the appraised value of the property.

On September 7 2021, the City Council of Rockford passed Resolution 2021-201-R declaring the city-owned parcel at 215 South Madison as surplus and authorized it to be placed up for sale by city staff pursuant to 65 ILCS 5/11-76-4.1. City staff placed the parcel for sale in accordance with the procedures set forth in Sec. 76-4.1 and Resolution 2021-201-9. The property was published for sale in the local newspaper and an MAI appraisal was completed. The appraised value of the property is \$55,000. The MAI appraisal is available for inspection in the Department of Law.

The sale of the property is necessary to provide site control that will allow the private developer to invest in completed market studies, engineering, and architectural services of a comprehensive master redevelopment of the property.

The corporate authorities of the City of Rockford have determined that it is in the best interest of the municipality to accept and enter into the Purchase Agreement.

The provisions and sections of this Ordinance shall be deemed severable, and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder.

All orders, resolutions, or ordinances in conflict herewith are hereby repealed insofar as such conflict exists, and this Ordinance shall take effect immediately upon its passage, approval and publication, as required by law.

A full, true and complete copy of this Ordinance shall be published within ten (10) days after passage in pamphlet form by and under authority of the Corporate Authorities.

AYES: DURKEE, FROST, TORINA, PRUNTY, WILKINS, HOFFMAN, ROSE, BEACH, BARRIOS, MEIKS, BAILEY, BONNE

NAYS: _____

ABSENT: LOGEMANN, TUNEBERG

ABSTAIN: _____

APPROVED: October 4, 2023.

Thomas P. McNamara
MAYOR

ATTESTED:

N. O. Meyer
LEGAL DIRECTOR

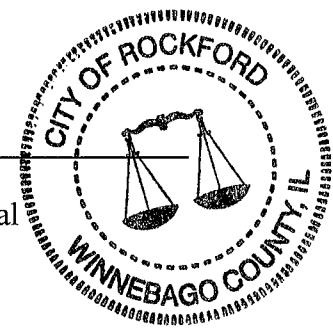
PASSED: 10/2/23

APPROVED: 10/4/23

PUBLISHED: 10/4/23

ATTESTED and FILED in my office this 4th day of October, 2023, and published in pamphlet form this 4th day of October, 2023 by order of the City Council of the City of Rockford, Illinois.

N. O. Meyer
Legal Director and ex officio
Keeper of the Records and Seal



RECOMMENDED AND
APPROVED BY:

N. O. Meyer
NICHOLAS O. MEYER, Legal Director

PURCHASE AND SALE AGREEMENT

This PURCHASE AGREEMENT (the “Agreement”) is made as of November ___, 2023 (the “Effective Date”) by and between the City of Rockford, as seller (the “Seller”) and Oliver Emerson Development, LLC, an Illinois limited liability company, and/or its assigns, as buyer (the “Buyer”).

In consideration of this Agreement, Seller and Buyer agree as follows:

- I. Purchase and Sale of Property. Subject to the terms and conditions of this Agreement, Seller hereby agrees to sell to Buyer, and Buyer hereby agrees to purchase from Seller, all of Seller’s right, title, and interest in and to the following property (collectively, the “Property”):
 - A. Real Property. The real property commonly known as the “Rockford Watch Factory,” located in the City of Rockford, Illinois, further described on the attached Exhibit A and commonly known as 215 S. Madison St. PIN 11-23-361-004 (the “Land”) together with (1) all buildings and improvements constructed or located on the Land (the “Buildings”) and (2) all easements and rights benefiting or appurtenant to the Land (collectively the “Real Property”);
 - B. Personal Property. All personal property owned by Seller and affixed to or used for the operation of and located on the Real Property (the “Personal Property”);
 - C. Intangible Property. All intangible property owned by Seller and used in connection with the Real Property (collectively, the “Intangible Property”), including, but not limited to, warranties and guarantees benefiting Seller or the Real Property and related to the operation and maintenance of the Real Property (the “Warranties”), licenses, permits, and governmental approvals, and any contracts which Buyer elects to assume at Closing;
 - D. Plans. All originals and copies of the as-built blueprints, plans and specifications regarding the Real Property, if any (the “Plans”).
 - E. Leases. All leases or rental agreements with respect to the Real Property which Buyer elects to assume at Closing (the “Leases”).
- II. Purchase Price and Manner of Payment. The purchase price (the “Purchase Price”) for the Property shall be Fifty-Five Thousand and 00/100 Dollars (\$55,000.00). Within five (5) business days of acceptance of this Agreement as evidenced by execution and delivery of this Agreement by Seller to Buyer, Buyer will make a deposit with Title Underwriters Agency (the “Title Company”) in the amount of Five Thousand five hundred and 00/100 Dollars (\$5,500.00) (the “Deposit”). Except as otherwise provided in this Agreement, the Title Company shall hold the Deposit for the benefit of Buyer and Buyer shall be entitled

