

6/19/2012

52-R-12

A RESOLUTION

**Authorizing the City Manager to Execute a Real Estate Contract
for the Purchase of Real Property Located at
1801-05 Church Street in Evanston, Illinois**

**NOW BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
EVANSTON, COOK COUNTY, ILLINOIS, THAT:**

SECTION 1: The City Manager is hereby authorized and directed to sign the purchase agreement between the City and E-Town Community Ventures, LLC, attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2: The City Manager is hereby authorized and directed to negotiate any additional conditions of said agreement as he may determine to be in the best interests of the City.

SECTION 3: This resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.


Elizabeth B. Tisdahl, Mayor

Attest:


Rodney Greene, City Clerk

Adopted: June 25, 2012

EXHIBIT A

**Purchase Agreement Between the City of Evanston
and E-Town Community Ventures, LLC
for the Real Estate Commonly Known as
1801-05 Church Street, Evanston, Illinois**

**AGREEMENT FOR PURCHASE
AND SALE OF REAL ESTATE**

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE (this "Agreement") is entered into as of the Effective Date per Section 10.17, which is _____, 20____, by and between THE CITY OF EVANSTON, an Illinois municipal corporation ("Purchaser"), and E-TOWN COMMUNITY VENTURES, LLC ("Seller"),

RECITALS:

A. Seller legally or beneficially owns the land (the "Land") which is legally described on Exhibit A. The Land consists of a vacant commercial property, formerly a gas station, located at 1801-05 Church Street, in the City of Evanston, County of Cook, State of Illinois.

B. The Land, all improvements, fixtures, and tangible personal property located on the Land; all easements and appurtenances belonging to the Land; and all interest of the titleholder of the property in any streets or other rights of way adjacent to the Land, are collectively referred to as the "Property".

C. Purchaser desires to purchase from Seller and Seller desires to sell to Purchaser the Property on the terms and conditions set forth below.

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE 1
AGREEMENT TO PURCHASE AND SELL**

Purchaser agrees to purchase and Seller agrees to sell the Property to Purchaser or its nominee at the Purchase Price described below, subject to the terms and conditions set forth in this Agreement. In furtherance of such agreement, Seller agrees to convey or cause to be conveyed to Purchaser good and marketable fee simple title to the Property subject to the Permitted Exceptions (defined below). Such conveyance shall be by recordable special warranty deed and the other instruments specified in Section 8.4 below.

**ARTICLE 2
PURCHASE PRICE**

2.1 Purchase Price. The purchase price for the Property to be paid by Purchaser to the Seller shall be ONE HUNDRED TWENTY-SEVEN THOUSAND and NO/100 Dollars (\$127,000.00) (the "Purchase Price").

2.2 Payment of the Purchase Price. The Purchase Price, less the Earnest Money, and plus or minus any adjustments, credits or pro-rations provided for herein, shall be paid at the Closing, by wire transfer of current funds.

2.3 Earnest Money.

(a) Within ten (10) Business Days after the Effective Date, Purchaser shall pay into a strict joint order escrow with Seller at Chicago Title Insurance Company (the "Title Insurer") the sum of twelve thousand, seven hundred and no/100 dollars (\$12,700.00) as earnest money (together with any interest earned thereon, the "Earnest Money").

(b) The Earnest Money may be invested by the Title Insurer as Purchaser directs in United States Treasury Bills or a federally insured money market account. Seller and Purchaser shall share equally the cost of the joint order escrow, but Purchaser shall bear the cost of any investment fee charged by the Title Insurer as escrowee. If this Agreement is terminated because of a Seller default or failure of an Article 3 contingency or another condition to Purchaser's obligation to close set forth in this Agreement, then the Earnest Money shall be refunded to Purchaser. The Earnest Money shall be applied to the Purchase Price at the Closing.

2.4 Closing Costs. Seller shall pay all closing costs, including: (a) the Title Commitment and Title Policy (including any extended coverage); (b) obtaining and recording any releases of any mortgages, liens or other encumbrances which are not Permitted Exceptions; (c) recording the deed; and (d) the cost of the Survey, up to and including one thousand dollars (\$1,000.00). Each party shall pay its own legal fees.

