

## **Escrow and Indemnification Agreement**

The parties to this Agreement are Friends of Sid Boyum, Inc., a Wisconsin nonstock corporation and a 501(c)(3) organization (FOSB), the City of Madison, Wisconsin (City), the County of Dane, Wisconsin (County), and Herrick & Kasdorf, LLP, as escrow agent (Escrow Agent). FOSB, the City, the County and the Escrow Agent may be herein referred to as “Parties” or individually as a “Party”.

**Whereas**, the County is the owner of the real estate known as 237 Waubesa Street, located in the City of Madison, Dane County, Wisconsin (The Property), and FOSB wishes to purchase the property in order to preserve it and its art;

**Whereas**, the County, by ordinance may sell tax deeded parcels to the City for the amount of taxes, penalties and interest owed, plus a transfer fee;

**Whereas**, the total amount of taxes, penalties, interests and fees owed to the County for The Property as of September 2016 is \$25,812.88 (the purchase price), and the County is willing to sell The Property to the City for this sum;

**Whereas**, the City is willing to sell The Property to FOSB for that same purchase price immediately upon transfer from the County;

**Whereas**, the City and County must approve these transfers, and the Parties anticipate the closings will occur toward the end of September, 2016; and

**Whereas**, to hold the funds, the Parties have agreed to create an escrow agreement to set forth the terms of this two-step transaction and disbursement of the funds.

**Therefore**, the parties agree as follows:

1. FOSB shall deposit the total purchase price plus any other closing costs in good funds with the Escrow Agent, to be held in that firm’s trust account until disbursement.
2. Upon final execution of this escrow agreement by the Parties and the receipt of all funds due and payable under this agreement by the escrow agent, the County shall execute a quitclaim deed to the City, and the City shall execute a quitclaim deed to FOSB for transfer of The Property.
3. Upon the delivery of both deeds to the Escrow Agent, the Escrow Agent shall issue a check for the purchase price to the County, and disburse all other closing costs (e.g. recording fees).
4. Both deeds shall be recorded consecutively within one (1) business day of delivery of the purchase price to the County, by the Escrow Agent, unless otherwise agreed to by the Parties.

- 5.** If the approvals are not granted or the transaction otherwise fails to close, The Property shall remain in the name of the County and The Property will be sold at public auction. All funds held by Escrow Agent shall be disbursed back to FOSB.
- 6.** The Parties acknowledge that Herrick & Kasdorf, LLP, is legal counsel to FOSB. Herrick & Kasdorf, LLP, shall not be liable for any sum in excess of the amount deposited. Further, it shall not be held liable to any party or parties to this Agreement for any dispute between the Parties hereto or for any actions taken in good faith based upon this Agreement.
- 7.** Neither the County nor the City make any warranties or representations about The Property and sell the Property, from the County to the City and from the City to FOSB, “as is”. Following the sales of the Property, both the County and the City expressly waive all rights to The Property, and disclaim any interest in the tangible personal property on, or held in conjunction with, The Property.
- 8.** FOSB agrees to indemnify and hold the County, the City, and their officers, employees, directors or agents, harmless from and against any and all costs, expenses, claims and liabilities whatsoever (including, without limitation, fees and expenses of attorneys) which may be imposed on, asserted against or incurred by the County or the City related to or arising from the acceptance and performance by the County or the City of their duties hereunder, except if caused by the willful misconduct or gross negligence of the County, the City, or any of their officers, employees, directors or agents, or otherwise resulting from any act or omission of the County, the City, or any of their officers, employees, directors or agents. The obligations of FOSB under this Section shall survive the transfer of ownership as provided in paragraphs 2, 3 and 4 of this Agreement. Notwithstanding the survival of this obligation, should FOSB sell The Property to a third party in the future, FOSB shall be allowed to fully transfer this obligation to that buyer, with the approval of the County and the City, which approval shall not be unreasonably withheld or delayed.
- 9.** The parties expressly agree that the obligations and representations under this escrow agreement survive closing.
- 10.** This Agreement is binding on the parties’ legal successors, agents, heirs, and assigns, and may be modified only in writing with agreement of all parties.
- 11.** In the performance of the obligations under this Agreement, the Parties agree to abide by their own respective affirmative action plans and in doing so agree not to discriminate, in violation of any state or federal law, against any employee or applicant because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs, or student status. The parties further agree not to discriminate, in violation of any state or federal law, against any subcontractor or person who offers to subcontract on this Agreement because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.
- 12.** Counterparts. This Agreement may be signed in counterparts, each of which shall be taken together as a whole to compromise a single document.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, sealed, and delivered as of the day and year of the last signatory identified below.

\_\_\_\_\_  
Friends of Sid Boyum, Inc.  
By: Brian Standing, President

\_\_\_\_\_  
Date

\_\_\_\_\_  
County of Dane  
By: Jan Zimmerman  
Title: Real Estate Coordinator

\_\_\_\_\_  
Date

\_\_\_\_\_  
City of Madison  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Herrick & Kasdorf, LLP, escrow agent  
By: Juscha E.M. Robinson, partner

\_\_\_\_\_  
Date