

St. Louis City Ordinance 64440

FLOOR SUBSTITUTE

BOARD BILL NO. [98] 53

INTRODUCED BY ALDERMAN PHYLLIS YOUNG

AN ORDINANCE, authorizing and directing the Mayor, the Comptroller, and the Treasurer to enter into a Purchase and Sale Agreement to sell to Marquette St. Louis Associates, L.L.C., a Missouri Limited Liability Corporation, certain real estate belonging to the City of St. Louis and located in City Block 99 (commonly known as the Marquette Tower), reserving an easement for historic restoration and preservation, granting authority to take such further actions as are necessary to effectuate the Purchase and Sale Agreement, and containing a severability clause and an emergency clause.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. The Mayor, the Comptroller, and the Treasurer are hereby authorized and directed to enter into a Purchase and Sale Agreement to sell to Marquette St. Louis Associates, L.L.C., at a price of not less than Nine Hundred Twenty-Five Thousand and no/100 Dollars (\$925,000) certain real estate belonging to the City of St. Louis and more fully described as follows (hereinafter "Property"), to wit: A Lot in Block 99 of the City of St. Louis, fronting 114 feet 5 inches (114 feet 4 inches more or less by Deed), on the East line of Broadway by a depth Eastwardly of 135 feet 0 inches (135 feet more or less by Deed), to a private alley; bounded North by Lot 13 of said Block or by property, now or formerly Saint Louis Union Trust Company, East by said private alley and on the South by Olive Street.

SECTION TWO. Terms and Conditions. The sale of the Property herein authorized is subject to such terms and conditions of the Purchase and Sale Agreement in substantially such form as Exhibit A attached hereto and incorporated herein by reference.

SECTION THREE. Historic Restoration and Preservation/Reservation of Easement. As provided for in the Purchase and Sale Agreement, Buyer shall have the affirmative obligation to restore and maintain the Property, and the City of St. Louis shall have the right to enter the Property to assure compliance therewith. The City of St. Louis hereby reserves for itself, its successors and assigns, the right, privilege and easement to maintain, restore, and repair the

Marquette Tower, and said reservation of easement shall be noted in the Deed hereto and the parties shall enter into an Easement Agreement in recordable form which shall be recorded simultaneously with the Deed hereto.

SECTION FOUR. The Mayor, Comptroller and Treasurer are hereby authorized and directed to execute and deliver a Special Warranty Deed to Marquette St. Louis Associates, L.L.C. upon payment of the Purchase Price as defined in the Purchase and Sale Agreement.

SECTION FIVE. The net proceeds of this sale shall be placed in the City of St. Louis  Parking Fund.

SECTION SIX. Further Authority. The Mayor, the Comptroller, the City Treasurer, and other appropriate City officials are hereby authorized and directed to take such further actions and execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the terms of the Purchase and Sale Agreement an the intent of this Ordinance.

SECTION SEVEN. Severability. The sections of this Ordinance shall be severable. In the event that any section of this Ordinance is found by a court of competent jurisdiction to be unconstitutional, the remaining sections of this Ordinance shall remain valid, unless the court finds the valid sections of this Ordinance are so essentially an inseparably connected with, and do depend upon, the void section, that it cannot be presumed that the Board of Aldermen would have enacted the valid sections without the void ones; or unless the court finds the valid sections, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

SECTION SEVEN. Incorporation of Exhibits. The Exhibits attached to this Ordinance are hereby incorporated herein by this reference as if such exhibits were duly set forth herein.

SECTION EIGHT. Emergency. This being an Ordinance for the preservation of the public peace, health and safety, it is hereby declared to be an emergency measure within the meaning of Section 19 and 20 of Article IV of the Charter of the City of St. Louis, and therefore, this Ordinance shall become effective immediately upon its passage and approval by the Mayor.

STATE OF MISSOURI)

) ss.

CITY OF ST. LOUIS)

EXHIBIT J
AGREEMENT OF ARCHITECTURAL, FACADE, AND HISTORICAL
PRESERVATION EASEMENT

THIS EASEMENT AGREEMENT made as of the ____ day of _____, 1998.

WHEREAS the City of St. Louis, acting by and through the City Treasurer in his capacity as Director of the Parking Division (Seller) is the current owner of the land and improvements collectively referred to as the Marquette Building (the Property) and the adjacent Annex building; and

WHEREAS the Property is a 19 story brick, terra cotta and sandstone structure completed in 1913, and is considered eligible for listing on the U.S. Department of Interior registry of historic buildings; and

WHEREAS the Seller requested proposals for the sale of the Property, and in so doing stated that it was the objective of the Seller to preserve the building and to that end it would reserve an historic preservation easement with the right to enter the property to assure compliance and would impose on any buyer the affirmative obligation to restore and maintain the building; and

WHEREAS in response to the request of the City, Marquette St. Louis Associates, L.L.C. (hereinafter "Buyer") presented a proposal for the purchase of the Property, and in said proposal on Page 4-3 stated that they would "grant a historic preservation easement to the City of St. Louis with the right to enter the property to assure compliance and will impose an affirmative obligation of the selected proposer to restore or maintain the Marquette Building";

NOW THEREFORE; The Seller hereby reserves for itself, its successors and assigns, the following easements on the Property and does hereby create the following rights, duties and obligations with respect to the matters more fully set forth herein, the acceptance of a conveyance to any portion of the Property constituting an acceptance and agreement to all of the terms, provisions and conditions in this Agreement set forth, to wit:

1. Except as otherwise provided herein, Buyer covenants that, without the written consent of Seller, its successors or assigns, no construction, alteration or remodeling shall be undertaken or permitted to be undertaken on the Property which would substantially affect or alter the exterior appearance of the

Property, or which would adversely affect the structural soundness of the Property.

2. Notwithstanding the foregoing, Buyer may undertake and complete the renovation of the Property which will commence and is expected to be completed within eighteen (18) months of date, and Buyer may restore the exterior of the Property in accordance with the Secretary of the Interior's Standards for Rehabilitation (the "Standards"), and Buyer may undertake any other rehabilitation of the exterior of the Property in accordance with the Standards, if such rehabilitation can be reasonably expected by Buyer to result in the Secretary certifying such rehabilitation as being consistent with the historic character of the Property.