2.5 Closing Pro-rations and Adjustments. All items of income or expense other than real estate taxes and assessments ("Taxes") shall be pro-rated according to prevailing local custom. If the Property is currently tax exempt, there shall be no real estate tax pro-ration at Closing. Provided that the Property is not currently tax exempt, unpaid Taxes for the applicable tax year which are not yet due and payable on the Closing Date shall be pro-rated as follows. Any Taxes which are assessed only against the Property as a separate parcel shall be pro-rated to the Closing Date on the basis of 105% of the most recent ascertainable bill or assessment therefor. Such pro-ration shall be re-pro-rated upon receipt of the actual bill.

ARTICLE 3 CONDITIONS PRECEDENT

In addition to the terms and conditions set forth elsewhere in this Agreement, Purchaser's obligation to purchase the Property shall be subject to the following conditions precedent:

3.1 Land Due Diligence Contingency; Review Period.

(a) During the one hundred twenty (120) day period (the "Land Due Diligence Review Period") following the Effective Date, Purchaser and its agents and contractors shall have the right to enter upon the Property and conduct such tests and investigations as may be necessary for Purchaser to determine whether there are any matters which in Purchaser's judgment would make unfeasible Purchaser's intended use of the Property (the "Intended Use"). Among the matters Purchaser may investigate are (i) soils and environmental matters; (ii) the state of title to the Property as evidenced by the Title Commitment; (iii) matters shown on the Preliminary Survey; (iv) the availability and sufficiency of utilities, including water, sanitary sewer, storm/retention facilities, telephone, gas and electricity; and (v) the existence of any laws, regulations or judicial matters affecting the Property.

(b) In the event the Purchaser, acting in its sole discretion, determines that the Purchaser's Intended Use or purchase of the Property is unfeasible, then Purchaser may elect to terminate this Agreement by delivering written notice of termination to Seller at any time on or prior to the last day of the Land Due Diligence Review Period. If Purchaser fails to give Seller notice of termination by the end of the Land Due Diligence Review Period, then the Land Due Diligence Contingency will be deemed waived.

(c) If Purchaser so elects to terminate this Agreement, the Earnest Money shall be refunded to Purchaser. In such event, Purchaser shall (i) return to Seller any materials Seller had delivered to Purchaser in connection with Purchaser's review, and (ii) deliver to Seller (without cost to Seller) any and all title reports, surveys, soil tests, or environmental studies pertaining to the Property which Purchaser has obtained during the Land Due Diligence Review Period. Items (i) and (ii) are called the "Return Items".

(d) Purchaser shall repair any damage to the Property resulting from Purchaser's activities on the Property under this Agreement. Purchaser shall indemnify, defend, and hold harmless Seller and Seller's elected and appointed officials, employees and agents from and against any and all loss, damage, liability or expense (including reasonable attorneys fees) and claims and liens of mechanics or materialmen any of the indemnified parties may incur as a result of Purchaser's access, other than any property damage or injury to any person, which damage or injury is caused by the negligence of Seller. The indemnity obligations of Purchaser under this Section 3.1 shall survive the Closing or a termination of this Agreement, notwithstanding anything contained to the contrary in this Agreement. Any investigation or inspection conducted by Purchaser pursuant to this Agreement, in order to verify satisfaction of any conditions precedent to Purchaser's obligations under this Agreement or to determine whether Seller's representations and warranties are true and accurate, shall not affect (or constitute a waiver by Purchaser of) any of the provisions of this Agreement or Purchaser's reliance on such provisions.

ARTICLE 4 TITLE INSURANCE AND SURVEYS

4.1 Title Commitment; Preliminary Survey. Within thirty (30) days after the Effective Date, Seller, at its expense, will obtain:

(a) a survey of the Property ("Survey") by a licensed surveyor approved by Purchaser acting reasonably (the "Surveyor").

(b) a commitment for the Property (together with all subsequent versions thereof issued prior to the Closing, the "Title Commitment") for a title policy in the form of an ALTA 2006 Form owner's title insurance policy issued by the Title Insurer; and

(c) copies of all documents evidencing the exceptions raised on the title commitment other than mortgage debt to be paid off at the Closing.

If this transaction Closes, then at Closing Seller shall reimburse Purchaser for the respective costs of the Survey and Title Commitment.

4.2 Permitted Exceptions. Prior to the end of the Land Due Diligence Review Period, Purchaser shall provide Seller with a list of those title exceptions (including matters of survey) which are satisfactory to Purchaser, acting reasonably. Such list shall be attached to this Agreement as Exhibit B and shall constitute the “Permitted Exceptions” under this Agreement unless and except to the extent that the list is modified pursuant to Section 4.4 hereof. Prior to the end of the Land Due Diligence Review Period, Purchaser acting reasonably may also specify any additional endorsements it shall require on each Title Policy. The provision of such endorsements shall be a condition to Closing, but the expense of such endorsements shall be borne by Purchaser.

4.3 Title Policy. At the Closing, Seller shall deliver to Purchaser an Owner’s Title Insurance Policy in the form of the 2006 ALTA Form Owner’s Policy from the Title Insurer, or in lieu thereof a marked-up title commitment from the Title Insurer (either being referred to herein as the “Title Policy”) which shall: (i) be dated the Closing Date; (ii) name Purchaser or its permitted assignee as the insured; (iii) have a liability amount equal to the Purchase Price; (iv) show Purchaser or its permitted assignee as the owner of the Property in fee simple subject to no exceptions other than the Permitted Exceptions; (v) include extended coverage over the standard printed exceptions; and (vi) include any other endorsements specified by Purchaser pursuant to Section 4.2.

4.4 Objection and Cure Period. If any Title Commitment or Preliminary Survey or any updates of any of them contain any matters not constituting Permitted Exceptions or liens which are of a definite and ascertainable amount which can be removed at Closing by payment of money (“Removable Liens”), then the Seller may, at its election, within thirty (30) days after Seller’s receipt from Purchaser of the Permitted Exceptions or a subsequent version of the Title Commitment or Survey, as the case may be: (a) cause the non-permitted matters to be deleted from the Title Commitment; (b) subject to Purchaser’s approval of such arrangement (acting reasonably), cause the Title Insurer expressly to insure over such non-permitted matters; or (c) object in writing to Purchaser to the exclusion of any one or more of such matters as a Permitted Exception.

If Seller fails or elects not to cause all of the non-permitted matters to be deleted or insured over within the aforementioned thirty (30) day period, Purchaser may by written notice to Seller within five (5) days after the expiration of Seller’s 30-day objection and cure period elect to: (x) terminate this Agreement, in which case all of the Earnest Money shall be returned to Purchaser, or (y) agree to take title subject to the matters at issue, in which case the Permitted Exceptions shall be expanded to include the additional matters not deleted or insured over, but with a deduction from and offset against the Purchase Price for all Removable Liens. If the updated Title Commitment or Survey containing the non-permitted matter is issued within thirty (30) days prior to the Closing, the Closing Date shall be extended as necessary to give the Seller the benefit of the full 30-day objection and cure period and to give Purchaser the benefit of the full five-day election period referred to above.

ARTICLE 5 COVENANTS

5.1 Seller's Covenants. Seller with respect to the Property hereby makes the following covenants to Purchaser which shall be applicable so long as this Agreement is in effect:

(a) Seller shall not from and after the date of this Agreement voluntarily or consensually perform any act which results in any additional exceptions to title that would survive the Closing without Purchaser's consent.

(b) Seller shall not enter into any agreements (including leases) or amend any existing agreements which affect the Property and which would survive the Closing without Purchaser's consent;

(c) Seller shall not participate in any discussions or negotiations with any other party regarding the sale or any similar transaction involving the Property;

(d) Seller shall furnish Purchaser with any notices Seller receives from governmental authorities pertaining to the Property;

(e) Seller shall promptly notify Purchaser of any event or circumstance which Seller becomes aware of which causes a representation or warranty in this Agreement to be untrue or a covenant or condition in this Agreement incapable or unlikely to be performed or satisfied;

(f) Seller shall not remove or materially disturb any portion of the Property including cutting trees, removing landscaping, or performing site grading, without Purchaser's consent; and

(g) Seller shall allow Purchaser access to the Property throughout the term of this Agreement on the terms and conditions set forth in Section 3.1.

(h) Seller shall not encumber the Property or cause/allow the Property to be encumbered prior to and/or after the Closing.

If Seller breaches any of the foregoing covenants in any material respect by the Closing Date then Purchaser may elect to terminate this Agreement. If Purchaser elects to terminate, the Earnest Money shall be returned to Purchaser, without limiting any other remedies available to Purchaser under Section 9.2 below.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES

6.1 Seller's Representations and Warranties. Seller, with regard to the Property, represents and warrants to Purchaser as follows:

(a) **Authority.** Seller is the owner of the fee simple absolute title to the Property. Seller has full power and authority to sell and convey or to cause the conveyance of the Property as provided for in this Agreement and this Agreement is binding and enforceable against Seller.

(b) **Agreements.** Neither the execution and delivery of this Agreement by Seller nor the consummation of the transactions contemplated hereby will result in any breach or violation of or default under any judgement, decree, order, mortgage, lease, agreement, indenture or other instrument to which Seller is a party.

(c) **Code Violations.** Seller has not received any written notice of and is not aware of any violation or claimed violation of any applicable zoning, subdivision, building, fire, health, environmental, and other codes, statutes, ordinances or laws affecting the Property, except as disclosed in writing to Purchaser by Seller prior to or during the Land Due Diligence Review Period.

(d) **Litigation.** There is no litigation, proceeding, claim or investigation, including, without limitation, any condemnation, zoning, or environmental proceeding, pending or, to the best of the Seller's knowledge, threatened, which affects the Property or this transaction, except as disclosed in writing to Purchaser by Seller prior to or during the Land Due Diligence Review Period.

(e) **Surviving Agreements.** There are no leases, service agreements, or other agreements affecting the Property which will survive the Closing.

(f) **Utilities.** To Seller's knowledge, all water, sewer, gas, electric and telephone utilities are installed to the boundaries of the Property or in contiguous streets, and there are no recapture agreements or other agreements requiring any out-of-the-ordinary payments for connection to such utilities.

(g) **Disclosure.** During the Land Due Diligence Review Period, Seller shall deliver to Purchaser true and correct and complete copies of all Delivery Items in Seller's possession or control, and Seller shall not fail or omit to communicate in writing to Purchaser any other agreement, document or fact which is material to the Property or this Agreement.

6.2 Purchaser's Representations and Warranties. Purchaser represents and warrants to Seller as follows:

(a) **Agreements.** Neither the execution and delivery of this Agreement by Purchaser nor the consummation of the transactions contemplated hereby will result in any breach or violation of or default under any judgement, decree, order, mortgage, lease, agreement, indenture or other instrument to which Purchaser is a party;

(b) **Authority.** Purchaser has full power and authority to execute this Agreement and purchase the Property as provided for in this Agreement and this Agreement is binding and enforceable against Purchaser.

6.3 Breach of Representations and Warranties. Each party warrants that each of the representations and warranties made by it in this Article 6 or appearing in other parts of this

Agreement is true as of the date of this Agreement and will also be true as of the Closing. Each party shall notify the others promptly if such party becomes aware prior to the Closing Date of any matter which would render any of the representations or warranties of such party untrue in any material respect. If any of the representations and warranties by Seller shall not be true as of the Closing and such breach has been disclosed to Purchaser and is other than as a result of Seller's deliberate or willful act, Purchaser may alternatively as its sole remedy either (a) waive such breach and close the transaction contemplated herein, or (b) terminate this Agreement, in which event the Earnest Money shall be returned to Purchaser. In the case of a breach of any of Seller's representations or warranties as a result of Seller's willful or deliberate act, the Purchaser may exercise its remedies under Article 9.

6.4 NO OTHER WARRANTIES. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, SELLER IS SELLING ITS APPLICABLE PROPERTY TO PURCHASER IN AN "AS-IS" CONDITION, AND PURCHASER AGREES THAT, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, SELLER HAS NOT MADE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, TO PURCHASER REGARDING THE PROPERTY.

