

## PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the **City of Madison**, a Wisconsin municipal corporation (the "Buyer") and **Stoppie Revocable Trust** (the "Seller").

In consideration of the covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Buyer and the Seller (together, the Parties") hereto covenant and agree as follows:

1. The Property. The Buyer shall purchase and the Seller shall sell and convey by Special Warranty Deed (the "Deed") fee simple title to the real property located at 1810 South Park Street, Madison, Wisconsin, together with all improvements located thereon (collectively, the "Property), legally described on attached Exhibit A.
2. Effective Date. The "Effective Date" shall be the date first stated above.
3. Purchase Price. The total purchase price of the Seller's interest in the Property (the "Purchase Price") shall be One Million Fifty Thousand Dollars and 00/100 (\$1,050,000.00). The Purchase Price shall be payable in cash at Closing, as defined herein, subject to the adjustments and prorations herein provided.
4. Personal Property. The transaction contemplated by this Agreement does not include any personal property.
5. Earnest Money. The Buyer has deposited with the Title Company, as defined below, Twenty-Five Thousand Dollars (\$25,000) as "Earnest Money", which will be non-refundable except that the Earnest Money shall be forfeited and returned to the Buyer as provided in Section 8 or Section 13, or if Seller defaults on the terms of the Agreement. The Earnest Money shall be applied toward the Purchase Price at Closing in accordance with Section 3.
6. Limited Representations and Warranties; AS-IS Condition. Except as otherwise provided in the Agreement, the Buyer shall purchase the Property in "AS-IS, WHERE-IS" condition and "with all faults," and shall agree that it relied upon no warranties, representations or statements by the Seller, its agents or employees, in entering into the Agreement or in closing the transaction described herein. Except as provided in Section 10 below, the Buyer's closing on the acquisition of the Property shall constitute conclusive evidence that the Buyer is satisfied with the condition of and title to the Property.

The buyer has conducted an environmental inspection of the property and discovered environmental issues that should be remediated. The purchase price has been reduced to reflect the cost of such necessary remediation. Upon closing, the buyer assumes the cost of all necessary environmental remediation and releases the seller and its agents and assigns from all further obligation therefrom.

7. Title Insurance. The Seller shall provide to the Buyer, at the Seller's expense, within thirty (30) days prior to Closing, a commitment from First American Title Insurance Company (the "Title Company") to issue an ALTA Owner's Title Insurance Policy in the amount of the Purchase Price upon the recording of proper documents, together with a gap endorsement. The commitment shall show title to the Property, as of a date no more than fifteen (15) days before such title proof is provided to the Buyer, to be in the condition called for in the Agreement, and further subject only to liens which will be paid out of the proceeds of the Closing and to any exceptions acceptable to the Buyer. The Buyer shall notify the Seller of any valid objection to title, in writing, prior to Closing. The Seller shall have a reasonable time, but not exceeding fifteen (15) days, to remove the objections and Closing shall be extended as necessary for this purpose. Should the Seller be unable or unwilling to carry out the Agreement by reason of a valid legal defect in title which the Buyer is unwilling to waive, this Agreement shall be void.

10. Leasing/Service Contracts.

- a. New Leases/Service Contracts. The Seller shall not enter into any new lease, service contract or rental agreement for the Property, or any portion thereof, through the date of Closing, without the prior written consent of the Buyer.
- b. Existing Leases/Service Contracts. Seller shall assign all current leases to the Buyer as of the Closing. Any service contract shall be terminated unless Buyer agrees to an assignment of the service contract.

11. Commissions. The Seller represents that it has not entered into any contracts with any brokers or finders nor has the Seller obligated itself to pay any real estate commissions or finders' fees on account of the execution of the Agreement or the close of the transaction contemplated therein. The Buyer represents that it has not entered into any contracts with any brokers or finders nor has the Buyer obligated itself to pay any real estate commissions or finders' fees on account of the execution of the Agreement or the close of the transaction contemplated therein. The provisions of this Section 12 shall survive any expiration or termination of the Agreement and shall not merge into any deed delivered and accepted upon the closing of the transaction therein contemplated.

12. Closing.

- a. Closing shall occur on or before September 30, 2020; or (b) the date of the Seller's receipt of notice from the Buyer requesting an earlier date of Closing; or (c) such other date agreed to in writing by the Parties, at the office of the Title Company issuing the commitment for title insurance, unless the Parties agree in writing to an alternate Closing location.
- b. The Seller agrees to execute and deliver to the Buyer at closing the Deed conveying the Property to the Buyer free and clear from all liens and encumbrances, excepting the following: Municipal and zoning ordinances and agreements entered under them; recorded easements for the distribution of utility, municipal services; easements; recorded building and use restrictions and covenants.
- c. The Buyer shall pay all recording/filing fees except that the Seller shall pay the recording/filing fees for such documents as are required to be recorded/filed in order to cause title to the Property to be in the condition called for by the Agreement.