to all interest earned on such amounts from the date of the deposit until the Closing (defined herein). At Closing, Buyer shall receive a credit applicable to the Purchase Price in the amount of the Deposit. The Purchase Price, less the Deposit, shall be payable in cash or by wire transfer of U.S. Federal Funds on the Closing Date.

III. **Due Diligence Period.** Buyer shall have until 5:00 p.m. Central Time on the date which is three hundred and sixty-five (365) days following the Effective Date, (the "Due Diligence Period"), to determine, in Buyer's sole and absolute discretion, whether it is feasible to acquire the Property. Buyer may terminate this Agreement for any or no reason prior to expiration of the Due Diligence Period and obtain a refund of the Deposit. The Buyer may, at its option, request to extend the Due Diligence Period by ninety days (90). Buyer's option to extend the Due Diligence Period must be made in writing no later than thirty (30) days prior to the expiration of the Due Diligence Period and must be approved by the City.

- A. **Inspections.** During the Due Diligence Period, Buyer, its employees and agents (collectively, the "Buyer's Representatives") shall have the right to enter upon the Property, at reasonable times during ordinary business hours upon prior notice to Seller, to make such inspections, surveys and tests as may be necessary in Buyer's discretion, including, without limitation, soils tests, environmental studies, toxic waste analysis, geological studies, engineering studies, archeological studies and land use or related studies. Buyer and Buyer's Representatives shall use reasonable care and consideration in connection with any of its inspections or tests, and Seller shall have the right to be present during any inspection of the Property by Buyer or Buyer's Representatives. Buyer shall restore the Property to its original condition after any and all tests or inspections. Buyer shall have the right, with Seller's prior approval, which such approval shall not be unreasonably withheld, conditioned, or delayed, to perform invasive testing of the Property or any portion thereof, including, without limitation, any boring of the Property in connection with an environmental audit or otherwise. Buyer shall indemnify, protect, defend (with counsel chosen by Buyer) and hold Seller free and harmless from and against any and all costs, losses, liabilities, damages, lawsuits, judgments, actions, proceedings, penalties, demands, attorneys' fees, liens (including, without limitation, mechanic's liens), or expenses of any kind or nature whatsoever (collectively, the "Claims"), arising out of or resulting from any entry or activities upon the Property by Buyer or Buyer's Representatives.
- B. **Documents and Materials.** On or before ten (10) days from the Effective Date, Seller shall deliver or make available to Buyer for Buyer's review and approval during the Due Diligence Period copies of the following: (i) the Warranties and plans and specifications regarding the Real Property, if any, (ii) all environmental, engineering and soil, and zoning reports, (iii) title reports and policies, surveys, maps, tax bills and statements, and (iv) other instruments and documents relating to the Property, in each case which are in its possession and control, and all other documents and materials related to the operation or ownership of the Property which Buyer may reasonably request in writing (collectively, the "Documents and Materials").