**ARTICLE 7
INTENTIONALLY OMITTED**

**ARTICLE 8
THE CLOSING**

8.1 Definition; Time and Place. The performance by Seller and Purchaser of their respective obligations under this Agreement directly or through the completion of the escrow deposits required of them to be made and the delivery of the Purchase Price to the Seller by the Closing Escrowee after delivery of the Title Policy to Purchaser and delivery of possession of the Property to Purchaser shall constitute the closing of the sale (the "Closing"). The date of the Closing (the "Closing Date") shall be no later than one hundred fifty (150) days after the Effective Date of this Agreement, or such later date as may be extended by mutual written consent of Purchaser and Seller or by operation of this Agreement. Purchaser may extend the Closing Date as needed for satisfaction of such conditions so long as Purchaser is pursuing such satisfaction diligently and in good faith. The Closing shall take place at the Chicago office of the Title Insurer.

8.2 Possession. Possession of the Property shall be delivered at the Closing.

8.3 Escrow. This sale shall be closed through a "New York style" escrow (the "Escrow") with the Title Insurer (the "Closing Escrowee"), in accordance with the general provisions of the usual form of escrow agreement then in use by the Closing Escrowee, with such special provisions inserted in the escrow agreement as may be required to conform with this Agreement (the "Escrow Agreement"). The Escrow and Escrow Agreement shall be auxiliary to this Agreement, and this Agreement shall govern in the event of any inconsistency with the Escrow Agreement. Upon the creation of the Escrow, payment of the Purchase Price and delivery of the deed and other closing documents shall be made through the Escrow and the Earnest Money shall be deposited in the Escrow. The attorneys for the parties are hereby

authorized to execute the Escrow Agreement and any amendments thereto. Each party shall have the right to inspect all documents prior to or at the time of deposit in the Escrow. The escrow fee for the Escrow shall be shared equally by the parties, except that the escrow fees attributable to any ancillary money lender's agreement shall be borne by Purchaser alone.

8.4 Documents To Be Delivered By Seller At Closing. At the Closing, Seller shall deliver or cause to be delivered to Purchaser directly or, if either party elects, through the Escrow, the following with respect to its applicable Property, each of which shall be in form reasonably satisfactory to Purchaser and (if applicable) the Title Insurer:

- (a) a duly executed and acknowledged special warranty deed(s) to the Property subject only to the Permitted Exceptions;
- (b) a bill of sale respecting any personal property to be conveyed;
- (c) copies of the most recent tax or assessment bills or other items on which pro-rations are based;
- (d) the Title Policy;
- (e) evidence of authorization of Seller as to the execution of this Agreement and the sale of the Property to Purchaser and the performance of other acts required hereunder;
- (f) an affidavit to the effect that Seller is not a foreign person under Section 1445(b) of the United States Internal Revenue Code (FRPTA);
- (g) evidence of payment and a lien waiver from any broker whose commission is to be paid by Seller under Section 10.2 below;
- (h) all other documents (if any) required, pursuant to other provisions of this Agreement or to the Escrow Agreement, to be executed and delivered by Seller;
- (i) proof of payment of all outstanding real estate taxes on the Property; and
- (j) such other instruments and documents as may be reasonably required in order to carry out the purposes of this Agreement.

8.5 Documents To Be Delivered By Purchaser At Closing. At the Closing Purchaser shall deliver or cause to be delivered to Seller directly, or if any party elects through the Escrow, the following with respect to each of the Property, each of which shall be in form reasonably satisfactory to Seller and (if applicable) the Title Insurer:

- (a) The Purchase Price, plus or minus adjustments, credits and pro-rations provided for herein;
- (b) Evidence of authorization of Purchaser as to the execution of this Agreement and the purchase of the Property from Seller and the performance of the other acts required hereunder;

(c) Evidence of payment and a lien waiver from any broker whose commission is to be paid by Purchaser under Section 10.2 below.

(d) all other documents required pursuant to other provisions of this Agreement or the Escrow Agreement to be executed and delivered by Purchaser; and

(e) such other instruments and documents as may be reasonably required in order to carry out the purpose of this Agreement.

8.6 Documents to be Jointly Delivered by Seller and Purchaser at Closing. At the Closing Seller and Purchaser shall each execute and deliver, directly, or if any party elects, through the Escrow, the following with respect to each of the Property, each of which shall be in form reasonably satisfactory to the parties and (if applicable) the Title Insurer:

(a) Applicable transfer tax declarations for the State, the County and any necessary municipal transfer declarations all indicating that this transaction is “exempt” from transfer taxes;

(b) A Closing Statement (in triplicate); and

(c) ALTA Statements as required by the Title Insurer.