3. Buyer will not undertake any future development of the Property unless that development conforms with applicable local, state, or federal historic standards for construction or rehabilitation.

A. If the substance of a duty imposed upon Buyer by this Agreement is the subject of federal statute, regulation, or rule, compliance with federal statute, regulation, or rule satisfies the duty.

B. To the extent that specific standards for the performance of the duties of Buyer are not specified by federal statute, regulation, or rule or by agreement between the Seller and Buyer, the Buyer shall perform its duties and the Seller shall exercise its rights in a commercially reasonable manner.

C. The obligation of Buyer to perform the duties imposed by this Agreement is subject to rights of the Buyer under other law, regulation, rule, or agreement to withhold performance of its duties as a result of unfulfilled obligations of the Seller to the Buyer.

D. This Agreement does not require Buyer to take any action that is prohibited by other statute, regulation, or rule.

4. Buyer agrees at all times to maintain the exterior surfaces of the Property in a good and sound state of repair. Said exterior surfaces of the Property are depicted in the photographs attached hereto and incorporated herein as Exhibits _____ through _____, being essentially those exterior surfaces of the Property which are visible by the public, but in the event of uncertainty, the exterior surfaces of the Property visible in the photographs shall control.

5. Buyer will not display or place on the Property signs, billboards or advertisements, except (i) such plaques or other markers as are appropriate for commemorating the historic importance of the Property, (ii) signs or markers to direct and restrict the passage of persons upon the Property, (iii) a sign or signs stating the address of the Property, and (iv) such signs or markers as are necessary to advertise conspicuously the commercial or other use of the Property, and (v) in no event shall any signs or markers be placed without the receipt of necessary permits from the appropriate local or state agency.

6. Seller's Rights of Inspection of Remedies

A. A representative of Seller shall be permitted at all reasonable times to inspect the exterior of the Property. Subject to the rights of tenants of the Property, Seller will cooperate with such inspection if interior access is needed to facilitate same; however, interior access will be made at a time mutually agreed upon by Buyer and Seller.

B. In the event of a violation of any covenant or restriction herein, Seller may, following reasonable notice to Buyer, institute suit to enjoin by temporary and/or permanent injunction such violation and to require restoration of the Premises to their prior condition. The exercise by Grantee of one remedy and the failure to exercise any other remedy shall not have the effect of waiving or limiting the use of any remedy at any other time, and Grantee shall be entitled to all available equitable remedies to enforce Grantor's obligations hereunder but subject to any available defenses.

C. Seller shall have all legal and equitable remedies to enforce Buyer's obligations hereunder, and in the event Buyer is found to have violated any of his obligations Buyer shall reimburse Sellers, its successors or assigns, for any costs or expenses incurred in connection with the enforcement by Seller of Seller's rights hereunder, including court costs and reasonable attorneys fees.

7. Damage to or Destruction of Premises

A. In the event that the Property is, by reason of fire, flood, earthquake, or other disaster or casualty of any kind whatsoever, partially destroyed to such an extent or of such nature that the appearance of the Property as seen from any street is altered from its appearance in the photographs in Exhibit ___ hereto, then, if the Premises are restored, the exterior of the part restored which is visible from the streets shall, to the extent economically feasible, be restored to a condition so that the appearance is substantially similar to that shown in such photographs, or to such other appearance as Seller may reasonably approve as

being consistent with the architectural character of the Property prior to such casualty. Notwithstanding the foregoing, if the Property is substantially destroyed or damaged to the extent of more than seventy-five percent (75%) of the value of the Property, or if the exterior or structural portions of the Property are damaged or destroyed to the extent that it is not economically feasible to restore same to be substantially similar to the condition shown in the photographs, then this instrument and all restrictions and covenants herein shall lapse.

8. Requirements for Judicial Proceeding

A. No restriction contained herein will lapse or be extinguished or terminated unless and until a court of competent jurisdiction enters a final judgment that it lapse, that a change in conditions makes the continued use of the Property impossible or impracticable, or that, due to changed conditions, the continued enforceability of same is inequitable.

9. Covenants, Representations, and Warranties of Buyer

A. The covenants and restrictions made by Seller herein are given in consideration of the following covenants, representations and warrants of Buyer:

(1) Buyer acknowledges the receipt from Seller of the documentation listed below, and further acknowledges the sufficiency of that documentation in establishing the condition of the Premises at the date of delivery of this Deed and Agreement. The documentation received by Buyer is:

(i) A plat of survey of the Premises dated _____, prepared by _____.

(ii) A copy of Title Policy No. _____ issued by _____, dated _____, insuring the title of Seller.

(iii) On-site photographs, each of which contains the date the photograph was taken, the scene described and an identifying letter and number. The photographs are described in Exhibit C attached hereto and incorporated herein.

The execution of this Deed and Agreement shall constitute a certification by Seller and Buyer that the documents listed above are an accurate representation of the condition of the Premises at the time of transfer of the property rights contained in this Deed and Agreement.

(2) If Seller undertakes the rehabilitation of the Property after the date hereof, or the reconstruction of the Property because of casualty or condemnation, then Buyer will photograph the Property as reconstructed or rehabilitated, date, mark and identify each for the photographs so made, and furnish to Seller a copy of each of the photographs as marked and identified, together with Buyer's certification that those photographs are an accurate representation of the condition of the Property as rehabilitated as of their dates. From and after the date of such rehabilitation and reconstruction, the photographs so delivered shall describe the exterior surfaces of the Property shall replace those photographs in Exhibit C.

(3) Whenever the consent of or approval by Seller is required under this instrument, such consent or approval shall not be unreasonably withheld or delayed. Without limiting the generality of the foregoing, if Buyer shall request Seller's approval or consent to any action or matter in writing, such request to be by written instrument to Seller setting forth in reasonable detail the proposed action or consent required, and if Seller shall fail to respond to such request in writing within thirty (30) days after the giving of such request, then the consent of Seller to the action described in said notice or the approval requested shall be deemed to have been given.

(4) Seller, at any time and from time to time, within twenty (20) days after Buyer's written request, will execute, acknowledge and deliver to Buyer a written instrument stating that Buyer is in compliance with the terms and conditions of this instrument, or if Buyer is not in compliance with this instrument, stating what violations of this instrument exist. Buyer agrees to make such a request only for reasonable cause. If this instrument lapses, Seller shall execute and acknowledge a written instrument to that effect which shall be in the form and substance satisfactory to counsel for Buyer.

(5) Buyer shall have all legal and equitable remedies to restrain or enjoin Seller from any violation of the terms of this instrument or necessary to enforce Seller's obligations under this instrument.

10. Miscellaneous Provisions

A. This instrument creates and shall constitute a perpetual, binding covenant and servitude appurtenant to and running with the land in perpetuity (unless terminated or lapsed as provided herein) and shall extend to and be binding upon Buyer and all persons hereafter claiming by, under or through Buyer, and the word "Buyer," when used herein, shall include Buyer, its successors-in-title and assigns. To that end, Buyer, for itself, its successors and assigns, covenants

to do (and refrain from doing) upon the Property the stipulations provided herein. Anything contained herein notwithstanding, neither Buyer nor its successors-in-title shall have any obligation or liability pursuant to this instrument after the time such person shall cease to have any interest in the Property or any portion thereof by reason of a bona fide transfer for value.

B. This instrument may be amended, modified, or terminated by a written instrument signed by Buyer or its successors or assigns, and Seller or its successors or assigns.

C. The headings in this instrument are for ease of reference only and shall not limit or otherwise affect any of the terms and provisions hereof.

11. Reservations

A. Buyer reserves to itself, its successors and assigns, the fee simple title to the Property, the exclusive right to use and occupy same and to permit others to do so, and the free right and privilege to the use of the Property for all purposes not inconsistent with the express terms of the restrictions established herein. Nothing herein shall be construed to grant unto the general public or any other persons, other than Seller and its agents, the right to enter upon the Property for the purposes set forth herein, or any right, power or privilege.

B. Nothing contained in this instrument shall be interpreted to authorize, require, permit Buyer to violate any ordinance relating to building materials, construction methods or use. In the event of any conflict between any such ordinance and the terms hereof, Buyer shall promptly notify Seller of such conflict, and Seller shall agree upon such modifications to Buyer's obligations which are consistent with sound preservation practices and such ordinance.

C. This instrument does not affect the interior of the Property, except as necessary to protect the structural boundaries of the Property.

12. Release, Indemnification, and Insurance

A. Buyer shall be responsible for and will and does hereby release and relieve Seller, its agents or employees, and hold and defend harmless Seller, its agents or employees, of, from and against any and all liabilities, obligations, damages, penalties, claims, costs, charges, and expenses which may be imposed upon or incurred by Seller by reason of loss of life, personal injury and/or damages to property occurring in or around the Property occasioned in whole or in part by

the negligence of Buyer, its agents or employees, or by any lessee or licensee from Buyer, or such lessee's or licensee's agents or employees.

B. Buyer shall keep and maintain in force upon the Property fire and extended coverage insurance policies, including earthquake coverage, in amounts not less than necessary to repair, restore, or rebuild the Property, and comprehensive general liability insurance (minimum two million dollars) against claims for personal injury, death, and property damage. In the event of insurable loss proceeds shall first be used to repair, restore, or rebuild the Property so that the Property will be fully occupiable (as evidenced by issuance of a Certificate of Occupancy by the City of St. Louis) and the exterior of said building shall have an appearance as depicted in photographs in Exhibit C. Evidence of insurance shall be by way of form ACORD-27, and shall name the City of St. Louis as an additional insured (notice address "City Counselor-- Room 314 City Hall, St. Louis, Missouri 63103), and shall provide for thirty (30) days written notice of any change to the policy.

13. Notices. Any notice, request, or response addressed to either party by the other shall be deemed given when deposited in the United States Mail by certified or registered mail, postage prepaid, return receipt requested, addressed to the party to whom such notice, request, or response is to be given at the address set forth above. Any party to this instrument or their successors may change its address for notices, requests, and responses by giving written notice of address change to the other party in the manner set forth in the preceding sentence.

14. Enforcement. In the event that Buyer fails to comply with the obligations set forth in this Agreement, then Seller shall notify Buyer and may notify the holder of any interest of record of such default in writing. In the event Buyer fails to cure such default within thirty (30) days thereafter, the Seller shall be entitled (but not obligated) to perform the maintenance, replacement, and/or repair or other obligation, including but not limited to the maintenance of insurance, at Buyer's expense. Buyer shall pay the Seller the costs and expenses so incurred within ten (10) days after presentation of a bill by the Seller. In the event the bill is not so paid, the Seller shall have the right to place a lien against all or any portion of the Property, subject to Section 15 hereof. Such liens may be foreclosed in the same manner as a mortgage on real property. The remedies set forth herein are in addition to other remedies available to the parties in the event of a default hereunder.

15. Rights and Obligations of Lenders. If by virtue of any right or obligation set forth herein a lien shall be placed upon the Property, such lien shall expressly

be subordinate and inferior to the lien of any first mortgage or deed of trust now or hereafter placed on the Property. Except as set forth in the preceding sentence, however, any holder of a future first lien on the Property and any assignee or successor in interest of such first lien shall be subject to the terms and condition of this Agreement, provided however that they shall have no obligation, debt or liability under this Agreement until such time as they obtain possession of the Property. This Agreement shall not affect the rights, duties, or obligations of the holder of any lien on real estate or interest therein which exists of the effective date hereof, except to the extent consented to in writing by such lienholder.

Before exercising any right or remedy due to breach of this Agreement, Seller shall give any Mortgagee so requesting written notice describing the default, and the Mortgagee shall have thirty (30) days thereafter from date of notice to cure or cause a cure of said default.

16. Severability. If any portion of this Agreement shall be determined to be invalid or unenforceable, such determination shall not effect the validity and enforceability of the other provisions of this Agreement which shall thereafter continue in effect.

17. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri.

18. Recording. This Agreement shall be recorded in the real estate records of the City of St. Louis, Missouri with the cost and expense to be shared equally by Buyer and Seller.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the day and year set forth above.

Buyer

MARQUETTE ST. LOUIS ASSOCIATES, L.L.C.

By: Marquette St. Louis Corporation,
Managing Member

By:
Joseph A. Tahl
President

NOW, THEREFORE, for and in consideration of the premises, agreements, mutual covenants, representations and warranties set forth herein, Buyer and Seller hereby agree, covenant, represent and warrant as follows:

1. DEFINITIONS. All capitalized terms used in this Agreement shall have the meanings specified in this paragraph, unless otherwise defined herein.

"Acceptance Date" means September 1, 1998, or such other date as may be mutually agreed upon. The Acceptance Date is the date by which Buyer must accept this Agreement or Seller's offer shall be deemed rescinded. Acceptance may be made by means of Buyer's delivery of executed counterparts of this Agreement to Seller or by means of Buyer's facsimile transmission of executed copies of this Agreement to Seller.

◆Annex Property◆ means those items of personal property which may be located on the Annex Property, as more particularly described in Exhibit B attached hereto and made a part hereof.

"Business Day" means Monday through Friday excluding holidays recognized by the State of Missouri. If any time period under this Agreement ends on a day other than a Business Day, then the time period shall be extended until the next Business Day.

"Buyer" means Marquette St. Louis Associates, L.L.C. whose address for receipt of notice is: c/o Lashly & Baer, P.C. 714 Locust, St. Louis, Missouri 63101, Attention: John Fox Arnold, Esq. Buyer's Facsimile Number for notices is: 314/621-6844.

"Closing Date" means the date as the parties may mutually agree not less than 10 nor more than 30 days after the conditions set forth in Sections 5 and 6 have been either satisfied or waived but in no event later than a date which is 120 days after the Acceptance Date.

"Earnest Money" means Two Hundred Thousand Dollars (\$200,000).

◆Escrow Agent◆ means Gateway Title Company.

"Excluded Property " means those items of personal property which may be located at the Property on the date hereof which are the property of the City of St. Louis and which are not appurtenances, or Fixtures as hereinafter defined, more particularly described in Exhibit C hereto.

"Independent Consideration" means Fifty Dollars (\$50.00) nonrefundable independent consideration paid by Buyer to Seller on the date hereof as consideration for Seller's entering into this Agreement.

◆Parking Lot◆ means the real property consisting of the land and improvements constructed thereon, situated in the City of St. Louis, State of Missouri, as more particularly described in Exhibit A-1 attached hereto and made a part hereof.

◆Property◆ means the real property consisting of land and the buildings and improvements constructed thereon, situated in the City of St. Louis, State of Missouri, as more particularly described in Exhibit A attached hereto and made a part hereof. The real property, buildings and improvements, together with the fixtures and mechanical and utility systems thereon, are hereinafter collectively called the ◆Property.◆ The Property is subject to the right of occupancy of the Young Men◆s Christian Association.

"Purchase Price" means Nine Hundred Twenty-five Thousand and no/100 Dollars (\$925,000.00) or as may be adjusted herein.

"Response" means the response of Buyer dated December 15, 1997 to the R.F.P.

"R.F.P." means the request for proposals (including any addendum thereto) issued by the Seller for the sale of the Property.

"Seller" means the City of St. Louis, a body politic and corporate of the state of Missouri, acting by and through the City Treasurer chairman of the Parking Commission, whose address for receipt of notice is: Mr. Larry Williams, Treasurer, City of St. Louis, Room 220, City Hall, St. Louis, Missouri 63103 and Seller's facsimile number is: 314/622-4246. Copies of all notices to Seller must also be delivered to Thomas Ray, Deputy City Counselor, Room 314, City Hall, St. Louis, Missouri 63103, facsimile number 314/622-4950.

"Title Company" means Gateway Title Company.

2. PURCHASE AND SALE. In consideration of the Earnest Money, the payment of the Independent Consideration to Seller, the mutual covenants and agreements herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer agrees to purchase and acquire from Seller and Seller agrees to sell and convey to Buyer on the terms and subject to the conditions in this Agreement:

(a) The Property, together with any interest of the Seller in any streets, alleys, strips or gores of land adjoining the Property, subject only to the exceptions approved in writing by the Buyer as provided in Section 4(c) (herein referred to as the **Permitted Exceptions**).

(b) All fixtures and equipment owned by the Seller and which are attached to, appurtenant to or located in, on, or used in connection with, the Property, including, but not by way of limitation, all air conditioning, heating, plumbing, electrical, water and gas systems (all of the foregoing are hereinafter collectively referred to as the **Fixtures**).

(c) All right, title and interest of the Seller in and to any fixtures, easements, rights of way or other interests in, on, or to any land, highway, street, road or avenue, open or proposed, in, on, across, in front of, abutting or adjoining the Property; all development and air rights pertaining to the Property; and all other rights appurtenant to the Property as are necessary or helpful for the use and operation thereof (hereinafter referred to as the **Appurtenances**) subject however to the provision of the Agreement of Architectural, Fa~~ade~~ and Historic Preservation Agreement (defined hereafter).

(d) The Seller's right, title, and interest in any remaining service contracts, warranties, guaranties and bonds relating to the Property or the Property Fixtures to the extent such items are assignable and the Buyer chooses to assume such items (the **Contracts**).

(e) All equipment and system technical manuals or books, site plans, surveys, soil and substrata studies, architectural drawings, plans and specifications, engineering plans and studies, floor plans, landscape plans and other plans or studies of any kind in the Seller's possession that relate to the Property or the Property Fixtures (the **Plans and Specifications**).

(f) Any and all other rights with respect to utilities, ingress and egress and appurtenant easement or licenses owned by the Seller and in any way used in connection with the operation of the Property.

The parties agree that the Excluded Property may be removed by Seller at Seller's expense prior to the Closing Date. Seller shall repair any damage to the Property resulting from such removal.

3. PURCHASE PRICE The purchase price for the Property shall be paid to Seller by Buyer in the following manner:

(a) Buyer shall deliver to the Escrow Agent the Earnest Money by wire transfer of immediately available funds, by no later than 1:00 p.m. on the third business day after the Acceptance Date. The wire transfer shall be made by Buyer in accordance with the instruction attached hereto as Exhibit D-1. Escrow Agent shall hold the Earnest Money in an FDIC insured, interest-bearing account pending the Closing, and the Earnest Money shall be non-refundable except as hereinafter described. If Escrow Agent shall not receive the Earnest Money, in immediately available funds, within the time period specified above, Seller shall have the immediate right to terminate this Agreement by notice to Buyer.

(b) The remainder of the Purchase price shall be paid by wire transfer of immediately available funds by no later than 1:00 p.m. on the Closing Date. The wire transfer shall be made by Buyer in accordance with the instructions attached hereto as Exhibit D-2.

4. TITLE AND SURVEY.

(a) Title. The Buyer shall order within three business days after the date of this Agreement from a licensed Missouri title insurance company selected by the Buyer (the Title Company), a commitment for an Owner s Policy of Title Insurance for the Property (hereinafter referred to as the Title Commitment) issued by the Title Company, whereby said Title Company commits to issue an Owner s Policy of Title Insurance (ALTA Form B, 1970, Revision 1987, with extended coverage) written in accordance with this Agreement together with such endorsements as the Buyer may request and copies of all instruments shown as exceptions on the Title Commitment regarding the Property.

(b) Survey. The Buyer shall order within three business days after the date of this Agreement from a licensed surveyor, a survey of the Property (the Survey Report).

(c) Permitted Exceptions. Within 60 days after the Acceptance Date, the Buyer shall identify, to the Seller, those items in the Title Commitment or Survey which it deems unacceptable and which would unreasonably interfere with the intended use or marketability of the Property unless the Title Company is willing to provide title coverage acceptable to the Buyer at no additional charge to the Buyer (including such endorsement as the Buyer may reasonably request). The Buyer shall have the right to cancel this Agreement, unless Seller, within 30 days after such notice is given, either remedies such items, or agrees to remedy them by no later than the Closing Date. In the event that the Buyer does not cancel this Agreement by notice given to Seller within five days after

expiration of such 30-day period, those exceptions appearing on the Title Commitment or the Survey Report (excluding any liens on the Property which the Seller covenants it shall forthwith pay or otherwise satisfy and cause same to be removed of record) shall constitute **◆ Permitted Exceptions. ◆**

5. CONDITIONS PRECEDENT TO CLOSE BY BUYER. The obligation of the Buyer to acquire the Property shall be subject to the satisfaction (or waiver) on or prior to the Closing Date of all of the following conditions:

(a) **Representations, Warranties and Covenants of the Seller.** The Seller shall have complied in all material respects with all of its agreements and covenants contained herein to be performed at or prior to the Closing Date; and

(b) **Absence or Misrepresentation.** All the representations and warranties of the Seller contained herein shall be true in all material respects on the Closing Date with the same effect as though made on and as of the Closing Date.

(c) **Title.** The conveyance of good and marketable title to the Property in the full amount of the Purchase Price subject only to Permitted Encumbrances.

(d) **Abatement.** The adoption by the City of St. Louis of an ordinance granting to Buyer full tax abatement for 10 years and 50% tax abatement for 15 years.

(e) **Permits and Licenses.** Issuance to Buyer by the appropriate governmental agencies on applications filed by Buyer of all permits, certificates and licenses required by Buyer to implement the Redevelopment Plan.

(f) **Financing of Parking Structure.** The issuance, sale and delivery by the Seller of bonds or notes in an aggregate face amount sufficient to fund the acquisition, design, construction and completion of the parking structure described in Ordinance 64350, approved April 1, 1998, authorizing the issuance of up to \$8 million in bonds for said parking structure.

(g) **Redevelopment Plan.** The adoption by the City of St. Louis of an ordinance approving the Redevelopment Plan of the Buyer for the Property.

(h) **Environmental Remediation.** The completion of the environmental remediation of the Property.

(i) **No Prohibition.** No statute, rule or regulation or order of any court or administrative agency shall be in effect which (i) prohibits the Seller from consummating the transactions contemplated hereby or (ii) imposes any

material limitation on the ability of the Seller to exercise full rights of ownership with respect to the Property.

(j) Construction Period. Seller shall commence demolition of the Annex Property not later than 15 days after the Acceptance Date, and shall thereafter diligently and in good faith prosecute the demolition of the Annex Property so that it is demolished by the Closing Date and the construction on the Annex Property of a parking garage so that it is completed on or before September 1, 1999, or such later date as may be mutually agreed upon.

(k) Compliance With Law. Seller shall cause all work in connection with construction of the improvements on the Annex Property to be completed in accordance with all local ordinances, building codes, statutes, and applicable governmental regulations bearing on the construction of the improvements. If any required construction work is at variance with any applicable governmental laws, rules and regulations, Seller shall promptly notify Buyer in writing and any necessary changes shall be adjusted by proper change orders.

(l) Title Insurance. Buyer can obtain from the Title Company on Closing Date an Owner's Policy of Title Insurance in ALTA form in accordance with the Commitment described in paragraph 4(a) hereof and with no additional exceptions, and with the standard exceptions for mechanics' liens, survey, and parties in possession deleted, and with a Form 3.1 Zoning Endorsement insuring that the Property is in compliance with applicable zoning permitting residential and retail use.

(m) Absence of Material Event. None of the Property shall have been materially and adversely affected in any way between the Acceptance Date and the Closing Date as a result of any legislative or regulatory change, or evidence of noncompliance with environmental laws and governmental regulations on other laws and governmental regulations.

(n) Tenants. Property shall not be subject to any lease or right of occupancy other than the Young Men's Christian Association of Greater St. Louis, Motorola, Inc., and Broadway Shoe Repair. It is understood that any other lease or occupancy shall be deemed unacceptable pursuant to Section 4(c). Further, the joint use of a construction office agreed to by Buyer shall not be deemed unacceptable pursuant to Section 4(c).

(o) Air Rights. The adoption by the City of St. Louis of an ordinance authorizing the exercise of eminent domain over the rights to the property at

and above a plane having a minimum elevation of 46 feet above the highest point of the Parking Lot located in the southwest corner of City Block 99.

6. **CONDITIONS PRECEDENT TO CLOSE BY SELLER.** The obligation of the Seller to sell the Property shall be subject to the satisfaction (or waiver) on or prior to the Closing Date of all of the following conditions:

(a) **Representations, Warranties and Covenants of the Buyer.** The Buyer shall have complied in all material respects with all of its agreements and covenants contained herein to be performed at or prior to the Closing Date; and

(b) **Absence or Misrepresentation.** All of the representations and warranties of the Buyer contained herein shall be true in all material respects on and as of the Closing Date with the same effect as though made on and as of the Closing Date, except as otherwise contemplated hereby and except with respect to the representations and warranties made as of a specific date and shall continue on the Closing Date to have been true as of the specified date.

(c) **No Prohibition.** No statute, rule or regulation or order of any court or administrative agency shall be in effect which (i) prohibits the Buyer from consummating the transactions contemplated hereby or (ii) imposes any material limitation on the ability of the Buyer to exercise full rights of ownership with respect to the Property.

(d) **Compliance With Law.** Buyer shall cause all work in connection with construction of the improvements on the Property to be completed in accordance with all local ordinances, building codes, statutes, and applicable governmental regulations bearing on the construction of the improvements. If any required construction work is at variance with any applicable governmental laws, rules and regulations, Buyer shall promptly notify Seller in writing and any necessary changes shall be adjusted by proper change orders.

7. **BUYER'S ACCESS TO PROPERTY.** Buyer shall have the right to enter onto the Property from time to time prior to Closing, during normal business hours and upon reasonable advance notice to Seller, for the purpose of performing the inspections of the Property. Buyer hereby agrees to indemnify, defend and hold harmless Seller (and Seller's officers, directors, employees, agents and contractors) from and against any and all claims, causes of action, losses, damages and expenses (including, without limitation, reasonable attorneys fees and expenses) which may be suffered or incurred by Seller as a result of such inspection of or entry onto the Property by Buyer or its agents or contractors. Buyer agrees to repair and restore, at Buyer's expense, any damage

to the Property caused by such inspection or entry. Buyer agrees not to drill, bore or otherwise perform any invasive testing of the Property without the prior written consent of Seller. Buyer's obligations under this paragraph shall survive Closing or any termination of this Agreement.

8. SELLER'S REPRESENTATIONS. The Seller represents and warrants to the Buyer as follows:

(a) The Seller is a body politic and corporate and a political subdivision of the State of Missouri acting by and through the City Treasurer as Chairman of the Parking Commission and is duly organized, validly existing and in good standing under the laws of the State of Missouri. Upon adoption of an ordinance by the City, the Seller shall have all requisite power and authority to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby.

(b) The Seller has good and marketable title to the Property, free and clear of all liens and encumbrances.

(c) To the best of Seller's knowledge and belief, the Property conforms in all material respects to any and all applicable state and local laws, zoning and building ordinances and health and safety ordinances, and no zoning, building or similar law or ordinance or regulation is being violated by the operation or use of the Property in any manner having a material adverse effect on the marketability or the normal use or operation of the Property. The Seller has received no notice of any material violation of any law, ordinance or regulation in connection with the use of the Property;

(d) All licenses, permits, authorizations and approvals required by all governmental authorities having jurisdiction have been issued for any improvements, and have been paid for, and are in full force and effect except to the extent that the same are not material to the normal use and operation of the Property;

(e) To the best of Seller's knowledge and belief, all water, sewer, gas, electric, telephone and draining facilities and all other utilities required by any law or by the normal use and operation of the buildings and improvements presently on the Property that are material to the normal use and operation of such buildings and improvements are installed and connected pursuant to the valid permits;

(f) No work will have been performed or will be in progress at the Property and no materials will have been delivered to the Property that might provide the basis for a mechanic's, materialman's or other lien against the Property or any portion thereof unless the Seller has provided for full payment thereof;

(g) (i) This Agreement has been duly and validly executed and delivered by the Seller and constitutes the valid and binding obligation of the Seller, enforceable against the Seller in accordance with the terms, except to the extent that such enforceability: (a) may be limited to bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to creditors' rights generally, and (b) is subject to general principles of equity.

(ii) The execution, delivery and performance by the Seller of this Agreement and the consummation by the Seller of the transactions contemplated hereby will not, with or without the giving of notice or the lapse of time or both (a) violate in any material respect any provision of the law, rule or regulation to which the Seller or any of its assets is subject, (b) violate any order, writ, injunction, judgment or decree applicable to the Seller or any of its assets or properties, or (c) conflict with, or result in a breach or default under, or give rise to any right of termination, cancellation or acceleration under, any term or condition of the partnership agreement, or other similar provisions of any material note, bond, mortgage, indenture, lease, license, agreement or other instrument to which the Seller is a party or by which it or its assets may be bound; except, in each case, for violations, conflicts, breaches or defaults which in the aggregate would not materially hinder or impair the Seller's ability to consummate the transactions contemplated hereby.

(h) (i) Other than as disclosed to Buyer in Exhibit E, there are no tenants, occupants or other parties having any right or option to occupy the Property or any portion thereof.

(ii) To the best of tenant's knowledge and belief, there has been no default by tenants identified in Exhibit E in the payment of rent or any other sum of money, nor to the knowledge of Seller has there been any default by tenants in the performance of any other covenant, agreement or condition.

(iii) To the best of Seller's knowledge and belief, there are no sums to be credited to tenants or any setoffs against rent which may be claimed by tenants by reason of any alterations, rental allowances, repairs, free rent or otherwise, and tenants have not paid Seller any deposit or sum as security under the Leases.

(iv) To the best of Seller's knowledge and belief, tenants have no renewal options, purchase options or rights of first refusal with respect to the Property except as disclosed to Buyer in Exhibit E.

(v) To the best of Seller's knowledge and belief, no rents under the Leases have been prepaid other than for the current month and Seller will not accept any prepayment of rent, other than for the then current month, after the date hereof.

(vi) To the best of Seller's knowledge and belief, neither the Leases nor the rents payable thereunder have been assigned, pledged or otherwise encumbered.

(vii) To the best of Seller's knowledge and belief, no broker or other intermediary is entitled to receive any leasing, brokerage or other compensation out of, or with respect to, rents under the Leases.

(viii) All obligations of Seller as lessor under the Leases which shall have accrued at or prior to the Closing Date will have been performed at or prior to the Closing Date. Seller has taken no action which would constitute a default under the Leases or which, with notice or passage of time or both, would constitute a default under the Leases.

(ix) Upon adoption by the City of ordinances authorizing this Agreement and any other agreement contemplated herein, no consent, approval or authorization of, or exemption by, or filing with, any governmental or regulatory authority is required in connection with the execution, delivery and performance by the Seller of this Agreement, or the taking by the Seller of any other action contemplated hereby, excluding, however, consents, approvals, authorizations, exemptions and filing, if any, which the Buyer may be required to obtain or make.

(x) There is no litigation pending (a) against the Seller with respect to which there is a reasonable likelihood of a determination which would have a material adverse effect on the ability of the Seller to consummate the transactions contemplated hereby, or (b) that seeks to enjoin or obtain damages in respect of the consummation of the transaction contemplated hereby.

(xi) Seller shall not (without the prior written consent of Buyer, which consent may be withheld or granted in Buyer's sole judgment and discretion) enter into any lease, tenancies, occupancy agreements, or any other agreements whatsoever affecting the Property between the date hereof and Closing Date,

unless said leases, tenancies, occupancy agreements, or other agreements are all to terminate on Closing Date or such later date as Buyer may approve in writing if Buyer, in Buyer's sole discretion and judgment, approves in writing any such leases, tenancies, occupancy agreements or other agreements.

(i) To the best knowledge and belief of the Seller:

(i) The Seller has not received written notice of any default or breach by the Seller under any of the covenants, conditions, restrictions, rights of way or easement affecting the Property or any portion thereof;

(ii) The Seller has received no notice of any material violation of any law, ordinance or regulation in connection with the use of the Property;

(iii) No written notice has been received from any insurance company which has issued a policy to Seller with respect to any portion of the Property or by any board of fire underwriters or other body acting in connection with any such insurance company that any repairs, alterations or other work in connection with the Property is required to be made in order to keep any such insurance in effect. If any such notice is received prior to Closing Date, the Seller will promptly advise the Buyer thereof;

(iv) There are no leases between Seller and any other party with respect to the Property and no other agreements by Seller granting to any third party the right to occupy or use the Property, or any option to purchase or lease or right of first refusal to purchase or lease and no third party has any rights to possession of any portion of the Property which have been granted by Seller except as disclosed in Exhibit E.

(v) There is not any action, suit or proceeding pending, or threatened against or affecting the Property or any portion thereof, or relating to or arising out of the ownership of the Property, in any court or before or by any federal, state, county or municipal department, commission, board, bureau or agency or other governmental instrumentality.

(j) Seller warrants that the attached Exhibit F is a complete list of all insurance policies now insuring the property, showing for each policy: (i) its number; (ii) the name of the insurance company that issued the policy; (iii) the term and expiration date of the policy; (iv) the premiums on the policy; and (v) its general nature and type.

(k) To the best knowledge and belief of the Seller:

(i) The Seller has no information concerning the extent to which the Property contains asbestos, PCB transformers, or other toxic, Hazardous Materials (as defined below) or contaminated substances, and/or underground tanks, except as disclosed to Buyer.

(ii) The Property is not listed or proposed for listing or threatened to be listed on the national Priorities List by the Environmental Protection Agency or on any other list or registry maintained by any federal, state or local governmental agency, body or organization concerning Hazardous Materials. There have been no discussions between the Seller or its agents, employees, officers or attorneys and state or federal officials concerning the possibility of such listings.

(iii) The Property is not in violation of any laws, regulations or orders concerning Hazardous Materials and there has been no storage, disposal, discharge, deposit, injection, dumping, leaking, spilling, placing or escape of any Hazardous Materials on, in, under or from the Property.

(l) As used herein, the term **Hazardous Materials** shall mean any asbestos, flammable substances, explosives, radioactive materials, PCB-laden oil, hazardous materials, hazardous waste, pollutants, contaminants, toxic substances, pollution or related materials specified as such in, or regulated under any federal, state or local laws, ordinances, rules, regulations or policies governing use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of such materials, including, without limitation, Section 9601 of Title 42 of the United States Code.

9. ENVIRONMENTAL REMEDIATION/DEMOLITION.

(a) Buyer has agreed to purchase the Property in its current condition in consideration of the allocation of certain proceeds of the purchase price of the Property to environmental remediation. Buyer may at its option (i) cause the completion of environmental remediation prior to the Closing Date; and (ii) provide for certain interior demolition work contemporaneously with environmental remediation.

(b) If Buyer exercises its option that remediation work shall occur prior to the Closing Date:

(i) The Buyer shall assist the Seller in the preparation of the specifications for environmental remediation of the Property. After Seller's approval of such

specifications, the Buyer shall to the extent permitted by law assist Seller in obtaining bids or negotiating proposals and awarding a contract.

(ii) Seller agrees to pay over to Escrow Agent from the Earnest Money \$200,000 to be used and applied for environmental remediation of the Property (◆Remediation Deposit◆). Any interest income shall be added to and constitute part of the Remediation Deposit. The Seller may draw from the Remediation Deposit as and when funds are to be expended by the Seller for environmental remediation.

(iii) In the event the Remediation Deposit is greater than the funds required to be expended for environmental remediation, then such excess shall be paid by the Escrow Agent to the Seller.

(iv) In the event the Remediation Deposit is less than the sums required to be expended for environmental remediation, then any such deficiency shall be the obligation of the Buyer.

(v) In the event of a deficiency as described in Section 9(b)(iv), Seller shall request an addition to the Remediation Deposit by Buyer and upon the receipt by the Escrow Agent of such deposit, Seller shall enter into the contract for environmental remediation.