C. Approvals. During the Due Diligence Period, Buyer or Buyer's Representatives may prepare development plans and may enter into discussions with respect to development agreements, approvals and entitlements, grants or tax credits (collectively, the "Approvals") with governmental entities and agencies, quasi-governmental entities, and appropriate private entities having jurisdiction or control over the Property and potential development of the Property, all for Buyer's contemplated use of the Property. Seller shall cooperate, at no cost to Seller, with Buyer in the application and negotiation of any and all documents required for Buyer's Approvals. Notwithstanding the foregoing, during the Due Diligence Period, Buyer shall not be entitled to formally apply for any Approvals or otherwise enter into any non-terminable or binding agreement with respect to the Approvals without the prior written consent of Seller, which may not be unreasonably withheld, conditioned, or delayed.

D. Development Agreement. The parties agree to enter into good faith negotiations with respect to a development agreement.

1. The parties anticipate that the terms of the development will include, but not limited to:
 - i. 100% pay as you go Tax Increment Financing from a new Tax Increment Financing District
 - ii. \$1,200,000 in additional up-front gap financing.
 - iii. Seller will be responsible for any costs associated with the property being included in a new or amended redevelopment plan and project area in accordance with the Tax Increment Allocation Redevelopment Act of the State of Illinois, 65 ILCS 5/11-74.4-1, *et seq.*
2. Seller's obligation is contingent upon Buyer demonstrating ability to obtain funding for the property.
3. Such new or amended redevelopment plan and project area or development agreement shall be subject to approval of the Seller (the "Corporate Authorities").
4. Said approval shall be at the sole discretion of the Corporate Authorities who are under no obligation to establish a new or amended redevelopment plan area or development agreement pursuant to this Agreement.
5. Re-plat of property will take place during the development agreement process.

E. Financing. During the Due Diligence Period, Buyer may elect to secure financing for the purchase of the Property on terms and conditions satisfactory to Buyer in its sole discretion. Buyer's approval and acceptance of such financing shall include all approvals and commitments by the lender of Buyer's choice to finance the Property upon terms and conditions satisfactory to Buyer, an appraisal satisfactory to the lender of Buyer's choice for the Property, and negotiation of all loan documents necessary or required by Buyer's lender in order to allow such funds to be available to Buyer at Closing.

F. **Notice to Seller.** Prior to the expiration of the Due Diligence Period, Buyer may deliver to Seller either (1) a notice confirming that it is satisfied with the Property, with such conditions as Buyer may need for acceptance of its due diligence of the Property, (an “Acceptance Notice”), or (2) a notice terminating this Agreement if Buyer determines that it is dissatisfied with any aspects of the Property or the feasibility of its ownership of the Property or with any of the Documents and Materials or for any or no reason (a “Termination Notice”). If Buyer fails to deliver either the Acceptance Notice or Termination Notice on or before the expiration of the Due Diligence Period, then this Agreement shall automatically terminate, the Parties shall have no further liabilities or obligations to each other except under those provisions which expressly survive termination of this Agreement and Title Company shall return the Deposit (with all interest earned thereon) to Buyer.

G. **Buyer’s Remedies.** If Seller shall fail to comply with its obligations under this Section 3, Buyer’s sole remedy shall be to give notice to Seller setting forth the alleged failure to comply, and unless Seller shall cure such failure within ten (10) days after such notice, Buyer shall have the right to terminate this Agreement and receive immediate return of the Deposit and the parties shall have no further rights or obligations with respect to this Agreement.

IV. **Title and Survey.** Within ten (10) days of the Effective Date, Buyer shall order from Title Company a current title insurance commitment (the “Commitment”) for an ALTA Owner’s Form Policy of Title Insurance (“Title Policy”) together with copies of all underlying documents relating to the Schedule B exceptions (the “Underlying Documents”; collectively, with the Commitment, the “Title Commitment”).

A. Buyer may, at Buyer’s cost and expense, order a new survey of the Property (the “Survey”) prepared by a registered land surveyor and complying with “Minimum Standard Detail Requirements” for ALTA/ASCM Land Title Surveys (2016) and including such Table A items as Borrower requests and containing such other matters as Buyer or Buyer’s lender may reasonably request.