(d) such other instruments and documents as may be reasonably required in order to carry out the purpose of this Agreement.

ARTICLE 9 DEFAULTS; REMEDIES

9.1 Purchaser’s Default. If the transaction contemplated hereby does not close by reason of a default by Purchaser in any of the terms hereof (as opposed to by reason of failure of any contingency to Purchaser’s obligations hereunder), and such default is not cured within five (5) Business Days after written notice of such default is given by Seller to Purchaser, then Seller may, at its sole option and in lieu of any and all other legal and equitable remedies which Seller may have, receive all Earnest Money deposited to the date of such default as liquidated damages, allocable to Seller as set forth in Section 2.3 above. Seller and Purchaser acknowledge that actual damages in the event of a default by Purchaser will be difficult to ascertain, and that Seller’s receipt of the Earnest Money as liquidated damages represents the parties’ best estimate of such damages.

9.2 Seller’s Default. If the transaction contemplated hereby does not close by reason of a default by Seller in any of the terms hereof, and such default is not cured within five (5) Business Days after written notice of said default is given by Purchaser to Seller, then Purchaser may: (a) rescind this Agreement and receive all of the Earnest Money and all other sums held on account of the Purchase Price; or (b) pursue against Seller an action for specific performance or other similar relief to enforce this Agreement; or (c) if such default was as a result of Seller’s willful or deliberate act, pursue against Seller any other rights or remedies available at law or in equity, including, without limitation, an action for Purchaser’s actual costs and damages, all in such order or concurrently as Purchaser may elect.

**ARTICLE 10
MISCELLANEOUS**

10.1 Uniform Risk Act. The Uniform Vendor and Purchaser Risk Act as enacted in the State in which the Property are located shall apply to this transaction.

10.2 Payment of Real Estate Brokers and Consultants. Each party represents to the other that no other real estate broker has been used in connection with this transaction. Purchaser agrees to indemnify, defend and hold Seller harmless from and against any claim for a real estate broker's commission or fee by any other party claiming through Purchaser. Seller agrees to indemnify, defend and hold Purchaser harmless from and against any claim for a real estate broker's commission or fee by any other party claiming through Seller.

10.3 Notices. All notices and other communications which are required to be, or which may be given under this Agreement shall be in writing, and shall be delivered at the addresses set out hereinbelow. Notice may be given by personal delivery, facsimile, recognized overnight courier, or by United States mail in the manner set forth below. Notice shall be deemed to have been duly given (a) if by personal delivery, on the first to occur of the date of actual receipt or refusal of delivery by any person at the intended address, (b) if by facsimile, upon confirmed transmission, (c) if by overnight courier, on the first (1st) Business Day after being delivered to a recognized overnight courier, or (d) if by mail, on the third (3rd) Business Day after being deposited in the United States mail, certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

If to Purchaser:

Purchaser: City of Evanston
2100 Ridge Avenue
Evanston, IL 60201-2796
ATTN: City Manager
Phone: 847/866-2936
Fax: 847/448-8083

With a Copy to: City of Evanston
2100 Ridge Avenue
Evanston, IL 60201-2796
ATTN: Law Department
Phone: 847/866-2937
Fax: 847/448-8093

And to: City of Evanston
2100 Ridge Avenue
Evanston, IL 60201-2796
ATTN: Director of Community and Economic Development
Phone: 847/866-2929
Fax: 847/448-8120

If to Seller: E-Town Community Ventures, LLC
1020 Church Street
Evanston, Illinois 60201
ATTN: Daniel Cheifetz
Phone: 847-910-4850
Fax: 847-_____

With a Copy to: _____

or to such other address as either party may from time to time specify as its address for the receipt of notices hereunder, in a notice to the other party.

