

**19-R-13**

**A RESOLUTION**

**Authorizing the City Manager to Negotiate and Execute a Residential Lease for an Apartment Located at 631 Howard Street**

**WHEREAS**, the City of Evanston owns certain real property known as 629-631 Howard Street, Evanston, Illinois (the "Subject Property"), which is improved with a three-story building containing one (1) commercial unit on the bottom floor and two residential units on the top two floors; and

**WHEREAS**, Anne Carlson and Cody Modeer (the "Tenants"), seek to renew their lease agreement for one of the residential units (631 Howard, Unit 2) from the City for a one year term; and

**WHEREAS**, the City Council has determined that it is in the best interests of the City of Evanston to lease the aforementioned residential unit and to execute a lease agreement with the Tenants,

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

**SECTION 1:** The foregoing recitals are hereby found as fact and incorporated herein by reference.

**SECTION 2:** Pursuant to Subsection 1-17-4-1 of the Evanston City Code of 1979, as amended, the City Manager is hereby authorized and directed to negotiate and execute, and the City Clerk hereby authorized and directed to attest, on behalf of the City of Evanston, a lease agreement by and among the City and the Tenants for a term of one (1) year. The lease agreement shall be in substantial

conformity with the lease attached hereto as Exhibit "A" and incorporated herein by reference.

**SECTION 3:** The City Manager is hereby authorized and directed to negotiate any additional terms and conditions for the lease agreement as may be determined to be in the best interests of the City and approved as to form by the Corporation Counsel.

**SECTION 4:** This Resolution 19-R-13 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: April 1, 2013

## EXHIBIT A

### RESIDENTIAL LEASE AGREEMENT

THIS LEASE ("Lease") is made and entered into as of the \_\_\_ day of April, 2013, by and between **CITY OF EVANSTON**, an Illinois municipal corporation and a home rule unit of the State of Illinois (the "Landlord") and **ANNE CARLSON and CODY MODEER, individuals** (collectively referred to herein as "Tenant") for the lease of a two bedroom residential unit as described below.

In consideration of the rents, covenants and conditions hereafter set forth, the Landlord and Tenant hereby agree as follows:

**1. BASIC LEASE PROVISIONS.** In addition to the other terms which are elsewhere defined in this Lease, the following words and phrases, whenever used in this Lease, shall have the meanings set forth in this Section 1.

- (a) Date of Lease: May 1, 2013
- (b) Property: 629-631 Howard Street  
Evanston, IL 60202
- (c) Premises: 631 Howard Street, Unit 2  
Evanston, IL 60202
- (d) Possession Date: Immediate
- (e) Lease Term: One Year
- (f) Base Rent: \$966.00/per month
- (g) Real Estate Taxes and Operating Expenses: Landlord will be responsible for the payment of the real estate taxes for the Premises and the costs of owning, operating, maintaining, and repairing the common areas of the Property.
- (h) Utilities: Tenant will be responsible for the payment of ALL utilities, including electricity, gas, water, cable, internet and other related expenses.
- (i) Permitted Use: The Premises shall be used only as a private dwelling and for no other purposes whatsoever.
- (j) Security Deposit: \$958.00 (One Month Rent), previously deposited by Tenant and no additional security is needed for the

renewal of the Lease.

**2. PREMISES AND COMMERCIAL LEASE.** Landlord owns the Property which is a mixed use building and Landlord does hereby lease and rent to Tenant, and Tenant does hereby lease, take and rent from Landlord one of the residential units, the "Premises". The Premises is a two-bedroom unit. The Landlord and Tenant shall also be entering into a separate Lease and Option Agreement (the "Commercial Lease") for the first floor commercial space. In the event of any conflict between the terms and conditions of this Lease and the terms of the Commercial Lease, the parties unconditionally agree that the terms and conditions of this Lease shall supersede, prevail and dictate. Any term or condition of the Commercial Lease not addressed within this Lease shall remain in full force and effect.