B. Buyer shall have ten (10) days following the date of receipt of both the Title Commitment and the Survey, whichever is later (the “Title Review Period”) to give Seller and Title Company written notice (“Buyer’s Title Notice”) of Buyer’s disapproval or conditional approval of any matters shown in the Title Commitment, the Underlying Documents or the Survey (collectively, the “Title Documents”) except for the following “Standard Objections” which Buyer shall not be required to object to, and it shall be presumed that Seller shall cause to be satisfied or release at or before Closing: (a) standard exceptions which can be removed by Seller’s title affidavit, (b) mortgages, other secured liens, and mechanic’s or materialmen’s liens, and (c) real property taxes and special assessments to be prorated to Seller or paid by Seller at Closing in accordance with this Agreement. Seller shall respond to Buyer’s Title Notice within ten (10) business days of Seller’s receipt thereof indicating whether Seller elects to cure to Buyer’s satisfaction the disapproved or conditionally approved title matters identified in Buyer’s Title Notice (“Seller’s Title Notice”). If Seller does not elect to

cure any disapproved or conditionally approved title matters, or if Buyer disapproves Seller's Title Notice, or if Seller fails to timely deliver Seller's Title Notice, then Buyer shall have the right, upon delivery to Seller and Title Company of a written notice, to either (1) waive its prior disapproval, in which event said disapproved matters shall be deemed approved, or (2) terminate this Agreement, in which event the Deposit shall be returned to Buyer and the parties shall have no further rights or obligations with respect to this Agreement except for those which expressly survive termination. If Buyer fails to give Buyer's Title Notice on or before the end of the Title Review Period, then Buyer shall be deemed to have approved the condition of title except for the Standard Objections, which Seller shall satisfy or release at or before Closing. Any title matters approved or deemed approved shall be referred to herein as "Permitted Encumbrances." If prior to Closing, a new matter affecting title is disclosed to Buyer, it shall have the same rights thereafter as set forth in this paragraph.

- V. **Closing**. The closing of the purchase and sale contemplated by this Agreement (the "Closing") shall occur on the earlier of (i) the date mutually selected by the parties; and (ii) thirty (30) days following the satisfaction of all of Buyer's contingencies set forth herein (the "Closing Date"). The Closing shall take place at the office of the Title Company in Rockford, Illinois (whether in person, by mail/email/overnight delivery).
 - A. **Seller's Closing Documents**. On the Closing Date, Seller shall execute and/or deliver the following (collectively, the "Seller's Closing Documents"), all in form and content reasonably satisfactory to Buyer:
 - B. **Deed**. A Warranty Deed conveying the Real Property to Buyer, free and clear of all encumbrances, except the Permitted Encumbrances.
 - C. **Bill of Sale**. A bill of sale with respect to the Personal Property.
 - D. **Assignment and Assumption of Leases**. An assignment and assumption of leases conveying all right, title and interest in and to the Leases to the Buyer.
 - E. **Assignment of Contracts and Intangible Property**. An Assignment of Contracts and Intangible Property conveying to Buyer all Seller's interest in the Intangible Property, together with the consent of all parties having a right to consent to such Assignment.
 - F. **Seller's Affidavit and Gap Indemnity**. A Title Company's standard gap indemnity and ALTA affidavit, in favor of the Title Company, in a form sufficient to cause the Title Company to remove the standard exceptions set forth in the Title Policy, including exceptions taken for mechanic's liens and rights of parties in possession.
 - G. **Records, Files and Keys**. To the extent not already delivered to Buyer, those records, files and original documents in Seller's possession relating to operations and maintenance (including, without limitation, any Warranties and any Certificate of Occupancy) and all keys, access codes and such other passwords in Seller's possession

related to access to the Property, provided that the parties agree to cooperate to deliver such items outside of escrow. Original copies of the Warranties and the Plans, if any.

