

CONTRACT FOR PURCHASE AND SALE OF REAL ESTATE

1. **THE PARTIES:** Buyer and Seller are hereinafter referred to as the "Parties".

Buyer: City of Rochelle

Seller: Darrell G. Davis

2. **THE REAL ESTATE:** Seller agrees to convey to Buyer or to Buyer's designated grantee, the Real Estate located at **608 W. Second Avenue, Rochelle, IL** with a Permanent Index Number 24-24-388-003.

3. **PURCHASE PRICE:** The Purchase Price of **\$27,500.00** shall be paid at Closing by wire transfer of funds, or by certified or cashier's check.

4. **CLOSING:** Closing shall be on or before September 19, 2019 or at such time as mutually agreed upon by the Parties in writing. Closing shall take place at the Kenzley Title Company office located in Rochelle, Illinois or as shall be agreed mutually by the Parties.

5. **POSSESSION:** Possession shall be granted to Buyer(s) at the completion of closing unless otherwise agreed in writing by the parties.

6. **TAXES & PRORATIONS:** The general real estate taxes for 2018 and all prior years shall be paid by Seller at or prior to closing. The general real estate taxes for 2019 shall be prorated to and including the date of Closing based on 100% of the most recent ascertainable full year tax bill. All general real estate tax prorations shall be final as of Closing. If the amount of the most recent ascertainable full year tax bill reflects a homeowner, senior citizen, disabled veteran or other exemption, a senior freeze or senior deferral, then Seller has submitted or will submit in a timely manner all necessary documentation to the appropriate governmental entity, before or after Closing, to preserve said exemption(s). The proration shall not include exemptions to which the Seller is not lawfully entitled.

7. **OTHER PROVISIONS:** This Contract is also subject to the following provisions:

A. Buyer shall be allowed access to the property as may be necessary to obtain permits, perform tests, obtain a survey, and for engineering purposes after acceptance of this contract if desired by Buyer. Buyer agrees to exercise all due caution while performing testing and surveying to avoid damage to Seller's property.

B. Seller's obligations under this contract are contingent upon Buyer and Seller entering into an agreement at or prior to closing for use of approximately 1,120 square feet of storage space at the Rochelle airport at Hangar D-1 for a period of five (5) years at no charge to Seller. The airport storage agreement shall also provide that Seller shall be able to rent the same space or similarly sized space for \$100.00 per month after the expiration of the 5-year period **for the remainder of the Seller's life. Seller may only use the storage space for property belonging to Seller. Seller's interest shall not be assignable. The City reserves the right to relocate the Buyer** in the event that the initial storage space is sold, moved, or no longer in use or owned by the City of Rochelle.

C. The property is being purchased by the City of Rochelle for the purpose of constructing

a new well house located on the 2nd Avenue corridor, just east of the RMU Electric Offices. Buyer agrees that upon completion of the 2nd Avenue RMU Wellhouse Project, the park and walking path area will be named "Davis Park".

D. This contract is contingent upon approval by Rochelle City Council.

8. ATTORNEY REVIEW: The respective attorneys for the Parties may approve, disapprove, or make modifications to this Contract, other than stated Purchase Price, within five (5) business days after the Date of Acceptance. Disapproval or modification of this Contract shall not be based solely upon stated Purchase Price. Any notice of disapproval or proposed modification(s) by any Party shall be in writing. **If written notice is not served within the time specified, this provision shall be deemed waived by the Parties and this Contract shall remain in full force and effect. If prior to the expiration of ten (10) Business Days after Date of Acceptance, written agreement is not reached by the Parties with respect to resolution of proposed modifications, then this Contract shall be null and void.**

9. PLAT OF SURVEY: Buyer may, at Buyer's election and expense, obtain a Plat of Survey.

10. NOTICE: All Notices shall be in writing and shall be served by one Party or attorney to the other Party or attorney. Notice to any one of a multiple person Party shall be sufficient Notice to all. Notice shall be given in the following manner:

- (a) By personal delivery of such Notice; or
- (b) By mailing of such Notice to the addresses recited herein by regular mail and by certified mail, return receipt requested. Except as otherwise provided herein, Notice served by certified mail shall be effective on the date of mailing; or
- (c) By sending facsimile transmission. Notice shall be effective as of date and time of facsimile transmission, provided that the Notice transmitted shall be sent on Business Days during Business Hours. In the event fax Notice is transmitted during non-business hours, the effective date and time of Notice is the first hour of the next Business Day after transmission; or
- (d) By sending e-mail transmission. Notice shall be effective as of date and time of e-mail transmission, provided that the Notice transmitted shall be sent during Business Hours, and provided further that the recipient provides written acknowledgment to the sender of receipt of the transmission (by e-mail, facsimile, regular mail or commercial overnight delivery). In the event e-mail Notice is transmitted during non-business hours, the effective date and time of Notice is the first hour of the next Business Day after transmission; or
- (e) By commercial overnight delivery (e.g., FedEx). Such Notice shall be effective on the next Business Day following deposit with the overnight delivery company.