The Landlord will cause the halls, corridors, and other parts of the Property adjacent to the Premises to be lighted, cleaned and generally cared for, accidents and unavoidable delays excepted. No modifications, alterations, additions, installations, or renovations, except decorating, shall be undertaken by the Tenant without first obtaining the written permission from the Landlord, such approval not to be unreasonably withheld. Excluding damage by fire or other casualty and action of Landlord, Tenant shall pay for any and all damage to the interior of the Premises beyond normal wear and tear and shall do so within thirty (30) days of invoicing by the City. If Tenant does not pay said invoice, the Landlord may elect to make the repairs needed and apply the Security Deposit pledged by the Tenant to cover the costs. Landlord will deliver the Premises to Tenant no later than the Possession Date in "broom-clean" state with all systems functional and in good condition and repair, except as provided herein.

**3. TERM.** The term of this Lease (the "Term") shall be for a period of one (1) year commencing on May 1, 2013 (the "**Possession Date**") as defined in Section 1(d) and twelve months thereafter to April 30, 2014 (the "**Expiration Date**"). After the Lease is terminated, the Tenant shall leave the Premises in broom clean condition and shall turn over any and all keys to the City Manager or his or her designee.

**4. RENT.** Tenant agrees to pay Landlord or Landlord's agent for the leasing of the Premises, the monthly base rent due under the terms of this Lease on the 1<sup>st</sup> day of the month (the "**Base Rent**") at the rate of Nine Hundred Sixty-Six and no/100 Dollars (\$966.00). If the Tenant chooses to renew the lease agreement at year end, the Base Rent is subject to change based on the Chicago-Joliet-Naperville, IL HUD Metro Area Fair Market Rent for the subsequent years. The Tenant also acknowledges that they will have to submit proof of income prior to any renewal of the lease agreement for eligibility under HUD guidelines.

**5. SECURITY DEPOSIT.** Landlord shall retain the security deposit submitted by Tenant for previous lease term in the amount of Nine Hundred Fifty-Eight and no/100 Dollars (\$958.00), the amount of one month's rent and security for this lease term and no additional security is necessary. Said sum shall be held by Landlord as security for the performance of all terms, covenants and conditions of this Lease to be performed by Tenant. If Tenant defaults with respect to any provisions of this lease, Landlord may at its option apply all or any portion of such deposit to compensate Landlord for any loss or

damage it may sustain. Landlord shall not be required to keep this security deposit separate from its general funds and Tenant shall not be entitled to any interest on such deposit. Tenant shall not use the security deposit as the last month's rental payment. The Landlord shall itemize the deductions from the Security Deposit, if any.

**6. PARKING AND BASEMENT.** The Tenant shall be entitled to the use of one (1) parking spot in the back of the Property under this residential lease. Landlord will not be responsible for clearing the parking space and surrounding area free from snow and ice, this is the responsibility of the Tenant. Tenant shall not be provided a storage locker in the basement area.

**7. NO LIENS.** Tenant shall not permit to be created nor to remain un-discharged any lien, encumbrance or charge to become, a lien or encumbrance or charge upon the Premises by any of Tenant's creditors or resulting from leasehold improvements. If any lien or notice of lien on account of an alleged debt of Tenant or any notice of contract by a party engaged by Tenant or Tenant's contractor to work in the Premises shall be filed against the Premises, Tenant shall, within sixty (60) days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit or bond or obtain title insurance over the same. In the event Tenant diligently contests any such claim of lien, Tenant agrees to indemnify, defend, and hold harmless Landlord from any and all reasonable out of pocket costs, liability and damages, including attorneys' fees resulting therefrom, and, if requested, upon demand, Tenant agrees to immediately deposit with Landlord cash or surety bond in form and with a company reasonably satisfactory to Landlord in an amount equal to the amount of such contested claim.

**8. TENANT INSURANCE OBLIGATIONS.** The Tenant shall furnish copies of a certificate of renter's insurance with the Landlord named as an additional insured with an insurance company acceptable to the Landlord for its renter's insurance policy.

**9. QUIET ENJOYMENT.** Landlord hereby covenants and agrees that if Tenant shall perform all the covenants and agreements on Tenant's part to be performed, Tenant shall at all times during the Term have the quiet enjoyment and possession of the Premises.