- H. **FIRPTA Affidavit.** A non-foreign affidavit, properly executed, containing such information as is required by Internal Revenue Code Section 1445(b)(2) and its regulations.
- I. **Illinois Documents.** A Water Certification, evidence of bulk sales tax clearances from the State of Illinois, Winnebago County, and the City of Rockford, each if applicable.
- J. **IRS Form.** A Designation Agreement designating the "reporting person" for purposes of completing Internal Revenue Form 1099 and, if applicable, Internal Revenue Form 8594.
- K. **Transfer Tax Declarations.** Information needed to allow Title to complete and file all necessary transfer tax documents on behalf of Seller and Buyer.
- L. **Other Documents.** All other documents reasonably determined by Buyer to be necessary to transfer the Property to Buyer free and clear of all encumbrances.

VI. Buyer's Closing Documents. On the Closing Date, Buyer will execute and/or deliver the following (collectively, "Buyer's Closing Documents"):

- A. **Purchase Price.** The Purchase Price, less the amount of the Deposit, by wire transfer of U.S. Federal Funds.
- B. **Title Policy.** The Title Policy, or a suitably marked up Commitment for Title Insurance initialed by Title, in the form required by this Agreement.
- C. **Title Documents.** Such affidavits of Buyer or other documents as may be reasonably required by Title in order to record the Seller's Closing Documents and issue the Title Insurance Policy.
- D. **Transfer Tax Declarations.** Information needed to allow Title to complete and file all necessary transfer tax documents on behalf of Seller and Buyer.

VII. Prorations. Seller and Buyer agree to the following prorations and allocation of costs regarding this Agreement:

- A. **Title Insurance and Closing Fee.** Seller will pay all costs of the Title Policy with extended coverage and a Gap Endorsement, and Survey. Seller will pay the fees charged by the Title Company for any escrow required regarding Buyer's Objections. Buyer will pay all additional premiums required for the issuance of any mortgagee's Title Policy required by Buyer. Seller and Buyer will each pay one-half of any reasonable and customary closing fee or charge imposed by any closing agent designated by the Title Company.

- B. Real Estate Taxes and Special Assessments. General real estate taxes and installments of special assessments ("Taxes") assessed for all calendar years prior to the calendar year in which the Closing occurs shall be paid by Seller. Taxes payable in the calendar year of Closing shall be prorated and paid by Seller and Buyer as of the Closing Date based upon a calendar year. If the final bill for Taxes assessed for the year in which the Closing occurs or any prior year has not been issued as of the date of the Closing, Taxes for each such year shall be prorated at Closing on the basis of 110% of the last full-year real estate tax bill.
- C. Transfer Taxes. Seller shall pay the amount of the transfer tax imposed by the State and County. Buyer shall pay the amount of transfer tax imposed by the City of Rockford, if any. At Closing, each party shall sign and deliver all required transfer tax declarations.
- D. Recording Costs. Buyer will pay the cost of recording the Deed, and Seller shall pay the costs of all other documents necessary to place record title in the condition warranted and requested by Seller in this Agreement.
- E. Attorneys' Fees. Each of the parties will pay its own attorneys' fees.

VIII. Operation Prior to Closing. During the period from the date of Seller's acceptance of this Agreement to the Closing Date (the "Executory Period"), Seller shall operate and maintain the Property in the ordinary course of business in accordance with prudent, reasonable business standards, including the maintenance of adequate liability insurance and insurance against loss by fire, windstorm and other hazards, casualties and contingencies, including vandalism and malicious mischief. However, Seller shall execute no contracts, leases or other agreements regarding the Property during the Executory Period that are not terminable on or before the Closing Date, without the written consent of Buyer, which consent may be withheld by Buyer at its sole discretion.

IX. Representations and Warranties by Seller. Seller represents and warrants to Buyer the following are true now and will be true at the Closing Date:

- A. Title to Real Property. Seller owns the Real Property, free and clear of all encumbrances except, as shown on the Title Commitment.
- B. Leases. There are no leases or possessory rights of others regarding the Real Property.
- C. Contracts. Any contracts in effect regarding the Property are terminable on or before the Closing Date.
- D. Assessments. Seller has received no notice of actual or threatened special assessments or reassessments of the Real Property.

- E. Environmental Laws. To Seller's best knowledge, Seller has disclosed all known toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, and any hazardous substance as defined in any state, local or federal law, regulation, rule, policy or order relating to the protection of the environment) (collectively, "Hazardous Substance") that have been generated, treated, stored, transferred from, released or disposed of, or otherwise placed, deposited in or located on the Property, and any previous activities that have been undertaken on the Property that would cause or contribute to the Property becoming a treatment, storage or disposal facility within the meaning of, or otherwise bring the Property within the ambit of, any state, local or federal law, regulation, rule, policy or order relating to the protection of the environment. To Seller's best knowledge, Seller has disclosed all known discharges, releases or threatened releases of Hazardous Substances from the Property. To Seller's best knowledge, there are no Hazardous Substances or conditions in or on the Property at concentrations that may support a claim or cause of action under any state, local or federal law, regulation, rule, policy or order relating to the protection of the environment. The Property is not now, and to the best knowledge of Seller never has been, listed on any list of sites contaminated with Hazardous Substances, nor used as landfill, dump, disposal or storage site for Hazardous Substances. Seller hereby represents to Buyer the Property has not been tested for radon or radon progeny.
- F. Rights of Others to Purchase Property. Seller has not entered into any other contracts for the sale of the Real Property, nor are there any rights of first refusal or options to purchase the Real Property or any other rights of others that might prevent the consummation of this Agreement.
- G. Seller's Defaults. Seller is not in default concerning any of its obligations or liabilities regarding the Real Property.
- H. FIRPTA. Seller is not a "foreign person", "foreign partnership", "foreign trust" or "foreign estate" as those terms are defined in Section 1445 of the Internal Revenue Code.
- I. Proceedings. There is no action, litigation, investigation, condemnation or proceeding of any kind pending or threatened against Seller or any portion of the Real Property.
- J. Agents and Employees. No management agents or other personnel employed in connection with the operation of the Real Property have the right to continue such employment after the Closing Date. There are no claims for brokerage commission or other payments with respect to the existing Real Property, including leases which will survive and remain unpaid after the Closing Date.

- K. Condition. Seller shall have an opportunity to conduct a final inspection at Closing and pending Buyer's satisfaction with the status of such inspection.
- L. Storage Tanks. To the best knowledge of Seller after due inquiry, no above ground or underground tanks are located in or about the Property, or have been located under, in or about the Property and have subsequently been removed or filled. To the extent storage tanks exist on or under the Property such storage tanks have been duly registered with all appropriate regulatory and governmental bodies and otherwise are in compliance with applicable Federal, state and local statutes, regulations, ordinances and other regulatory requirements.
- M. Reports. Seller has delivered all of the Documents and Materials in Seller's possession, and to Seller's knowledge, the Documents and Materials delivered to Buyer are accurate, true, and complete.
- X. Survival of Seller's Representations and Warranties. Each of the representations and warranties of Seller contained in this Agreement is made on the Effective Date; and (ii) shall be deemed remade by Seller, and shall be true in all material respects, as of the Closing Date. The representations and warranties of Seller contained in this Agreement shall survive the Closing for a period of two (2) years from and after the Closing Date (the "Survival Period"); provided, however, that Buyer must give Seller written notice of any claim Buyer may have against Seller for breach of any such representations and warranties, of which Buyer did not have knowledge prior to the Closing, prior to the expiration of the Survival Period. Any such claim which Buyer (i) had knowledge of at or prior to Closing, or (ii) may have which is not so asserted prior to the expiration of the Survival Period shall not be valid or effective, and Seller shall have no liability with respect thereto.
- XI. Damage. If all or any part of the Property is substantially damaged by fire casualty, the elements or any other cause, Seller shall immediately give notice to Buyer of such fact and at Buyer's or Seller's option (to be exercised within thirty (30) days after Seller's notice), and Buyer or Seller may elect to terminate this Agreement, in which event neither party will have any further obligations under this Agreement, and the Deposit shall be refunded to Buyer. If Buyer or Seller fails to elect to terminate despite such damage, or if the Property is damaged but not substantially, Seller shall promptly commence to repair such damage or destruction and return the property to its condition prior to such damage. If such damage shall be completely repaired prior to the Closing Date as determined by Buyer in its reasonable discretion then there shall be no reduction in the Purchase Price and Seller shall retain the proceeds of all insurance related to such damage. If such damage shall not be completely repaired prior to the Closing Date but Seller is diligently proceeding to repair, then Seller shall complete the repair after the Closing Date and shall be entitled to receive the proceeds of all insurance related to such damage after repair is completed; provided, however, Buyer shall have the right to delay the Closing Date until