- d. Real estate taxes applicable to the Property in the year of Closing shall be prorated between the Buyer and the Seller as of the date of Closing based upon the latest known assessment and latest known mill rate.
- e. The Seller shall be responsible for the payment of any existing special or area assessments, sewer interceptor charges, or any other charges payable to any municipality or utility with regard to the Property as of the date of Closing.
- f. The Seller shall pay any fees related to the Wisconsin Real Estate Transfer fee.
- g. The Buyer shall prepare and deliver at Closing the Wisconsin Transfer Return due in connection with conveyance of the Property.
- h. All costs charged by the Title Company to facilitate Closing shall be prorated between the Parties.
- i. The Seller shall pay any and all broker commissions or fees due in connection with the sale or Lease Back of the Property.
- j. The Seller shall leave any remaining supplies relating to the building's mechanical, electrical and plumbing systems.
- k. The Seller will assign over any remaining warranties relating to the Property to Buyer.
- l. The Buyer shall pay all closing costs and any closing escrow fees charged by the Title Company to facilitate Closing.
- m. Prior to Closing, Buyer shall obtain City of Madison Common Council approval of this Agreement, as well as Joint Review Board authorization of a Project Plan Amendment for Tax Incremental Financing Districts 42 and 39 in conformation with 66.1105, Wis. Stat. In the event the Buyer does not obtain both approvals in this Section 13.m., this Agreement shall be null and void and all Earnest Money shall be returned to the Buyer within ten (10) days.
- n. The Buyer acknowledges that the Seller intends to perform a tax deferred exchange pursuant to Section 1031 of the Internal Revenue Code. Accordingly, Buyer agrees to cooperate to facilitate such an exchange and understands that the purchase agreement will be assigned to a qualified intermediary. The Buyer shall not be required to incur any additional cost or expense from its cooperation with said Section 1031 exchange.

13. Representations. The Seller represents the following:

- a. No Prior Right to Purchase. No party has any option, right of first refusal or similar right to purchase all or any portion of the Property.
- b. No Adverse Possessors. There are no parties in possession of any portion of the Property as tenants at sufferance or trespassers.

14. Miscellaneous.

- a. No Obligations to Third Parties. Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the Parties hereto, to any person or entity other than the Parties.
- b. Benefit and Burden. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, personal representatives, successors, and assigns. The provisions herein contained shall survive Closing and delivery of the Deed and shall not be merged therein.
- c. Entire Agreement. This Agreement contains the entire agreement between the Parties and any modification, alteration or addendum to this Agreement shall be valid only when written and executed by both Parties.
- d. Counterparts and Transmittal of Signatures. This Agreement may be executed in one or more counterparts, and all such executed counterparts shall constitute the same Agreement. A signed copy of the Agreement transmitted by facsimile electronic scanned copy (.pdf) or similar technology and shall be as valid as original. This Agreement may be converted into electronic format and signed or given effect with one or more electronic signature(s) if the electronic signature(s) meets all requirements of Wis. Stat. ch. 137 or other applicable Wisconsin or Federal law. Executed copies or counterparts of this Agreement may be delivered by facsimile or email and upon receipt will be deemed original and binding upon the parties hereto, whether or not a hard copy is also delivered. Copies of this Agreement, fully executed, shall be as valid as an original.
- e. Severability. If any non-material part, paragraph, or article of this Agreement shall be determined to be invalid, or otherwise unenforceable, the validity of all the remaining parts, paragraphs, and articles shall not be affected thereby. Any such non-material parts, paragraphs, or articles shall be deemed severable.
- f. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of or applicable to the State of Wisconsin.
- g. Headings. The headings in this Agreement are meant for reference purpose only and shall not in any way affect the meaning or interpretation herein.

*Signatures on the following two pages.*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the day and year first above written.

**BUYER: CITY OF MADISON**

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: Satya Rhodes-Conway  
Title: Mayor

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: Maribeth Witzel-Behl  
Title: City Clerk

Approved:

\_\_\_\_\_  
David Schmiedicke, Finance Director      Date

Approved:

\_\_\_\_\_  
Eric Veum, Risk Manager      Date



Execution of this Purchase and Sale Agreement by the City of Madison is authorized by Resolution Enactment No. RES-\_\_\_\_\_ File I.D. No. \_\_\_\_\_, adopted by the Common Council of the City of Madison on \_\_\_\_\_, 2020.

Drafted by the City of Madison Office of Real Estate Services

Project No. 12049

**EXHIBIT A**

The Property

**PARCEL NUMBER: 251/0709-263-0501-6**

T7N R9E, SEC 26, PRT SW 1/4 DESC AS FOL: COM SE COR SW 1/4, TH N 00 DEG 19 MIN W 150 FT, TH N 89 DEG 27 MIN W 53 FT TO POB, TH CONT SD BRG 223.4 FT, TH N 38 DEG 55 MIN W 153.1 FT, TH N 51 DEG 05 MIN E 355 FT, TH S 64 DEG 38 MIN E 46 FT, TH S 00 DEG 19 MIN E 324.58 FT TO POB.

(to be verified/corrected to correspond to title commitment and survey)