**10. CERTAIN RIGHTS RESERVED TO LANDLORD.** In addition to those rights identified above, Landlord reserves the following rights:

- (a) to decorate, remodel, repair, alter or otherwise prepare the Premises for re-occupancy if Tenant should permanently vacate the Premises during or prior to the last sixty (60) days of the Term or any part thereof;
- (b) to retain pass keys to the Premises;
- (c) to take any and all measures, including, without limitation, inspections, repairs, and alterations to all or any part of the Premises, as may be necessary or desirable for the safety, protection or preservation of the Premises or

Landlord's Interests or as may be necessary or desirable in the operation of the commercial portions of the Premises; and

Landlord may enter upon the Premises with reasonable notice to Tenant and may exercise any or all of the foregoing rights hereby reserved without being deemed guilty of an eviction or disturbance of Tenant's use or possession and without being liable in any manner to Tenant. Landlord agrees that it shall not interfere with the Tenant's use and occupancy unless Landlord determines in its reasonable discretion that such interference is necessary.

#### **11. DEFAULT REMEDIES.**

(a) Any one of the following events shall be deemed to be an event of default hereunder by Tenant subject to Tenant's right to cure:

(1) Tenant shall fail to pay rent within five (5) days, at the time and place when and where due;

(2) Tenant shall fail to maintain the insurance coverage as set forth herein;

(3) Tenant shall fail to comply with any term, provision, condition or covenant of this Lease, other than the payment of Rent, and shall not cure, or commence the good faith cure of any such failure, within 30 days after written notice to the Tenant of such failure, provided that if such cure cannot be effected within 30 days, Tenant shall not be in default hereunder so long as Tenant commences such cure or has requested bids for such cure within 45 days and diligently pursues the completion and in good faith and Tenant does subsequently cure said default within 60 days; and

(4) Tenant assigns this Lease or sublets the Premises to any other persons.

(b) Upon the occurrence of any event of default, Landlord shall have the option to pursue any one or more of the following remedies subject to the laws of the State of Illinois and the Tenants right to cure:

(1) Terminate this Lease and in the event of such termination, Landlord may, at its option, declare the entire amount of the Rent which would become due and payable during the remainder of the Term to be due and payable immediately, in which event Tenant agrees to pay the same at once, together with all Rent theretofore due, provided, however, that such payments shall not constitute a penalty or forfeiture or liquidated damages, but shall merely constitute payment in advance of the Rent for the remainder of the Term.

(2) Landlord may recover from Tenant upon demand all of Landlord's costs, charges and expenses, including the fees and costs of counsel, agents and others retained by Landlord which have been incurred by Landlord in enforcing Tenant's obligations hereunder, subject to Landlord prevailing on its claims.

(c) Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedy herein provided or available to Landlord at law or in equity, or constitute a forfeiture or waiver of any Rent due hereunder or of any damages suffered by Landlord.

**12. INDEMNITY.** Tenant agrees that the mayor and council members, department and divisions officials, officers, agents, attorneys, and employees of the Landlord shall not be liable for any claim of any kind or in any amount for any injury to or death or persons or damage to property of Tenant or any other person. Tenant shall indemnify and hold Landlord harmless from all liability whatsoever, and from all losses, costs and expenses (including without limitation attorneys' fees and expenses) incurred or suffered as a result of or related to any real or claimed damage or injury related to Tenant's negligence, gross negligence, or acts of intentional misconduct. In the event that Tenant is named as a defendant in any legal proceeding arising from any acts of gross negligence or intentionally wrongful acts of Landlord for any injury or any claimed damage occurring at the Premises, then Landlord shall indemnify and hold Tenant harmless from all liability whatsoever, and from all losses, costs and expenses (including without limitation attorneys' fees and expenses) incurred or suffered as a result of or related to any real or claimed damage or injury provided that a) Landlord is named as a defendant in the legal proceeding; b) the claim arises from acts of gross negligence or intentional misconduct by the Landlord; c) Tenant's own negligent act or intentional misconduct; and d) the claim is unrelated to Tenant's use and occupancy of the Premises.

**13. LIABILITY FOR ACTS OR NEGLECT.** If any damage to the Premises, or any part thereof, results from any act or neglect of Tenant or its invitees or other guests, agents, customers, invitees or other guests of its customers, or employees, independent contractors, or the like, Tenant shall immediately repair the same; provided, however, that Landlord may, at its option, repair such damage and Tenant shall, upon demand by the Landlord, reimburse the Landlord forthwith for the total cost of such repairs. All personal property belonging to Tenant shall be at the sole risk of the Tenant and such other person only and the Landlord shall not be liable for damage, theft or misappropriation thereof.

**14. DESTRUCTION OR CONDEMNATION.** In the event of destruction of or damage to, the Premises by fire or other casualty, Landlord shall use the proceeds of its insurance to promptly rebuild and restore the Premises to their condition immediately prior to such destruction or damage. Landlord or Tenant may terminate this Lease and the Parties rights hereunder and the Parties shall be released of its obligations and this Lease shall cease and terminate as of the date the other Party receives written notice of such election, and neither party hereto shall have any further obligation to the other. If the whole or any part of the demised Premises shall be taken by any public authority under the power of eminent domain, the Lease term shall cease as of the day of possession shall be taken by such authority if such is of the entire demised Premises and any rents shall be prorated as of said date.

**15. ATTORNEYS' FEES AND EXPENSES.** If at any time during the Term of this Lease either Landlord or Tenant shall institute any action or proceeding against the other relating to the provisions of this Lease, or any default hereunder, each party to pay its own attorneys fees and costs.

**16. ENTIRE AGREEMENT.** This Lease contains the entire agreement of the parties with respect to the Premises and no representations or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. No failure of Landlord to exercise any power given Landlord hereunder or to insist upon strict compliance by Tenant of any obligation hereunder, and no custom or practice at variance with the terms hereof, shall constitute a waiver of Landlord's right to demand strict compliance with the terms hereof. Time is of the essence of this Lease, and of each term, condition and provision hereof.

**17. HOLDING OVER.** Upon termination of this Lease, by lapse of time or otherwise, Tenant shall surrender the Premises (and all keys thereto) in the same condition as at commencement of the Term, excepting only reasonable wear and tear and loss by insured casualty. If Tenant remains in possession after expiration of the Term, Tenant agrees to yield up immediate and peaceable possession to Landlord, and if failing to do so, in connection with the expiration of the Term or any termination hereof by the Parties, the Tenant shall pay the sum of one hundred and no/100 Dollars (\$100.00) per day, for the time such possession is withheld.

**18. SEVERABILITY.** If any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall be determined to be invalid or unenforceable to any extent, neither the remainder of this Lease nor the application of such term, covenant or condition to any other person or circumstance shall be affected thereby, and each term, covenant or condition of this Lease shall be valid and enforceable to the fullest extent permitted by law.

**19. GOVERNING LAW AND TIME LIMITATION.** This Lease shall be construed and enforced in accordance with the laws of the State of Illinois. All disputes relating to the interpretation and enforcement of the provisions of this Lease shall be resolved exclusively by the federal or state court located in Cook County, Illinois, and the parties hereto hereby submit to the jurisdiction and venue of the court for such purpose.

**20. NOTICES.** Notices sent to the Parties, should be mailed to the addresses set forth below. Mailed notices must be sent via certified mail, return receipt requested.

(a) Landlord: City of Evanston  
Attn: City Manager  
2100 Ridge Avenue, Room 4400  
Evanston, IL 60201

(b) Tenant: Anne Carlson and Cody Modeer  
631 Howard Street, Unit 2  
Evanston, IL 60202

**IN WITNESS WHEREOF**, both of said Landlord and Tenant have caused this Lease to be executed as of the date and year first above written by a duly authorized officer or manager of each of the respective parties.

**Landlord: THE CITY OF EVANSTON,  
an Illinois home rule municipal corporation**

By: Wally Bobkiewicz

Its: City Manager, Wally Bobkiewicz

Approved as to form:  
W. Grant Farrar  
Corporation Counsel

By: Michelle Masoncup

**Tenant: ANNE CARLSON**

By: Anne Carlson

**Tenant: COBY MODEER**

By: Coby Modeer