10.4 Assignment. Purchaser may designate a nominee as the party which will acquire the Property. In such event all instruments, documents and agreements required to be delivered to Purchaser under this Agreement shall be delivered to, and run for the benefit of such nominee. No such designation shall relieve Purchaser of its obligations hereunder. Prior to Closing, Purchaser may not assign or pledge any of its rights under this Agreement without the prior written consent of Seller, except Seller's consent shall not be necessary for an assignment to an entity in which Purchaser or an affiliate has an ownership interest where Purchaser remains liable for all of its obligations under this Agreement. Subject to the foregoing, this Agreement shall be binding upon the undersigned and each of their successors and assigns.

10.5 Intentionally Omitted.

10.6 Entire Agreement; Amendments. This Agreement embodies the entire understanding of the parties and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof except as may be set forth in writing executed by both parties contemporaneously with or subsequent to this Agreement. The provisions of this Agreement may not be amended, changed or modified orally, but only by an agreement in writing signed by the party against whom any amendment, change or modification is sought.

10.7 Severability. If any term or provision of this Agreement or any application thereof shall be invalid or unenforceable, the remainder of this Agreement and other applications thereof shall not be affected thereby.

10.8 Captions; Number. The captions contained in this Agreement are for the convenience of reference only, and shall not affect the meaning, interpretation or construction of this Agreement. As used in this Agreement, the singular form shall include the plural and the plural shall include the singular, to the extent that the context renders it appropriate.

10.9 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

10.10 Governing Law. This Agreement and all rights, obligations and liabilities hereunder shall be governed by, and construed in accordance with, the laws of the State of Illinois.

10.11 Time of the Essence. Time is of the essence of this Agreement.

10.12 Survival. All of the respective representations and warranties of Seller and Purchaser hereunder, and all of their respective rights and remedies with respect to the incorrectness or breach thereof, shall survive the Closing Date for a period of one (1) year from the date of Closing.

10.13 Waiver. Except as otherwise expressly provided in this Agreement, no waiver by a party of any breach of this Agreement or of any warranty or representation hereunder 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) and 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 such breach at the time it accepts such payment or performance. Except as otherwise expressly provided in this Agreement, 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 modification of this Agreement or shall prevent the exercise of any right by the first party while the other party continues to be so in default.

10.14 Business Days. If any date specified in this Agreement for the Closing Date or for commencement or expiration of time periods for termination or approvals or for notice occurs on a day other than a Business Day, then any such date shall be postponed to the following Business Day. As used herein, "Business Day" shall mean any day other than a Saturday, Sunday or a holiday observed by national banks or the Title Insurer.

10.15 Limitation of Purchaser's Liability. Any obligation or liability whatsoever of Purchaser which may arise at any time under this Agreement or any document delivered pursuant to this Agreement shall be satisfied, if at all, out of Purchaser's assets only. No such obligation or liability shall be personally binding upon, nor shall resort for the enforcement thereof be had to, the property of any of its members, or the partners, members, shareholders, trustees, officers, employees or agents of such members on any constituent level, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise. The negative capital account of any interest holder in Purchaser or the obligation of any interest holder in Purchaser to make a capital contribution to Purchaser shall not be deemed to be an asset of Purchaser.

10.16 Intentionally Omitted.

10.17 Effective Date. The "Effective Date" as used in this Agreement shall be the date on which this Agreement is executed and delivered in final form by both parties. The parties shall fill in the Effective Date when that is known.

[signature page(s) follow]

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

PURCHASER

**THE CITY OF EVANSTON,
an Illinois municipal corporation**

By: _____

Name: _____

Title: _____

Date: _____

SELLER

E-TOWN COMMUNITY VENTURES, LLC

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

Legal Description of the Property

THE SOUTH 106.00 FEET OF LOTS 9 AND 10 IN BLOCK 3 IN MERRILL LADD'S SECOND ADDITION TO EVANSTON, SAID ADDITION BEING A SUBDIVISION OF THE WEST ½ OF THE SOUTHWEST ¼ OF THE NORTHEAST ¼ OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 10-13-220-035-0000

COMMONLY KNOWN AS: 1801-05 CHURCH STREET, EVANSTON, IL

EXHIBIT B

Permitted Exceptions

1. Acts done or suffered to be done by Purchaser.

*[OTHERS TO BE PROVIDED BY PURCHASER
DURING THE LAND DUE DILIGENCE REVIEW PERIOD]*