repair is completed. If Seller shall fail to diligently proceed to repair such damage then Buyer shall have the right to require a closing to occur and the Purchase Price (and specifically the cash portion payable at the Closing Date) shall be reduced by the cost of such repair, or at Buyer's option, the Seller shall assign to Buyer all right to receive the proceeds of all insurance related to such damage and the Purchase Price shall remain the same. For purposes of this Section, the words "substantially damaged" mean damage that would cost \$50,000.00 or more to repair.

XII. Condemnation. If eminent domain proceedings are commenced against all or any part of the Property, Seller shall immediately give notice to Buyer of such fact and at Buyer's option (to be exercised within thirty days after Seller's notice), and Buyer may elect to terminate this Agreement, in which event neither party will have further obligations under this Agreement, and the Deposit shall be refunded to Buyer. If Buyer shall fail to give such notice then there shall be no reduction in the Purchase Price, and Seller shall assign to Buyer at the Closing Date all of Seller's right, title and interest in and to any award made or to be made in the condemnation proceedings. Prior to the Closing Date, Seller shall not designate counsel, appear in, or otherwise act with respect to the condemnation proceedings without Buyer's prior written consent.

XIII. Broker's Commission. Seller and Buyer represent and warrant to each other that they have dealt with no brokers, finders or the like in connection with this transaction, and agree to indemnify each other and to hold each other harmless against all claims, damages, costs or expenses of or for any such fees or commissions resulting from their actions or agreements regarding the execution or performance of this Agreement, and will pay all costs of defending any action or lawsuit brought to recover any such fees or commissions incurred by the other party, including reasonable attorney's fees.

XIV. Mutual Indemnification. Seller and Buyer agree to indemnify each other against, and hold each other harmless from, all liabilities (including reasonable attorneys' fees in defending against claims) arising out of the ownership, operation or maintenance of the Property for their respective periods of ownership, subject to Section 8 of this Agreement. Such rights to indemnification will not arise to the extent that (a) the party seeking indemnification actually receives insurance proceeds or other cash payments directly attributable to the liability in question (net of the cost of collection, including reasonable attorneys' fees) or (b) the claim for indemnification arises out of the act or neglect of the party seeking indemnification. If and to the extent that the indemnified party has insurance coverage, or the right to make claim against any third party for any amount to be indemnified against as set forth above, the indemnified party will, upon full performance by the indemnifying party of its indemnification obligations, assign such rights to the indemnifying party or, if such rights are not assignable, the indemnified party will diligently pursue such rights by appropriate legal action or proceeding and assign the recovery and/or right of recovery to the indemnifying party to the extent of the indemnification payment made by such party.

XV. Assignment. Buyer may assign its rights and obligations under this Agreement at any time to an entity that is related to, and/or controlled by, Buyer. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their permitted successors and assigns.

XVI. Survival. Except as otherwise expressly provided in this Agreement or in Seller's Closing Documents and Buyer's Closing Documents, any and all rights of action of either party for any breach by the other party or any representation, warranty, covenant or other obligation of such party contained in this Agreement shall merge with the Deed and other instruments executed at Closing and shall not survive Closing.

XVII. Notices. Any notice required or permitted hereunder shall be given (a) by personal delivery upon an authorized representative of a party hereto; (b) if mailed in a sealed wrapper by United States registered or certified mail, return receipt requested, postage prepaid; or (c) if deposited cost paid with a nationally recognized, reputable overnight courier; or (d) if sent via e-mail transmission, and deemed delivered on the date sent if sent before 5:00 p.m. Chicago time on a business day (provided that for an e-mail transmission to constitute a formal notice under this Agreement, the e-mail transmission must explicitly state that it is intended as a notice under this Agreement), in each case properly addressed as follows:

If to Seller: City of Rockford
Community & Economic Development Director
425 E. State St.
Rockford, IL 61104

Copy to:
**City of Rockford
Department of Law
425 E. State St.
Rockford, IL 61104**

If to Buyer: Oliver Emerson Development
2205 S. Perryville Rd. PMB 726
Rockford, IL 61108

XVIII. Captions. The paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement and are not to be considered in interpreting this Agreement.

XIX. Entire Agreement; Modification. This written Agreement constitutes the complete agreement between the parties and supersedes any prior oral or written agreements between the parties regarding the Property. There are no verbal agreements that change

this Agreement and no waiver of any of its terms will be effective unless in a writing executed by the parties.

XX. Confidentiality. Seller and Buyer agree that each will not disclose the contents of this Agreement or any agreement contemplated hereby to any third parties without the consent of the other party, except as may be required to ensure compliance with any applicable laws, rules or regulations of any governmental authority having jurisdiction over such party. Nothing contained herein shall be construed as prohibiting either party from disclosing the contents of this Agreement on a confidential basis to its officers, directors, employees, affiliates, principals, shareholders, partners, members, lenders, investors, counsel, accountants, consultants and other agents.

XXI. Exclusive Dealing. Seller agrees that so long as this Agreement is in effect, Seller will not solicit or accept any offer or enter into any agreement for the Property, or any portion thereof, or any transaction regarding the Seller which would result in any sale, disposition or transfer of any portion of the Property.

XXII. Acceptance; Effective Date. This Agreement shall only become binding if Buyer and Seller shall deliver this Agreement fully executed to the other, otherwise this Agreement shall be void and of no force and effect. This Agreement shall be binding and of full force and effect as of the date of full execution hereof, and the "Effective Date" of this Agreement for time periods stated herein shall be the date written on the first line of this Agreement. Time is of the essence as to the provisions of this Agreement.

XXIII. Calculation of Dates. Whenever any time limit or date provided herein falls on a Saturday, Sunday, or legal holiday under the laws of the State of Illinois, then that date is extended to the next day that is not a Saturday, Sunday, or legal holiday. The term "business day" as used in this Contract means any day that is not a Saturday, Sunday, or legal holiday under the laws of the State of Illinois.

XXIV. Cooperation. Seller and Buyer agree to cooperate in the prosecution of applications made by either party for any governmental certificates or approvals appropriate or necessary for the consummation of the transactions contemplated by this Agreement or Buyer's contemplated use and occupancy of the Property. Seller and Buyer each agree at any time or from time to time at the written request of the other to sign and deliver such other documents as may be reasonably requested or as may be reasonably necessary or appropriate to give full effect to the terms and conditions of this Agreement.

XXV. Binding Effect. This Agreement binds and benefits the parties and their successors and assigns.

XXVI. Controlling Law. This Agreement has been made under the laws of the State of Illinois, and such laws will control its interpretation.

XXVII. **Default and Remedies.** If Buyer defaults under this Agreement, Seller shall give written notice of such default to Buyer. If Buyer fails to cure such default within fifteen (15) days of the date of such notice, this Agreement will terminate, and upon such termination, Seller will retain the Deposit as liquidated damages, time being of the essence of this Agreement. The termination of this Agreement and retention of the Deposit will be the sole remedy available to Seller for such default by Buyer, and Buyer will not be liable for damages or specific performance. If Seller defaults, the purchase agreement and sale is terminated.

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Seller and Buyer have executed this Agreement as of the date first written above.

SELLER:

[City of Rockford]

By: Thomas P. McNamara
Name: Thomas P. McNamara
Title: Mayor

[Signatures continue next page.]

BUYER:

Oliver Emerson Development, LLC,
an Illinois limited liability company

By: Oliver Emerson Jr /Member 11/29/23
Name: Oliver Emerson Jr
Title: Member