11. THE DEED: Seller shall convey or cause to be conveyed to Buyer or Buyer's designated grantee good and merchantable title to the Real Estate by recordable general Warranty Deed, with release of homestead rights, if applicable. Title when conveyed will be good and merchantable, subject only to: general real estate taxes not due and payable at the time of Closing, covenants, conditions, and

restrictions of record, building lines and easements, if any, so long as they do not interfere with the current use and enjoyment of the Real Estate.

12. TITLE: Seller shall provide a title commitment for an ALTA title insurance policy in the amount of the Purchase Price by a title company licensed to operate in the State of Illinois, issued on or subsequent to the Date of Acceptance and showing proper title in Seller's name. The commitment for title insurance furnished will be conclusive evidence of good and merchantable title as therein shown, subject only to the exceptions therein stated. If the title commitment discloses unpermitted exceptions, or if a Plat of Survey shows any encroachments which are not acceptable to Buyer, then Seller shall have said exceptions or encroachments removed, or have the title insurer commit to insure against loss or damage that may be caused by such exceptions or encroachments. If Seller fails to have unpermitted exceptions waived or title insured over prior to Closing, Buyer may elect to take title as it then is, or terminate the contract. Seller shall sign any other customary forms required for issuance of an ALTA Insurance Policy.

13. PERFORMANCE: Time is of the essence of this Contract. In any action with respect to this Contract, the Parties are free to pursue any legal remedies at law or in equity and the prevailing Party in litigation shall be entitled to collect reasonable attorney fees and costs from the losing Party as ordered by a court of competent jurisdiction.

14. "AS IS" CONDITION: This Contract is for the sale and purchase of the Real Estate in its "As Is" condition as of the Date of Offer. Buyer acknowledges that no representations, warranties or guarantees with respect to the condition of the Real Estate have been made by Seller or Seller's Designated Agent other than those known defects, if any, disclosed by Seller. Buyer may conduct an inspection at Buyer's expense. In that event, Seller shall make the Real Estate available to Buyer's inspector at reasonable times. Buyer shall indemnify Seller and hold Seller harmless from and against any loss or damage caused by the acts of negligence of Buyer or any person performing any inspection. **In the event the inspection reveals that the condition of the Real Estate is unacceptable to Buyer and Buyer so notifies Seller within five (5) Business Days after the Date of Acceptance, this Contract shall be null and void. Buyer's notice SHALL NOT include a copy of the inspection report, and Buyer shall not be obligated to send the inspection report to Seller absent Seller's written request for same. Failure of Buyer to notify Seller or to conduct said inspection operates as a waiver of Buyer's right to terminate this Contract under this paragraph and this Contract shall remain in full force and effect**

15. SELLER REPRESENTATIONS: Seller represents that Seller has no knowledge of boundary line disputes, easements or claims of easement not shown by the public records.

16. GOVERNMENTAL COMPLIANCE: Parties agree to comply with the reporting requirements of this transaction.

17. SETTLEMENT CLOSING FEE: Buyer and Seller agree to equally divide the closing/settlement fee. Buyer and Seller agree to pay all other title and closing fees per local custom.

18. FACSIMILE/SCANNED/E-MAILED SIGNATURES: Facsimile and scanned/e-mailed signatures shall be sufficient for purposes of executing, negotiating, and finalizing this Contract.

19. BUSINESS DAYS/HOURS: Business Days are defined as Monday through Friday, excluding Federal holidays. Business Hours are defined as 8:00 A.M. to 6:00 P.M. Chicago time.

20. CHOICE OF LAW/GOOD FAITH: All terms and provisions of this Contract shall be governed by the laws of the State of Illinois and are subject to the covenant of good faith and fair dealing implied in all Illinois contracts.

THIS DOCUMENT WILL BECOME A LEGALLY BINDING CONTRACT WHEN SIGNED BY ALL PARTIES AND DELIVERED

_____, 2019
DATE OF OFFER

_____, 2019
DATE OF ACCEPTANCE

City of Rochelle, Buyer

Darrell G. Davis, Seller

By: _____
Jeff Fiegenschuh, City Manager

420 N. 6th Street
Rochelle, IL 61068
Phone:(815)562-6161

239 Avenue C
Rochelle, IL 61068
Phone:

Buyer's Attorney:
Brent A. Wagner bwagner@hewitt-wagner.com
1124 Lincoln Highway
Rochelle, IL 61068
Phone: (815) 562-2704 Fax:(815) 562-2705

Seller's Attorney: