



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Economic Development Division*

**m e m o r a n d u m**

**TO:** Diane Wolfe Marlin, Mayor

**FROM:** John A. Schneider, MPA, Community Development Manager  
Brandon S. Boys, AICP, Economic Development Manager

**DATE:** July 19, 2017

**SUBJECT:** **An Ordinance Authorizing the Sale of Certain Real Estate (1301 East Washington Street)**

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**Introduction**

The City has been approached by The Overland Group, LLC, who has offered to purchase the City-owned property located at 1301 East Washington Street at a price of \$160,000. Based in Birmingham, AL The Overland Group is a preferred developer of Dollar General retail stores that intends to fully demolish the existing structures and construct a new Dollar General store on the site. The exhibited ordinance would authorize the Mayor to execute the attached purchase agreement with the Overland Group and for staff to subsequently close on the property upon the completion of the buyer's due diligence period (**Exhibit A: Draft Authorizing Ordinance with Attached Purchase Agreement**).

**Background**

On December 15, 2008, the Urbana City Council approved an agreement accepting a donation of the subject property located at 1301 East Washington Street (**Exhibit B: Property Location Map**) from DRS Limited Partnership. The parent company, Tri Star Marketing, had sought to sell the property on the open market for a period of roughly two years prior to approaching the City regarding donation of the property. Once in City possession, staff briefly contemplated reuse of the property for municipal offices, but soon determined that it would be impractical given the level of investment required to bring the building up to standard. Staff then began reaching out to other governmental bodies to gauge their interest in the property, ultimately to no avail. In the meantime, the property's air conditioning units were vandalized in 2009 and again in 2011 despite the addition of security fencing. In recent years, staff has only utilized accessory structures on the site for some limited storage. On August 17<sup>th</sup>, 2015, the City Council dedicated a portion of the property as right-of-way to allow for future improvements to the intersection of East Washington Street and Philo Road.

On August 1<sup>st</sup>, 2016, Mayor Laurel Prussing authorized a commercial real estate listing of the property with broker Jay Sikorski of Coldwell Banker Commercial Devonshire Realty. In June of 2017, staff began work on a purchase agreement with The Overland Group for the property. On July 3<sup>rd</sup>, a notice for a public hearing to be held on July 24<sup>th</sup> was published in the News Gazette seeking public comment on the proposed sale.

### **Listing Price**

The City first listed the property at a price of \$270,000. After six months without any serious interest, the listing price was reduced to \$235,000. In April of 2017, after feedback from prospective buyers, staff reassessed the listing price on the property. Staff utilized comparable properties provided by the broker and the Cunningham Township Assessor's office staff and also took into consideration an estimated minimum demolition cost of \$70,000 to arrive at a new listing price of \$165,000. After entertaining offers from two other prospective buyers which were well below asking price, Mayor Marlin directed staff to move forward with the \$160,000 offer from The Overland Group.

### **Proposed Purchase Agreement**

The City has until August 15<sup>th</sup> to accept the proposed purchase agreement which has been signed by a representative of The Overland Group. The closing may not take place for up to 180 days while the buyer evaluates the property. If the City enacts the purchase agreement, but later refuses to transfer the property, the City will be liable for all out-of-pocket expenses incurred, by the buyer up to \$50,000. The City can remove any furniture, fixtures or contents of the buildings prior to closing. After the closing, the new owner will have 120 days to repair or demolish the buildings located on the property. During this time, the City shall not enforce its life and safety codes against the building, unless it deteriorates to the extent that it becomes an imminent danger to the public.

### **Current Zoning and Future Land Use**

The proposed sale and redevelopment of 1301 East Washington Street is consistent with the subject property's current B-3 General Business zoning which permits by-right the proposed use of a Dollar General retail store. The use would add a new retail option to the Philo Road corridor and join the nearby Family Dollar store and the adjacent Huraches Moroleon restaurant. The subject property, along with the aforementioned neighboring retailers along Philo Road, are each located on parcels designated for Community Business in the 2005 Comprehensive Plan, which defines Community Business uses as those *designed to serve the overall community and the immediate neighborhood*. The property is also located within the Urbana Enterprise Zone and a new construction project at the site would be anticipated to receive sales tax exemption certificates on new construction materials as well as property tax rebates on the new construction value.

## **Fiscal Impact**

The proposed purchase agreement would allow for sale of the property at a purchase price of \$160,000. The broker would be paid a seven percent commission at the time of closing in the amount of \$11,200. The City may also incur additional title and closing costs that are not expected to exceed \$1,300. All proceeds from the transaction, expected to be in the amount of \$147,500, would be deposited in the City's General Fund.

The City currently expends approximately \$7,250 per year in expenses associated with this property including mowing, landscaping, electricity, gas, water, outside lighting, insurance, stormwater utility fee, sewer benefit tax, and sewer fee. The City's limited utilization of storage on the property would be relocated without incurring any additional costs. As such, sale of the property would result in an approximate reduction in expenditures of \$7,250 per year.

At present under City ownership, the property is tax exempt. Sale of the property and completion of the anticipated project would likely result in the generation of over \$17,000 annually in new property tax revenue among all taxing partners once the property is fully assessed, of this over \$2,000 would likely be collected by the City annually.

## **Options**

1. Approve the draft authorizing ordinance as presented.
2. Approve the draft authorizing ordinance with changes. It should be noted that any changes would need to be agreed upon by the buyer.
3. Deny the draft authorizing agreement ordinance.

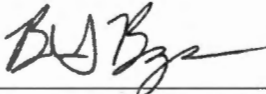
## **Recommendation**

The proposed sale of 1301 East Washington Street would provide for the demolition of blighted structures and create an opportunity for substantive new investment in the Philo Road corridor. The proposed retail project by the prospective buyer would be permitted by right under the parcel's current zoning and would provide retail activation of an underutilized, but highly visible corner property.

The sale of the property would raise over \$147,000 in General Fund revenues upon closing and would also result in a decrease in City property maintenance expenditures of over \$7,000 per year. Lastly, the property when improved and fully assessed would likely generate \$2,000 per year in new property tax revenues to the City.

Staff recommends that the City Council approve the attached draft authorizing ordinance to advance the sale of 1301 East Washington Street to The Overland Group.

Prepared by:



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Brandon S. Boys, AICP  
Economic Development Manager

Additional contributions to this memo by:

William R. Gray, Public Works Director  
Curt Borman, Assistant City Attorney

Exhibits:           A:   Draft Authorizing Ordinance with Attached Purchase Agreement  
                      B:   Property Location Map

*Exhibit A*

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN REAL ESTATE**

**(1301 East Washington Street)**

**WHEREAS**, Urbana City Code Section 2-118(a) provides that any real estate owned by the City of Urbana ("City") may be sold in any manner prescribed by the City Council in an ordinance authorizing such sale; and

**WHEREAS**, the City owns certain real estate commonly known as 1301 East Washington Street; and

**WHEREAS**, The Overland Group, LLC desires to buy, and the City desires to sell, the real estate for the purchase price of \$160,000; and

**WHEREAS**, the City Council expressly finds and declares that the real estate is no longer needed for governmental purposes or proprietary activity of the City; and

**WHEREAS**, the Committee of the Whole, a regular standing committee of the City Council, held a public hearing on the question of the sale at 7:00 p.m. on Monday, July 24, 2017, after due and proper notice of such public hearing having been given by publication in *The News-Gazette*, a newspaper having a general circulation within the City, on a date at least 15 days prior to the time of the public hearing; and

**WHEREAS**, the City Council, after due consideration, finds that the sale of the real estate to The Overland Group, LLC, as herein provided, is in the best interests of the residents of the City and is desirable for the welfare of the City's government and affairs.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS**, as follows:

**Section 1.**

The sale of the real estate commonly known as 1301 East Washington Street; n Urbana, Illinois, and legally described below, substantially on such terms as contained in the Purchase and Sale Contract attached hereto and incorporated herein, is hereby authorized and approved:

Tract 1:

A part of the Northeast Quarter of the Southwest Quarter of Section 16, Township 19 North, Range 9 East of the Third Principal Meridian, the surveyed boundary of which is more particularly described as follows:

Beginning at an iron rod monument situated at the intersection of the Southerly line of Washington Street in the City of Urbana, Illinois, said line having a local bearing

of South 89°19 1/2' East, and the Northeasterly wayland line of the Norfolk and Western Railroad, as shown by plat recorded in Book "E" at page 25 in the office of the Champaign County Recorder; thence Southeasterly along said Northeasterly wayland line, said line also being along a curve to the left, convex to the Southwest having a radius of 5,693.97 feet and a long chord bearing of North 44°48 1/2' West, a distance of 384.04 feet to an iron rod monument situated at a point of tangency; thence South 46°44 1/2' East along said Northeasterly wayland line, 75.67 feet to an iron rod monument; thence South 00°02 1/4' West, 90.57 feet to an iron rod monument situated on the Southwesterly wayland line of said railroad, said wayland also being the Northeasterly line of State of Illinois Highway Route 130, said line also being parallel with and 66.00 feet distant from said Northeasterly wayland line of said railroad; thence North 46°44 1/2' West along said Southwesterly wayland line, 137.69 feet to an iron rod monument situated at a point of curvature; thence Northwesterly along said Southwesterly line, said line also being along a curve to the right, convex to the Southwest with a radius of 5,759.97 feet, a distance of 360.01 feet to an iron rod monument, situated at a point of compound curvature; thence Northerly along a curve to the right, convex to the Northwest, with a radius of 39.03 feet, a distance of 91.18 feet to an iron rod monument, situated at a point of tangency, and also situated on the aforesaid Southerly line of Washington Street, said point also being the point of beginning, containing 0.754 acres, more or less, all situated within the City of Urbana, Champaign County, Illinois.

Tract 2:

Tract "B" of Modern Research Industries Subdivision according to the plat thereof recorded on Document No. 604045 in Plat Book "M" at page 6 in the office of the Champaign County Recorder, situated in the Northeast Quarter of the Southwest Quarter of Section 16, Township 19 North, Range 9 East of the Third Principal Meridian, the survey boundary of which is more particularly described as follows:

Beginning at an iron rod monument situated at the intersection of the Southerly line of Washington Street in the City of Urbana, Illinois, and the Northeasterly wayland line of the Norfolk and Western Railroad, as shown by plat recorded in Book "E" at page 25 in the office of the aforesaid County Recorder; thence South 89°19 1/2' East on a local bearing along said Southerly Street line, 325.94 feet to an iron rod monument situated at the intersection of said Southerly line of Washington Street and the West line of Washington Square First Subdivision; thence South 00°02 1/4' West, along said Subdivision West line 320.42 feet to an iron rod monument at the intersection of said West line of Washington Square Subdivision and aforesaid Northeasterly wayland line of the Norfolk and Western Railroad; thence North 46°44 1/2' West along said Northeasterly line, 75.67 feet to an iron rod monument, situated at a point of curvature; thence Northwesterly along said Northeasterly line, said line also being along a curve to the right, convex to the Southwest with a radius of 5,693.97 feet, a distance of 384.04 feet to the point of beginning, containing 1.229 acres, more or less, all situated within the City of Urbana, Champaign County, Illinois.

**Except:**

That portion of the above described property dedicated as right-of-way by Document Number 2015R16569 and recorded August 27, 2015 in the Office of the Recorder, Champaign County, Illinois, being described as follows:

A part of the Southwest Quarter of Section 16, Township 19 North, Range 9 East of the Third Principal Meridian, Champaign County, Illinois, being more particularly described as follows:

Beginning at an iron rod monument situated at the intersection of the existing southerly right-of-way line of Washington Street in the City of Urbana, Illinois, and the northeasterly right-of-way line of the abandoned Norfolk and Western (formerly Wabash) Railroad, as shown by plat recorded in Book "E" at page 25 in the Office of the Champaign County Recorder; thence, SOUTH 89 DEGREES 19 MINUTES 30 SECONDS EAST, along said southerly line of Washington Street, 105.94 feet; thence, SOUTH 59 DEGREES 42 MINUTES 00 SECONDS WEST, 100.00 feet; thence, SOUTH, 64.12 feet, to the existing northeasterly right-of-way line of Philo Road, said line also being the southwesterly right-of-way line of said abandoned Norfolk and Western Railroad; thence, along said northeasterly right-of-way line of Philo Road, along a curve to the right, having a radius of 5759.97 feet, a chord bearing of NORTH 43 DEGREES 21 MINUTES 53 SECONDS WEST, a chord length of 69.75 feet, for an arc length of 69.75 feet, to a point of compound curvature; thence along a curve to the right, having a radius of 39.03 feet, a chord bearing of NORTH 23 DEGREES 29 MINUTES 40 SECONDS EAST, a chord length of 70.99 feet, for an arc length of 89.14 feet, to the point of beginning, having an area of 0.156 acres (6799.490 square feet), more or less, all situated in the City of Urbana, Champaign County, Illinois.

Permanent Index No.: 92-21-16-327-011

### **Section 2.**

The Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver a Purchase and Sale Contract, in substantially the form of the copy of the Purchase and Sale Contract attached hereto and hereby incorporated by reference, and all other documents required to be delivered in connection with the transaction contemplated herein, and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to the execution of the documents, as so authorized and approved for and on behalf of the City of Urbana, Illinois.

### **Section 3.**

The Mayor of the City of Urbana, Illinois, or her designee, be and hereby is authorized to perform all acts necessary on behalf of the City of Urbana to effectuate the sale of the real estate.

### **Section 4.**

This Ordinance shall be in full force and effect from and after its passage.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of three-fourths of all the alderpersons then holding office and the Mayor (6 of 8 votes) of the City of Urbana, Illinois, at a meeting of the City Council.

**PASSED BY THE CITY COUNCIL** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

AYES:

NAYS:

ABSTAINED:

\_\_\_\_\_  
**Charles A. Smyth, City Clerk**

**APPROVED BY THE MAYOR** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
**Diane Wolfe Marlin, Mayor**



# PURCHASE AND SALE CONTRACT

THIS PURCHASE AND SALE CONTRACT OF REAL PROPERTY (the "Agreement") made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2017 by and between CITY OF URBANA, (hereinafter "Seller") and THE OVERLAND GROUP, LLC. and/or ASSIGNS, (hereinafter "Buyer").

## WITNESSETH:

**WHEREAS**, Seller is the owner of a certain tract of real property, with PIN 92-21-16-327-011, measuring approximately 220' of frontage E Washington St. by 320' of depth for a total 1.82± acres, City of Urbana, Champaign County, Illinois, which tract of land is more particularly shown on Exhibit "A" attached hereto and made a part hereof (the "Property"); The Property shall mean net usable acres and shall not include real property burdened by permanent rights-of-way for public roads, drainage or utilities; and

**WHEREAS**, Buyer desires to purchase the Property upon the terms, provisions and conditions hereinafter set forth, together with all right, title and interest, if any, of Seller in and to any land lying in the bed of any street, road, alley or way, whether opened to, in front of or adjacent to the Property, and together with all appurtenances, improvements, easements and/or hereditaments thereunto belonging; and

**NOW THEREFORE**, for and in consideration of the mutual covenants and agreements contained herein, Buyer and Seller hereby covenant and agree as follows:

1. **PURCHASE PRICE.** The total purchase price for the Property shall be ONE HUNDRED AND SIXTY THOUSAND NO/100 DOLLARS (\$160,000.00). The Purchase Price, less credit for monies heretofore paid to Seller by Buyer for the Inspection Period and any payments made pursuant to Section 17 herein below, shall be paid to Seller at closing as hereinafter defined (the "Closing").
2. **INSPECTION PERIOD.** For a period of one hundred and eighty (180) days from the date of this Agreement (the "Inspection Period"), Buyer shall have the privilege of going upon the Property as needed to confirm zoning, confirm availability of all utilities (including sewer), to inspect, examine, survey, make soil and subsoil tests, percolation tests, arrange financing for the proposed development and to otherwise do what Buyer reasonably deems necessary to determine, to Buyer's sole satisfaction, whether the Property is suitable for Buyer's intended development and use. If Buyer exercises its rights under the provisions of this Section, it shall (1) keep the Property free of any liens or third-party claims resulting therefrom; (2) promptly pay when due the costs of all tests, investigations and examinations done with regard to the Property; (3) indemnify and hold Seller harmless from and against any and all liability, damages, claims, causes of action, costs or other expenses, including without limitation reasonable attorney's fees, paid, incurred or asserted against Seller any lien claims or for injuries to or death of persons or damage to property arising from or caused by Buyer's entry onto the Property or the negligence or willful misconduct of Buyer, its agents, employees and contractors in connection with the exercise by Buyer of the rights hereunder; and (4) if Closing does not occur for any reason, fully restore the Property as nearly as practicable to its condition immediately before such exercise. This Section shall survive the termination of this Agreement or Closing and delivery of the Deed. If Buyer determines, in its sole discretion, that the Property is unsuitable for its

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## PURCHASE AND SALE CONTRACT

proposed development and gives notice of this to Seller prior to the expiration of the Inspection Period, then this Agreement shall terminate.

3. SURVEY. Buyer will secure at Buyer's expense a boundary survey of the Property, prepared by an engineer or land surveyor registered in the state of Illinois, selected by Buyer. This boundary survey shows all easements, rights of way, encroachments and matters of record, together with a certification as to the number of acres.
4. CONVEYANCE AND PERMITTED EXCEPTIONS. Upon payment by Buyer of all amounts due at Closing for the Property and Buyer's performance of all other obligations to be performed by Buyer at Closing, Seller shall convey title to the Property to Buyer by general warranty deed subject to any permitted exceptions.
5. TITLE EVIDENCE. Within thirty (30) days after execution of this Contract for Purchase and Sale, Buyer shall obtain a commitment (the "Commitment") for owner's policy of title insurance from Chicago Title Insurance Company, certified to a current date, and at Closing, the title policy referred to in the commitment (the "Title Policy") in the amount of the Purchase Price. If the commitment or survey shows any defects or encumbrances or any covenant, restriction, easement or right-of-way of record or any private road or utility line or facility which in Buyer's reasonable judgment will materially interfere with Buyer's proposed development of the Property, then prior to Closing, Buyer shall notify Seller of its objections to any such matter. Seller shall have a reasonable time to cure the title defects to which Buyer has objected. If Seller fails to cure the title defects, Buyer shall have the option of either (1) accept title subject to the objections raised by Buyer and such accepted objections become Permitted Exceptions ("Permitted Exceptions") without any adjustment in the Purchase Price, or (2) rescind this Agreement, or (3) work with Seller to satisfy unacceptable matters and postpone the closing date for the same time period as it takes to satisfy these matters.
6. DEVELOPMENT OF TRACT AND CONDITIONS PRECEDENT. Buyer's obligation to close is subject to the satisfaction, as of the Closing Date, of each of the conditions described below (any of which may be waived in whole or in part in writing by Buyer at or prior to the Closing Date). Unless specifically stated as Seller's obligation, the satisfaction of all these conditions shall be at Buyer's sole expense. Buyer shall diligently and in good faith pursue the satisfaction of these conditions and Seller shall promptly cooperate whenever required by Buyer. In the event the conditions below have not been satisfied to the Buyer's satisfaction, the Buyer shall have the right to terminate this Agreement by so notifying Seller in writing.
  - A. Mutual Cooperation. Buyer and Seller agree to cooperate with one another in all reasonable respects in connection with any approvals, zoning changes or variances, or similar actions or consents which may be necessary or appropriate in connection with use of the Property and to otherwise cooperate in all reasonable respects in connection with the development of the Property. As of the Closing Date the Property shall be properly zoned for commercial real estate with all necessary zoning variances, if any are required, approved for Buyer's intended development. Buyer shall pay all costs incurred by either party in connection with satisfying this condition.

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- B. No Moratoriums. There shall be no development or building moratorium in effect with regard to the Property. In the event any such moratorium shall exist, then Buyer shall have the option of either (1) closing the transaction in accordance with the terms of this Agreement, (2) delaying closing until after the moratorium is lifted, or (3) terminating this Agreement by notice to the Seller.
- C. Ingress and Egress. There shall be suitable ingress and egress to the Property, including all necessary turning movements and curb cuts for Buyer's proposed development.
- D. Sanitary Sewer and Water Facilities. Buyer shall have (1) determined that sanitary sewer and water facilities adequate to serve the Property are available and (2) secured all required governmental approvals for the installations and use of such sanitary sewer and water facilities.
- E. Governmental Approvals. Buyer shall have obtained all necessary governmental approvals from the appropriate authorities for Buyer's proposed development, including without limitation, building permits, site plan approval including parking, and storm water retention. In addition, Buyer shall have received approval of its proposed tenant of the site plan as satisfying all tenants' conditions pursuant to tenant's lease agreement with Buyer. If Buyer's have requests pending before any government body for a permit, license or other approval required to begin the construction Buyer anticipates on the Property, Buyer may, by delivering written notice prior to expiration of this Agreement, extend the closing for thirty (30) days past such time as all applicable government bodies rule on the issuance of any requested permits, not to exceed one hundred twenty (120) days in addition to all other extensions provided for herein.
- F. Taxes/Liens. In the event there are unpaid taxes or liens relating to the Property for any time prior to the execution of the contract, Buyer will give Seller written notice by facsimile transmission or electronic mail of such unpaid taxes or liens effecting the Property and request that Seller pay those taxes or liens. In the event Seller fails to pay the taxes or liens within three (3) calendar days of Seller's receipt, Buyer may pay those taxes or liens directly and Seller shall reimburse Buyer for such paid amounts on or before Closing out of Seller's closing proceeds. The Parties agree that Seller will only be liable for taxes or liens resulting from its use of the Property prior to Closing. For purposes of this Section 6 (F), notice to Seller's agent shall constitute sufficient notice to Seller.
7. NON-NEGOTIATION. Seller hereby covenants and agrees that it shall not during the Inspection Period or any extension thereof, nor prior to closing, lease the Property or convey, demise, or otherwise encumber the Property except as specifically provided in this Agreement.
8. REPRESENTATIONS AND WARRANTIES OF BUYER. Buyer represents and warrants to Seller that:

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## PURCHASE AND SALE CONTRACT

- A. Buyer is a Missouri Limited Liability Company, duly organized, validly existing, and in good standing under the laws of the State of Missouri and duly authorized to transact business in and in good standing under the laws of the state where the Property is located.
- B. Buyer has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Buyer pursuant hereto.
9. REPRESENTATIONS AND WARRANTIES OF SELLER. Seller to the best of their knowledge represents and warrants, and covenants with, Buyer as follows:
- A. Seller has good and indefeasible fee simple title to the Property subject to matters of record and affecting the Property and at Closing will have and will convey to Buyer by warranty deed good and indefeasible fee simple title to the Property, free and clear of all liens, defects, encumbrances, conditions, exceptions, restrictions or other matters affecting title except Permitted Exceptions;
- B. Seller has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Seller pursuant hereto;
- C. Seller has not received any written notice of any current or pending litigation, tax appeals or environmental investigations against Seller or the Property and, to Seller's knowledge, there is no pending litigation, tax appeals or environmental investigations against Seller or the Property;
- D. Seller has not entered into any contracts, subcontracts or agreements affecting the Property which will be binding upon Buyer after the Closing;
- E. Seller has not received any written notice from (or delivered any notice to) any governmental authority regarding any violation of any law applicable to the Property and, to the best of Seller's knowledge, there are no such violations;
- F. There are no occupancy rights, leases or tenancies affecting the Property;
- G. No person or entity has any option, right of first refusal or other right to purchase the Property or any part thereof or interest therein;
- H. To Seller's knowledge, no pending or, to Seller's knowledge, threatened condemnation proceedings affecting the Property and Seller has not received any written notice that there is any pending or threatened condemnation of all or any part of the Property;
- I. The Seller has disclosed to the Buyer any and all information known to the Seller of any environmental condition which may affect the marketability or usability of the Property. The disclosed information is shown in Exhibit B. If the Seller becomes aware of the existence of any environmental concern or violation of any environmental law or regulation not previously disclosed at any time prior to the Closing that affects either the value of the Property or its use for a commercial or residential purpose, the Seller shall give written notice to Buyer of such concern or violation.
- J. Should Seller receive notice or actual knowledge of any materially inaccurate information regarding any of the matters set forth in this Section 10 after the date of this Agreement and prior to Closing, Seller will immediately notify Buyer of the same in writing. If Seller is unwilling or unable to correct such inaccuracy on or before Closing of the applicable Property, Buyer may cancel this Agreement. The representations and warranties of Seller shall survive the Closing for a period of one (1) year. Any action based on a breach of any such representations or warranties shall be commenced within such one (1) year period or deemed waived.

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## PURCHASE AND SALE CONTRACT

10. **NOTICES.** All notices will be in writing and served by postage prepaid certified mail, by next day delivery (such as Federal Express), by facsimile transmission, or by electronic mail to the addresses shown below, until notification of a change of such addresses. All such notices shall be deemed delivered on the date initiated.

For Buyer:  
The Overland Group, LLC  
194 Narrows Drive, Suite 1  
Birmingham, AL 35242  
Phone: 205-995-2990  
Fax: 205-995-2989

With a Copy To:  
The Overland Group, LLC  
1598 Imperial Center, Ste. 2001  
P.O. Box 885  
West Plains, MO 65775

For Seller:  
City of Urbana  
400 S Vine Street  
Urbana, IL 61801

11. **AGENCY DISCLOSURE.**

THE BUYERS ARE LICENSED REAL ESTATE BROKERS IN THE STATES OF MISSOURI AND ALABAMA.

The listing company Coldwell Banker Commercial Devonshire Realty is an agent of the seller.

The selling company NA is assisting the buyer as a transaction broker.

12. **BROKER.** Each party represents and warrants to the other Coldwell Banker Commercial Devonshire Realty is the only Broker in connection with the sale of the Property. Seller agrees to pay Coldwell Banker Commercial Devonshire Realty in this transaction, in cash, at closing, an undisclosed commission. Buyer and Seller each warrant and represent to the other that no real estate broker or agent other than Broker aforementioned have been used or consulted in connection with the negotiation or execution of this Agreement and each covenants and agrees that it will defend, indemnify and save the other harmless from and against any actions, real estate commissions, fees, costs and /or expenses (including reasonable attorney's fees) resulting or arising from acts of the indemnifying party and resulting in commission, fees, costs and/or expenses being actually found due to any real estate broker or agent by a court of competent jurisdiction in connection with the purchase and sale, if at all, of the Property.
13. **DISCLAIMER.** Seller and Buyer acknowledge that they have not relied upon advice or representations of Broker (or Broker's associated salespersons) relative to the legal or tax consequences of this contract and the sale, purchase or ownership of the Property. Seller and Buyer acknowledge that if such matters are of concern to them in the decision to sell or purchase the Property, they have sought and obtained independent advice relative thereto.

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## PURCHASE AND SALE CONTRACT

14. **DEFAULT.** In the event Seller breaches its covenant to convey the Property to Buyer or otherwise fails to perform its obligations under this Agreement which are to be performed by Seller at or prior to Closing in accordance with its terms, Buyer shall be entitled to one of the following as Buyer's sole remedy: (a) terminate this Agreement; and receive a prompt and complete return of any monies heretofore paid by Buyer to Seller or for Buyers out-of-pocket expense: OR (b) obtain specific performance of this Agreement. If Buyer fails to perform as required under this Agreement, then Seller shall receive the earnest monies as liquidated damages, it being agreed between Buyer and Seller that such sum shall be liquidated damages for a default of Buyer hereunder because of the difficulty, inconvenience, and the uncertainty of ascertaining actual damages for such default.
15. **FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA).** In the Closing of this transaction, Seller and Buyer shall comply with the FIRPTA and the regulations promulgated thereunder by the IRS.
16. **NON-BUSINESS DAYS.** If any date herein set forth for the performance of any obligations by Seller or Buyer or for the delivery of any instrument or Notice or for the satisfaction of any condition precedent, or the expiration of any contingency period, as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery or satisfaction of such condition or expiration of such contingency period, shall be extended to the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any state or federal holiday for which financial institutions or post offices are generally closed in the State of Illinois for observance thereof.
17. **CLOSING.** In the event Buyer exercises its rights to purchase the Property, the consummation of the purchase and sale, delivery of the deed of conveyance and payment of the Purchase Price (the "Closing") shall take place at a legal office on a date and time mutually agreed to by the parties hereto, but in no event later than sixty (60) days after the end of the Inspection Period, or any extensions of Closing as outlined in Section 17. All federal, state, county and municipal ad valorem real property taxes and assessments with respect to the Property shall be prorated at closing. If the amount of such taxes and assessments is not known as of closing, then the pro-ration of such taxes and assessments shall be made upon the basis of the most recent ascertainable statements, and such prorations shall be adjusted when such taxes and assessments are available.

Seller agrees that it shall deliver sole and exclusive possession of the Property to Buyer at Closing free and clear of all tenancies. Seller further agrees that Buyer shall have the option to set a closing date upon sixty (60) days written notice. Seller shall be able to remove any furniture, buildings, fixtures, or contents prior to closing. Any furniture, buildings, fixtures, or contents remaining on the property after closing shall be owned by the Buyer. In the event that Buyer sets a closing date in accordance with this section and Seller fails or refuses to close on the closing date as set, Buyer may, (1) either waive the default and proceed to close the transaction, or (2) terminate the contract in which case Buyer shall also be entitled to recover all of Buyer's out of pocket expenses in due diligence and design of its project in an amount not to exceed fifty thousand Dollars (\$50,000). The remedies contained herein shall be in addition and cumulative to those set forth in section 14 above.

Buyer's Initials

SA

Seller's Initials \_\_\_\_\_

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## PURCHASE AND SALE CONTRACT

Notwithstanding the foregoing, Buyer may extend the closing date for two (2) additional periods of sixty (60) days each.

Seller will pay the costs of Seller's counsel, preparation of the deed and any bill of sale, a title insurance policy in an amount equal to the Purchase Price, broker commissions, and transfer taxes for the conveyance.

Buyer will pay the cost of Buyer's counsel, the cost of the survey, all loan costs required by Buyer's lender, including title policy cost in excess of owner's policy provided by Seller, escrow fees, and recording fees for the deed and mortgage, and any applicable mortgage tax.

18. GOVERNING LAW. This Agreement shall be construed, and the terms hereof shall be enforceable, in accordance with the internal laws (as distinguished from the conflicts of law provisions) of the state where the Property is located, and in the event any legal proceedings are brought in connection with this Agreement, the parties agree that the venue therefore shall be only state and federal courts located in the state where the Property is located, and the courts to which an appeal therefrom may be taken.
19. EXPENSES OF ENFORCEMENT. In the event of litigation between the parties with respect to the Property, this Agreement, the performance of their obligations hereunder or the effect of a termination under this Agreement, the losing party shall pay all costs and expenses incurred by the prevailing party in connection with such litigation, including reasonable attorneys' fees.
20. SEVERABILITY. In case any of the provisions of this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, the remaining provisions shall remain in effect and the Agreement be performed in a fair and equitable manner as to any uncertainties arising from the unenforceable provisions.
21. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Signatures may be faxed or e-mailed.
22. AMENDMENTS. Neither this Agreement nor any provisions hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.
23. DESTRUCTION OR DAMAGE. Risk of loss by damage or destruction to the Property prior to the Closing shall be borne by Seller. The parties acknowledge that if there are improvements on the Property, and in the event of any damage or casualty to any such improvements on the Property, by fire or other casualty, this Agreement shall continue unaffected, and Buyer shall have no right to any insurance proceeds of Seller with respect to said damage.

Buyer's Initials

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Seller's Initials

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## PURCHASE AND SALE CONTRACT

24. **DEMOLITION OR REPAIR.** The commercial building located on the Property is unsafe and dangerous, has unsafe equipment, and is unfit for human occupancy. The Buyer shall demolish or put building in a safe condition in no more than one hundred twenty (120) days after Closing. During such time, the Seller shall not take enforcement action against the Buyer for the building's life and safety code violations, unless the condition of the building so deteriorates that it becomes an imminent danger to the public. This Section shall survive the termination of the Agreement or the Closing and delivery of the Deed.
25. **EXPIRATION.** If this Agreement is not executed by Seller and Buyer on or before 5:00 P.M., CST/CDT time August 15, 2017, this Agreement shall be null and void and shall have no force and effect and neither Seller nor Buyer shall have any further obligations hereunder. The effective date of this Agreement shall be the date upon which the later of Seller or Buyer executes this Agreement.
26. **INTENDED USE.** Buyer and Seller are in agreement that the property may only be purchased by the Overland Group LLC. and/or ASSIGNS for the development of a Dollar General Store
27. **ASSIGNMENT.** The Buyer shall not assign its rights under this Agreement unless the Seller provides its prior written Express consent of the Proposed assignee of such rights, which Seller may withhold in its sole discretion.
28. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between Buyer and Seller regarding the Property, and supersedes all prior discussion, negotiations and agreements between Buyer and Seller, whether oral or written. Neither Buyer, Seller, nor Broker, nor any sales agent shall be bound by any understanding, agreement, promise, or representation concerning the Property, expressed or implied, not specified herein. If any clause or provision of this Agreement, or the application thereof to any entity or circumstance, is or becomes illegal, invalid or unenforceable to any extent because of present or future laws or rules or regulation of any governmental body or entity, the intention of the parties hereto is that the remaining parts of this Agreement shall not be affected thereby and that the same shall otherwise remain enforceable to the fullest extent permitted by law. This Agreement shall be construed under Illinois law, and the parties agree that any action to enforce this Agreement shall not be affected thereby and that the same shall otherwise remain enforceable to the fullest extent permitted by law.

Buyer's Initials

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Seller's Initials \_\_\_\_\_



# PURCHASE AND SALE CONTRACT

**Seller(s)**

**CITY OF URBANA**

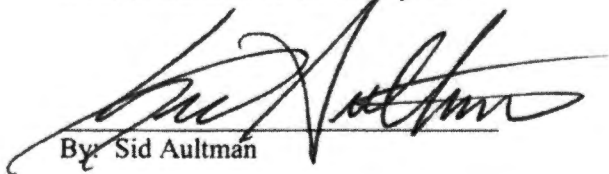
By: \_\_\_\_\_

As Its:

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

**Buyer:**

**THE OVERLAND GROUP, LLC**

  
By: Sid Aultman

As Its: Member

Date: 6/26/2017

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9

# PURCHASE AND SALE CONTRACT

EXHIBIT "A"

PIN 92-21-16-327-011



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10

**PURCHASE AND SALE CONTRACT**

EXHIBIT "B"

"NFR Pages 12-30 of this  
Contract"

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Seller's Initials \_\_\_\_\_

# PURCHASE AND SALE CONTRACT

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**PREPARED BY:**

Name: Russell Stewart, Vice President  
Tri Star Marketing, Inc.  
Address: 2211 West Bradley Avenue  
Champaign, IL 61821

**RETURN TO:**

Name: Russell Stewart, Vice President  
Tri Star Marketing, Inc.  
(g) Kathryn L. DeSignore  
Address: 2211 West Bradley Avenue  
Champaign, IL 61821



2009R20847

RECORDED ON  
07/14/2009 11:05:48AM  
CHAMPAIGN COUNTY  
RECORDER  
BARBARA A. FRASCA  
REC FEE: 39.00  
RSPS Fee:  
REV FEE:  
PAGES 18  
PIAT ACT: 0  
PIAT PAGE:

**RECORDED  
NFR**

**THE ABOVE SPACE FOR RECORDER'S OFFICE**

The remediation applicant must submit this Environmental No Further Remediation Letter within 45 days of its receipt, to the Office of the Recorder of Champaign County.

Illinois State EPA Number: 0191059062

Tri Star Marketing, Inc., the Remediation Applicant, whose address is 2211 West Bradley Avenue, Champaign, IL 61821 has performed investigative and/or remedial activities for the remediation site depicted on the attached Site Base Map and identified by the following:

1. Legal description or Reference to a Plat Showing the Boundaries: Tract 1:

A part of the Northwest Quarter of the Southwest Quarter of Section 16, Township 19 North, Range 9 East of the Third Principal Meridian, the surveyed boundary of which is more particularly described as follows:

Beginning at an iron rod monument situated at the intersection of the southerly line of Washington Street in the City of Urbana, Illinois, said line having a local bearing of South 89° 19½' East, and the northeasterly way land line of the Norfolk and Western Railroad, as shown by plat recorded in Book E, Page 25 in the office of the Champaign County Recorder; thence southeasterly along said northeasterly way land line, said line also being along a curve to the left, convex to the southwest, having a radius of 3,693.97 feet and a long cord bearing of North 44° 48½' West, a distance of 384.04 feet to an iron rod monument situated at a point of tangency; thence South 46° 44½' East, along said northeasterly way land line 75.67 feet to an iron rod monument; thence South 00° 2¼' West, 90.57 feet to an iron rod monument situated on the southwesterly way land line of said railroad, said way land also being the northeasterly line of State of Illinois Highway Route No. 130, said line also being parallel with and 66.00 feet distant from said northeasterly way land line of said railroad; thence North 46° 44½' West along said southwesterly way land line, 137.69 feet to an iron rod monument situated at a point of curvature; thence northwesterly along said southwesterly line, said line also being a curve to the right, convex to the southwest, with a radius of 5,759.97 feet, a distance of 360.01 feet to an iron rod monument situated at a point of compound curvature; thence northerly along a curve to the right, convex to the northwest, with a radius of 39.03 feet, a distance of 91.18 feet to an iron rod monument situated

(Illinois EPA Site Remediation Program Environmental Notice)

Page 7

2009R20847 1 OF 18

Buyer's Initials

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# PURCHASE AND SALE CONTRACT

at a point of tangency, and also situated on the aforesaid southerly line of Washington Street, said point also being the point of beginning; containing 0.754 acres, more or less and all situated within the City of Urbana, Champaign County, Illinois.

Tract 2:

Tract "B" of Modern Research Industries Subdivision, as recorded on Document NO. 604045, Book "M", Page 6 in the office of the Champaign County Recorder, situated in the Northeast Quarter of the Southwest Quarter of Section 16, Township 19 North, Range 9 East of the Third Principal Meridian, the survey boundary of which is more particularly described as follows:

Beginning at an iron rod monument situated at the intersection of the southerly line of Washington Street in the City of Urbana, Illinois and the northeasterly way land line of the Norfolk and Western Railroad; as shown by plat recorded in Book "E", Page 25 in the office of the aforesaid County Recorder; thence South 89° 19½' East on a local bearing along said southerly street line 325.94 feet to an iron rod monument situated at the intersection of said southerly line of Washington Street and the west line of Washington Square First Subdivision; thence South 00° 2¼' West, along said subdivision west line 320.42 feet to an iron rod monument at the intersection of said west line of Washington Square Subdivision and aforesaid northeasterly way land line of the Norfolk and Western Railroad; thence North 45° 44½' West along said northeasterly line 75.67 feet to an iron rod monument situated at a point of curvature; thence northwesterly along said northeasterly line, said line also being a curve to the right, convex to the southwest with a radius of 5,693.97 feet, a distance of 384.04 feet to the point of beginning, containing 1.229 acres more or less and all situated within the City of Urbana, Champaign County, Illinois.

2. Common Address: 1301 East Washington Street, Urbana, IL
3. Real Estate Tax Index/Parcel Index Number: 92-21-16-327-011
4. Remediation Site Owner: City of Urbana
5. Land Use: Industrial/Commercial
6. Site Investigation: Focused

(Illinois EPA Site Remediation Program Environmental Notice)  
Page 8

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Buyer's Initials

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# PURCHASE AND SALE CONTRACT

**SITE REMEDIATION PROGRAM**  
**TABLE A: REGULATED SUBSTANCES OF CONCERN**  
**0191059062/Russell Stewart Oil Company**

### BTEX Indicator Contaminants

CAS No.	Compound Name
71-43-2	Benzene
100-41-4	Ethylbenzene
108-88-3	Toluene
1330-20-7	Xylene (totals)

### Semivolatile Organic Compounds

CAS No.	Compound Name
91-20-3	Naphthalene
208-96-8	Acenaphthylene
83-32-9	Acenaphthene
86-73-7	Fluorene
85-01-8	Phenanthrene
120-12-7	Anthracene
206-44-0	Fluoranthene
129-00-0	Pyrene
56-55-3	Benzo(a)anthracene
218-01-9	Chrysene
205-99-2	Benzo(b)fluoranthene
207-08-9	Benzo(k)fluoranthene
50-32-8	Benzo(a)pyrene
193-39-5	Indeno(1,2,3-cd)pyrene
53-70-3	Dibenzo(a,h)anthracene
191-24-2	Benzo(g,h,i)perylene

### Metals

CAS No.	Compound Name
7439-92-1	Lead

(Illinois EPA Site Remediation Program Environmental Notice)  
Page 9

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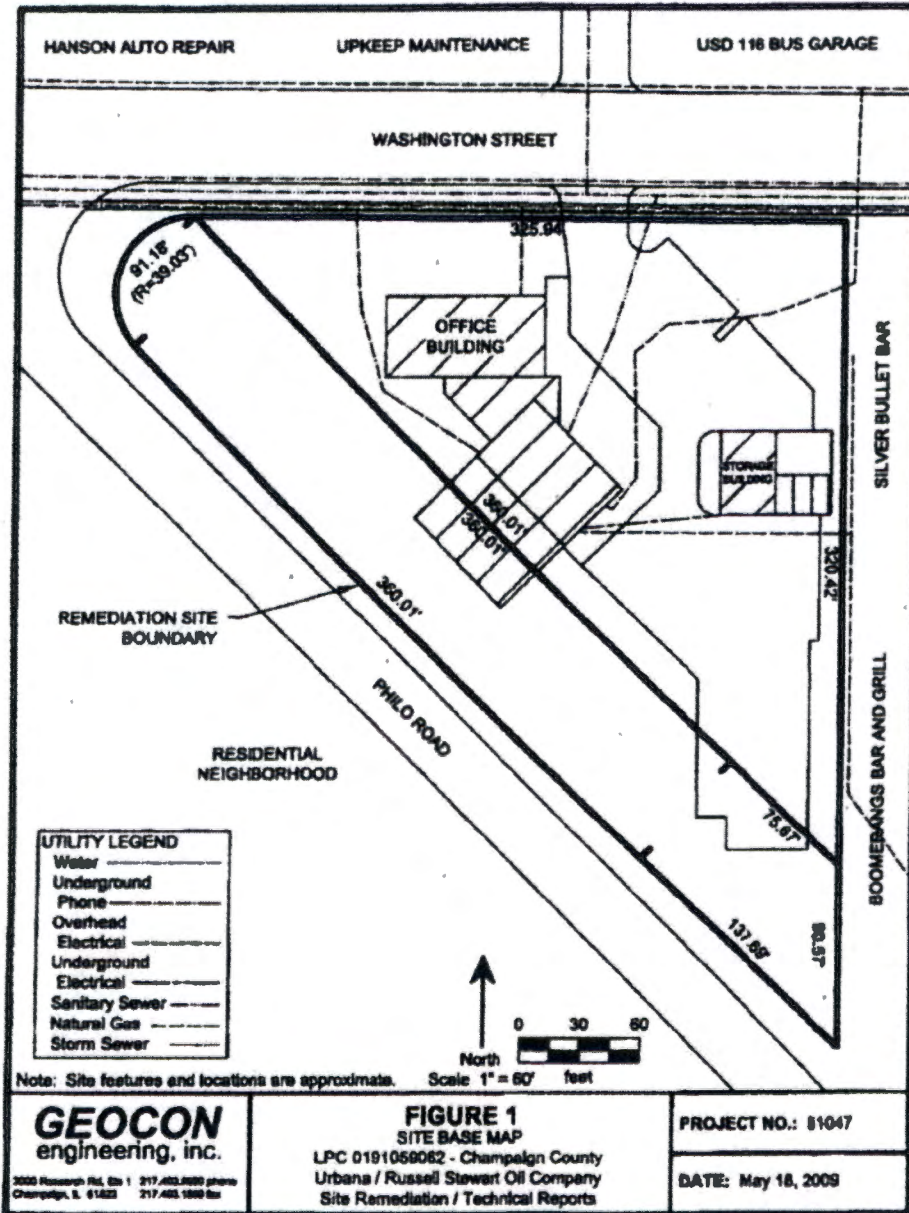
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14

# PURCHASE AND SALE CONTRACT



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# PURCHASE AND SALE CONTRACT

cc: Records Unit  
Bob O'Hara  
Rick Lucas

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# PURCHASE AND SALE CONTRACT

## PROPERTY OWNER CERTIFICATION OF THE NFR LETTER UNDER THE SITE REMEDIATION PROGRAM

Where the Remediation Applicant (RA) is not the sole owner of the remediation site, the RA shall obtain the certification by original signature of each owner, or authorized agent of the owner(s), of the remediation site or any portion thereof who is not an RA. The property owner or the duly authorized agent of the owner must certify, by original signature, the statement appearing below. This certification shall be recorded in accordance with Illinois Administrative Code 740.620.

Include the full legal name, title, the company, the street address, the city, the state, the ZIP code, and the telephone number of all other property owners. Include the site name, street address, city, ZIP code, county, Illinois inventory identification number and real estate tax index/parcel index number.

A duly authorized agent means a person who is authorized by written consent or by law to act on behalf of a property owner including, but not limited to:

1. For corporations, a principal executive officer of at least the level of vice-president;
2. For a sole proprietorship or partnership, the proprietor or a general partner, respectively; and
3. For a municipality, state or other public agency, the head of the agency or ranking elected official.

For multiple property owners, attach additional sheets containing the information described above, along with a signed, dated certification for each. All property owner certifications must be recorded along with the attached NFR letter.

Property Owner Information	
Owner's Name: <u>City of Urbana</u>	Site Information
Title: <u>Louise Lunt Pursing</u>	Site Address: <u>1301 E. Washington</u>
Company: <u>City of Urbana</u>	State: <u>IL</u> Zip Code: <u>61801</u> County: <u>Champaign</u>
Street Address: <u>4805 Vine St.</u>	Illinois Inventory Identification Number: <u>010</u>
City: <u>Urbana</u>	Real Estate Tax Index/Parcel Index No. <u>92-21-1b-27-011</u>
<p>I hereby certify that I have reviewed the attached No Further Remediation Letter and that I accept the terms and conditions and any land use regulations set forth in the letter.</p> <p>Owner's Signature: <u>[Signature]</u> Date: <u>7/19/09</u></p> <p>WITNESSED AND SIGNED before me this <u>19th</u> day of <u>July</u>, 20<u>09</u></p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin-left: auto;"> <p style="text-align: center;">"OFFICIAL SEAL" DEBORAH J. ROBERTS NOTARY PUBLIC, STATE OF ILLINOIS MY COMMISSION EXPIRES 6/31/2018</p> </div> <p>Notary Public <u>[Signature]</u></p>	

The Illinois NFR is administered in support of the Superfund and Section 413 Superfund of the Superfund Reauthorization Act and regulations promulgated thereunder. If the Remediation Applicant is not the sole owner of the remediation site, this form must be completed by all owners of the remediation site and recorded with the NFR Letter. Failure to do so may void the NFR Letter. This form has been approved by the Illinois Department of Commerce and Economic Development for the Remediation Program. It is subject to the public access rules specifically contained by the Remediation Applicant on its record certification on a case-by-case basis. For more information, contact the Illinois Department of Commerce and Economic Development, 202 S. Second Street, Springfield, Illinois 62701. Illinois Pollution Control Board or telephone (618) 244-3333 for questions.

Buyer's Initials SA

Seller's Initials \_\_\_\_\_

# PURCHASE AND SALE CONTRACT



City of Urbana  
400 South Vine Street  
Urbana, IL 61801

## CLERK'S CERTIFICATE

STATE OF ILLINOIS )  
                          )     SS  
COUNTY OF CHAMPAIGN )

I, PHYLLIS D. CLARK, City Clerk of the City of Urbana, Illinois, and keeper of the records, files and seal of said City, do hereby certify that the foregoing is a true and exact copy of an ordinance entitled:

**(Ord. No. 2008-09-097) "AN ORDINANCE PROHIBITING THE USE OF GROUNDWATER AS A POTABLE WATER SUPPLY BY THE INSTALLATION OR USE OF POTABLE WATER SUPPLY WELLS OR BY ANY OTHER METHOD"**

approved by the City Council of the City of Urbana, Illinois, on the 15th day of September, AD, 2008, as it appears in the records and files in my office remaining.

Given under my hand and seal of said City of Urbana, Illinois, this 10th day of October, AD, 2008.



*Phyllis D. Clark*  
Phyllis D. Clark, City Clerk  
by *W. D. J. J. J.* Deputy Clerk

[www.city.urbana.il.us](http://www.city.urbana.il.us)

Home of the University of Illinois

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# PURCHASE AND SALE CONTRACT



2008R259213  
2008R25921

RECORDED ON  
10/06/2008 03:59:47PM  
CHAMPAIGN COUNTY  
RECORDER  
BARBARA A. FRASCA  
REC FEE: 25.00  
RHSPS Fee:  
REV FEE:  
PAGES 3  
PIAT ACT: 0  
PIAT PAGE:

3  
**Recording Cover Sheet**

ORDINANCE NO. 2008-09-097

AN ORDINANCE PROHIBITING THE USE OF GROUNDWATER  
AS A POTABLE WATER SUPPLY BY THE INSTALLATION  
OR USE OF POTABLE WATER SUPPLY WELLS OR BY ANY  
OTHER METHOD

Prepared for recording by:

Deborah J. Roberts, Deputy City Clerk

400 S. Vine Street, Urbana, IL 61801

Return to:

(5)  
Phyllis D. Clark, City Clerk  
City of Urbana  
400 S. Vine Street  
Urbana, IL 61801

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Buyer's Initials

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# PURCHASE AND SALE CONTRACT

ORDINANCE NO. 2008-09-097

**AN ORDINANCE PROHIBITING THE USE  
OF GROUNDWATER AS A POTABLE WATER SUPPLY  
BY THE INSTALLATION OR USE OF POTABLE WATER  
SUPPLY WELLS OR BY ANY OTHER METHOD**

WHEREAS, certain properties in the City of Urbana, Illinois have been used over a period of time for commercial/industrial purposes; and

WHEREAS, because of said use, concentrations of certain chemical constituents in the groundwater beneath the City of Urbana may exceed Class I groundwater quality standards for potable resource groundwater as set forth in 35 Illinois Administrative Code Part 620 or Tier 1 residential remediation objectives as set forth in 35 Illinois Administrative Code Part 742; and

WHEREAS, the City of Urbana desires to limit potential threats to human health from groundwater contamination while facilitating the redevelopment and productive use of properties that are the source of said chemical constituents;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

**Section 1.** Use of groundwater as a potable water supply is prohibited. Except for such uses or methods in existence before the effective date of this ordinance, the use or attempt to use as a potable water supply groundwater from within the corporate limits of the City of Urbana by the installation or drilling of wells or by any other method is hereby prohibited. This prohibition expressly includes the City of Urbana.

**Section 2.** Penalties. Any person violating the provisions of this ordinance shall be subject to a fine of up to \$500.00 for each violation. Every day that the violation continues shall constitute a new violation.

**Section 3.** Definitions. "Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation,

Page 1 of 2

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Buyer's Initials

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Seller's Initials \_\_\_\_\_

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# PURCHASE AND SALE CONTRACT

association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents or assigns. "Potable water" is any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes, or preparing foods.

**Section 4. Repealer.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed insofar as they are in conflict with this ordinance.

**Section 5. Severability.** If any provision of this ordinance or its application to any person or under any circumstances is adjudged invalid, such adjudication shall not affect the validity of the ordinance as a whole or of any portion not adjudged invalid.

**Section 6. Effective Date.** This ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

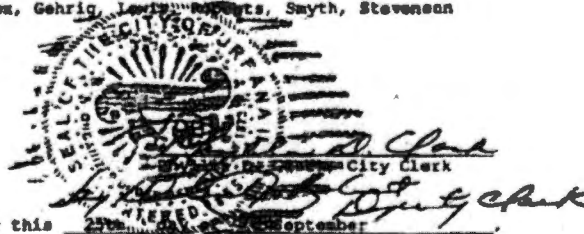
PASSED by the City Council this 13th day of September

2008

AYES: Barnes, Bowersox, Gehrig, Lewis, Roberts, Smyth, Stevenson

NAYS:


ABSTAINS:



City Clerk

APPROVED by the Mayor this 27th day of September

2008



Laurel Lunt Prussing, Mayor

Buyer's Initials

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Seller's Initials

# PURCHASE AND SALE CONTRACT



Tri Star Marketing, Inc.

2211 W. Bradley Ave  
P.O. Box 6279  
Champaign, Illinois 61826-0279

Phone 217-367-4386  
Fax 217-367-3830  
www.tristarparty.com  
general@trism.net

Certified 7008 2810 0000 4773 5143

City of Urbana  
Gale Jamison  
Assistant City Engineer  
706 S. Glover  
Urbana, IL 61802

## NOTICE

June 1, 2009

Dear Gale:

Tri Star Marketing, Inc. is performing an environmental response action at the Russell Stewart Oil Company property at 1301 E. Washington Street in the City of Urbana, Champaign County, Illinois. The response action is being performed because of the discovery of petroleum contaminated soils and groundwater beneath the subject site, due to the former presence of petroleum underground storage tanks (USTs) and aboveground storage tanks (ASTs) on the subject site. The response action consists of the delineation of the horizontal and vertical extents of soil and groundwater contamination at the subject site and the completion of risk-based corrective action at the subject site in order to obtain a Focused No Further Remediation (NFR) Letter from the Illinois Environmental Protection Agency (IEPA) in accordance with 35 Illinois Administrative Code Part 740, *Site Remediation Program*, and 35 IAC Part 742, *Tiered Approach to Corrective Action Objectives*.

To protect human health, Illinois regulations require that Tri Star Marketing, Inc. either clean up groundwater contamination or demonstrate that the groundwater in the area of the release will not be used as potable water. (Groundwater is the water beneath the ground stored in pores of soil and rock; some communities and homeowners pump this water out of wells to supply potable water. Potable means fit for human consumption including drinking, bathing, preparing food, washing dishes, and so forth.)

The City of Urbana has an ordinance that strictly prohibits the human and domestic consumption of the groundwater beneath your property. Under Illinois regulations, a local ordinance that effectively prohibits the installation and use of potable water supply wells may be used as an institutional control to allow contamination above the groundwater ingestion remediation objectives to remain in the groundwater (35 IAC Part 742.1015). (An institutional control is a legal mechanism for imposing a restriction on land use.) The IEPA has determined that the ordinance adopted by the City of Urbana meets the regulatory requirements for use as an institutional control. Tri Star Marketing,

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# PURCHASE AND SALE CONTRACT

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Inc. has requested and has been granted approval from the IEPA to use the groundwater ordinance as an institutional control.

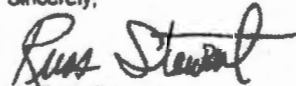
Your property, which is the subject of this notice and which is located at 1301 E. Washington Street in the City of Urbana, Champaign County, Illinois, is included in the area affected by the ordinance. This means that you cannot install or use a private, potable water well on your property. Based on the remediation objectives established in reliance on this ordinance, groundwater beneath your property may not be suitable for human or domestic consumption. Illinois regulations require that you be notified of these facts.

The ordinance is identified as Ordinance No. 2008-09-097, adopted September 15, 2008 by the City of Urbana. If you wish to obtain a copy of the ordinance, please contact the City of Urbana City Clerk, 400 S. Vine Street, Urbana, Illinois 61801 (217-384-2386). To learn more about the Russell Stewart Oil Company property, please contact either Mr. Russ Stewart, Tri Star Marketing, Inc., P.O. Box 9279, Champaign, Illinois 61826-9279 (217-367-8386 ext. 127) or the IEPA, Bureau of Land project manager, Mr. Maxwell Twum, Illinois Environmental Protection Agency, Bureau of Land/RPMS, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 (217-558-0932). You may also obtain a copy of the complete IEPA file on the Russell Stewart Oil Company. To do so, you will need to submit a written request with your signature to the Freedom of Information Act (FOIA) Officer, Illinois Environmental Protection Agency, Bureau of Land, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. When requesting a copy of the file, please reference the file heading shown below:

LPC #0191059062 - Champaign County  
Urbana / Russell Stewart Oil Company  
1301 E. Washington Street

FOIA requests may also be requested through the IEPA's website at [www.epa.state.il.us/foia](http://www.epa.state.il.us/foia).

Sincerely,



Mr. Russ Stewart  
Vice President - Tri Star Marketing, Inc.

Buyer's Initials

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Seller's Initials

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# PURCHASE AND SALE CONTRACT

JUN - 8 2009



## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-2829

LEON R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 614-6026

(217) 782-6761

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

June 5, 2009

CERTIFIED MAIL

7008 1140 0004 7344 6812

Russell Stewart, Vice President  
Tri Star Marketing, Inc.  
2211 West Bradley Avenue  
Champaign, IL 61821

Re: 0191059062/Champaign  
Urbana/Russell Stewart Oil Company  
Site Remediation Program/Technical Reports  
No Further Remediation Letter

Dear Mr. Stewart:

The *Focused Site Investigation Report, Remediation Objectives Report, Remedial Action Plan and Remedial Action Completion Report* (Dated April 22, 2009/Log Number 09/41203), as prepared by Geocoon Engineering, Inc. for the above referenced Remediation Site, has been reviewed by the Illinois Environmental Protection Agency ("Illinois EPA"). The Report demonstrates that the remedial action was completed in accordance with the *Remedial Action Plan* (Dated April 22, 2009/Log Number 09/41203) and 35 Illinois Administrative Code Parts 740 and 742.

The Remediation Site, consisting of 1.98 acres, is located at 1301 East Washington Street, Urbana, Illinois. Pursuant to Section 58.10 of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/1 et seq.), your request for a no further remediation determination is granted under the conditions and terms specified in this letter. The Remediation Applicant, as identified on the Illinois EPA's Site Remediation Program DRM-1 Form received December 3, 2008 is Tri Star Marketing, Inc.

This focused No Further Remediation Letter ("Letter") signifies a release from further responsibilities under the Act for the performance of the approved remedial action. This Letter shall be considered prima facie evidence that the Remediation Site described in the attached Illinois EPA Site Remediation Program Environmental Notice and shown in the attached Site Base Map does not constitute a threat to human health and the environment for the specified recognized environmental conditions so long as the Site is utilized in accordance with the terms and conditions of this Letter.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 967-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000  
Evan - 895 South State, Evanston, IL 60122 - (847) 608-3131 • PEORIA - 3415 N. University St., Peoria, IL 61614 - (309) 693-5463  
BUREAU OF LEAD - PEORIA - 7670 N. University St., Peoria, IL 61614 - (309) 693-5463 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800  
COLLINGSWOOD - 3009 Main Street, Collinsville, IL 62234 - (618) 346-3120 • MASON - 2389 W. Main St., Suite 116, Mason, IL 62959 - (618) 993-7200

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## Conditions and Terms of Approval

### Level of Remediation and Land Use Limitations

- 1) The land use specified in this Letter may be revised if:
  - a) Further investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use.
  - b) A new Letter is obtained and recorded in accordance with Title XVII of the Act and regulations adopted there under.
- 2) The Remediation Site is restricted to Industrial/Commercial land use.
- 3) The recognized environmental conditions, as characterized by the focused site investigation, consist of the following:
  - a) Regulated substances of concern that have been successfully addressed are detailed in the attached Table A.

### Institutional Controls:

- 4) Ordinance No. 2008-09-097 adopted September 25, 2008 by the City of Urbana effectively prohibits the installation and use of potable water supply wells in the City of Urban. This ordinance provides an acceptable institutional control under the following conditions:
  - a) Where a groundwater ordinance is used to assure long-term protection of human health the Remediation Applicant must record a copy of the groundwater ordinance adopted and administered by a unit of local government along with this Letter.
  - b) The current owner or successor in interest of this Remediation Site who relies on this ordinance as an institutional control shall:
    - i) Monitor activities of the unit of local government relative to variance requests or changes in the ordinance relative to the use of potable groundwater at this Remediation Site; and
    - ii) Notify the Illinois EPA of any approved variance requests or ordinance changes within thirty (30) days after the date such action has been approved.
  - c) The Remediation Applicant shall provide written notification to the City of Urbana and to owner(s) of all properties under which groundwater contamination attributable to the Remediation Site exceeds the objectives approved by the Illinois EPA. The notification shall include:
    - i) The name and address of the local unit of government;
    - ii) The citation of the ordinance used as an institutional control in this Letter,
    - iii) A description of the property for which the owner is being sent notice by adequate legal description or by reference to a plat showing the boundaries;

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- iv) A statement that the ordinance restricting the groundwater use has been used by the Illinois EPA in reviewing a request for groundwater remediation objectives;
  - v) A statement as to the nature of the release and response action with the name, address, and Illinois EPA inventory identification number; and
  - vi) A statement as to where more information may be obtained regarding the ordinance.
- d) Written proof of this notification shall be submitted to the Illinois EPA within forty-five (45) days from the date this Letter is recorded to.

Robert E. O'Hara  
Illinois Environmental Protection Agency  
Bureau of Land/RPMS  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

- e) The following activities shall be grounds for voidance of the ordinance as an institutional control and this Letter:
- i) Modification of the referenced ordinance to allow potable uses of groundwater;
  - ii) Approval of a site-specific request, such as a variance, to allow use of groundwater at the Remediation Site or at the affected properties;
  - iii) Failure to provide written proof to the Illinois EPA within forty-five (45) days from the date this Letter is recorded of written notification to the City of Urbana and affected property owner(s) of the intent to use Ordinance 2008-09-097 as an institutional control at the Remediation Site; and
  - iv) Violation of the terms and conditions of this No Further Remediation letter

#### Other Terms

- 5) Where the Remediation Applicant is not the sole owner of the Remediation Site, the Remediation Applicant shall complete the attached *Property Owner Certification of the No Further Remediation Letter under the Site Remediation Program Form*. This certification, by original signature of each property owner, or the authorized agent of the owner(s), of the Remediation Site or any portion thereof who is not a Remediation Applicant shall be recorded along with this Letter.
- 6) Further information regarding this Remediation Site can be obtained through a written request under the Freedom of Information Act (5 ILCS 140) to:

Illinois Environmental Protection Agency  
Attn: Freedom of Information Act Officer  
Bureau of Land- #24  
1021 North Grand Avenue East  
Post Office Box 19276

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- 7) Pursuant to Section 58.10(f) of the Act (415 ILCS 5/58.10(f)), should the Illinois EPA seek to void this Letter, the Illinois EPA shall provide notice to the current titleholder and to the Remediation Applicant at the last known address. The notice shall specify the cause for the avoidance, explain the provisions for appeal, and describe the facts in support of this cause. Specific acts or omissions that may result in the avoidance of the Letter under Sections 58.10(e)(1)-(7) of the Act (415 ILCS 5/58.10(e)(1)-(7)) include, but shall not be limited to:
- a) Any violation of institutional controls or the designated land use restrictions;
  - b) The failure to operate and maintain preventive or engineering controls or to comply with any applicable groundwater monitoring plan;
  - c) The disturbance or removal of contamination that has been left in-place in accordance with the Remedial Action Plan. Access to soil contamination may be allowed if, during and after any access, public health and the environment are protected consistent with the Remedial Action Plan;
  - d) The failure to comply with the recording requirements for this Letter;
  - e) Obtaining the Letter by fraud or misrepresentation;
  - f) Subsequent discovery of contaminants, not identified as part of the investigative or remedial activities upon which the issuance of the Letter was based, that pose a threat to human health or the environment;
  - g) The failure to pay the No Further Remediation Assessment Fee within forty-five (45) days after receiving a request for payment from the Illinois EPA;
  - h) The failure to pay in full the applicable fees under the Review and Evaluation Services Agreement within forty-five (45) days after receiving a request for payment from the Illinois EPA.
- 8) Pursuant to Section 58.10(d) of the Act, this Letter shall apply in favor of the following persons:
- a) Tri Star Marketing, Inc. ;
  - b) The owner and operator of the Remediation Site;
  - c) Any parent corporation or subsidiary of the owner of the Remediation Site;
  - d) Any co-owner, either by joint-tenancy, right of survivorship, or any other party sharing a relationship with the owner of the Remediation Site;
  - e) Any holder of a beneficial interest of a land trust or inter vivos trust, whether revocable or irrevocable, involving the Remediation Site;
  - f) Any mortgagee or trustee of a deed of trust of the owner of the Remediation Site or any assignee, transferee, or any successor-in-interest thereto;

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- g) Any successor-in-interest of the owner of the Remediation Site;
  - h) Any transferee of the owner of the Remediation Site whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest;
  - i) Any heir or devisee of the owner of the Remediation Site;
  - j) Any financial institution, as that term is defined in Section 2 of the Illinois Banking Act and to include the Illinois Housing Development Authority, that has acquired the ownership, operation, management, or control of the Remediation Site through foreclosure or under the terms of a security interest held by the financial institution, under the terms of an extension of credit made by the financial institution, or any successor-in-interest thereto; or
  - k) In the case of a fiduciary (other than a land trustee), the estate, trust estate, or other interest in property held in a fiduciary capacity, and a trustee, executor, administrator, guardian, receiver, conservator, or other person who holds the remediated site in a fiduciary capacity, or a transferee of such party.
- 9) This letter, including all attachments, must be recorded as a single instrument within forty-five (45) days of receipt with the Office of the Recorder of Champaign County. For recording purposes, the Illinois EPA Site Remediation Program Environmental Notice attached to this Letter should be the first page of the instrument filed. This Letter shall not be effective until officially recorded by the Office of the Recorder of Champaign County in accordance with Illinois law so that it forms a permanent part of the chain of title for the Remediation Site.
- 10) Within thirty (30) days of this Letter being recorded by the Office of the Recorder of Champaign County, a certified copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA to:
- Robert E. O'Hara  
Illinois Environmental Protection Agency  
Bureau of Land/RPMS  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276
- 11) In accordance with Section 58.10(g) of the Act, a No Further Remediation Assessment Fee based on the costs incurred for the Remediation Site by the Illinois EPA for review and evaluation services will be applied in addition to the fees applicable under the Review and Evaluation Services Agreement. Request for payment of the No Further Remediation Assessment Fee will be included with the billing statement.

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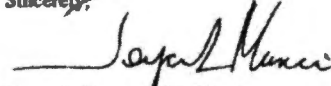
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If you have any questions regarding this correspondence, you may contact the Illinois EPA project manager, Mr. Max Twum at (217) 558-0932.

Sincerely,



Joyce L. Munie, P.E., Manager  
Remedial Project Management Section  
Division of Remediation Management  
Bureau of Land

Attachments (2): Property Owner Certification of No Further Remediation Letter under the Site Remediation Program Form  
Notice to Remediation Applicant

cc:

Geocon Engineering, Inc.  
3000 Research Road  
Suite 1  
Champaign, IL 61822



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certify that this is a copy of an instrument recorded in my office.

*Barbara A. Frasca*  
Barbara A. Frasca  
Champaign Co. Recorder  
Oct 7-17-07

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# Exhibit B: Property Location Map -1301 E Washington St