(c) If Buyer exercises its option that interior demolition work shall occur prior to the Closing Date:

(i) The Buyer shall to the extent permitted by law assist the Seller in the preparation of the specifications for interior demolition of the Property, and upon Seller◆s approval of such specifications, the Buyer shall assist Seller in obtaining bids or negotiating proposals and awarding a contract.

(ii) Buyer agrees to pay over to Escrow Agent the funds to be used and applied for interior demolition of the Property (◆Demolition Deposit◆). Any interest income shall be added to and constitute part of the Demolition Deposit. The Seller may draw from the Remediation Deposit as and when funds are to be expended by the Seller for interior demolition.

(iii) In the event the Demolition Deposit is greater than the funds required to be expended for interior demolition, then such excess shall be paid by the Escrow Agent to the Buyer.

(iv) In the event the Demolition Deposit is less than the sums required to be expended for interior demolition, then any such deficiency shall be the obligation of the Buyer.

(v) In the event of a deficiency as described in Section 9(c)(iv), Seller shall request an additional deposit by Buyer and upon the receipt by the Escrow Agent of such additional deposit, Seller shall enter into the contract for interior demolition.

(d) In the event of a deficiency as described in Section 9(b)(iv) or Section 9(c)(iv), Seller shall request an additional deposit by Buyer and upon the receipt by Escrow Agent of such additional deposit, Seller shall authorize the remaining environmental remediation or interior demolition work. In the event Buyer fails to make such an additional deposit within five business days of receipt of notice, Seller may, in Seller's sole discretion, either stop work or authorize the remaining environmental remediation or interior demolition work, the cost of which shall be added to the Purchase Price and due and payable at Closing.

10. BUYER'S REPRESENTATIONS. The Buyer hereby represents and warrants to the Seller as follows:

(a) The Buyer is a limited liability corporation duly organized, validly existing, and in good standing under the law of the State of Missouri.

(b) This Agreement has been duly and validly executed and delivered by the Buyer and constitutes the valid and binding obligation of the Buyer, enforceable against the Buyer in accordance with its terms, except to the extent that such enforceability: (a) may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to creditors' rights generally, and (b) is subject to general principles of equity.

(c) The execution, delivery and performance by the Buyer of this Agreement and the consummation by the Buyer of the transactions contemplated hereby will not, with or without the giving of notice or the lapse of time, or both, (i) violate in any material respect any provision of law, rule or regulation to which the Buyer or any of its assets is subject, (ii) violate any order, writ, injunction, judgment or decree applicable to the Buyer or any of its assets or properties, or (iii) conflict with, or result in breach or default under, or give rise to any right of termination, cancellation or acceleration under, any term or condition of the Certificate of Incorporation, the Bylaws, or other similar provisions of any material note, bond, mortgage, indenture, lease, license, agreement or other

instrument to which the Buyer is a party or by which it or its assets may be bound; except, in each case, for violations, conflicts, breaches or defaults which in the aggregate would not materially hinder or impair the Buyer's ability to consummate the transactions contemplated hereby.

(d) No consent, approval or authorization of, or exemption by, or filing with, any governmental or regulatory authority is required in connection with the execution, delivery and performance by the Buyer of this Agreement, or the taking by the Buyer of any other action contemplated hereby, excluding, however, consents, approvals, authorizations, exemptions and filings, if any, which the Seller may be required to obtain or make.

(e) The Buyer has available sufficient funds to enable it to consummate the transactions contemplated by this Agreement.

(f) There is no litigation pending against the Buyer with respect to which there is a reasonable likelihood of a determination which would have a material adverse effect on the ability of the Buyer to consummate the transactions contemplated hereby, or that seeks to enjoin or obtain damages in respect of the consummation of the transactions contemplated hereby.

(g) The Buyer is knowledgeable and experienced in the development and operation of commercial property comparable to the Property and Buyer and its agents (including environmental consultants) have had access to the Property prior to the execution of this Agreement.

11. DELINQUENT TAXES.

(a) (i) The Property has been assessed and liens exist against the Property for certain real estate taxes, interest and penalties (Delinquent Taxes).

(b) Buyer has agreed to pay in addition to the Purchase Price a sum to be applied to certain real estate taxes, interest, and penalties.

(c) (i) Buyer agrees to pay over to Escrow Agent a sum equal to \$20,000 to be used and applied for payment of Delinquent Taxes (Tax Deposit). Any interest income shall be added to and constitute part of the Tax Deposit. The Seller may draw from the Tax Deposit as and when funds are to be expended for payment of Delinquent Taxes.

(ii) In the event the Tax Deposit is greater than the sums required to be expended for Delinquent Taxes, then an amount equal to such excess shall be paid to the Buyer.

(iii) In the event the Tax Deposit is less than the sums required to be expended for Delinquent Taxes, then any such deficiency shall be the responsibility of the Seller.

12. COVENANTS OF THE SELLER.

(a) The Seller hereby covenants and agrees with the Buyer that the Seller will use its reasonable efforts, and will cooperate with the Buyer, to secure all necessary consents, approvals, authorizations, exemptions and waivers from third parties including, without limitation, governmental authorities, as shall be required in order to enable the Buyer to effect the transactions contemplated hereby, and will otherwise use its reasonable efforts to cause the consummation of such transactions in accordance with the terms and conditions hereof.

(b) The Seller will deliver such instruments, or resolutions as are necessary, or reasonably required by the Buyer or the Title Company, to evidence the authority of the Buyer and its representatives executing the instruments and that the execution of such instruments if the official act and deed of the Seller.

(c) The Seller will deliver such affidavits or letters or indemnity as the Title Company shall require in order to omit from its insurance policy all standard exceptions including the exception for unfilled mechanic[❖]s, materialman[❖]s or similar liens and the issuance of policy endorsements required by the Buyer.

(d) The Seller has provided or will provide the following items to the Buyer within 10 days of the Acceptance Date:

(i) Copies of all service, supply, maintenance or other agreements with respect to the Property, or any portion thereof, if any (the [❖]Contracts[❖]).

(ii) Full access for the Buyer, its attorneys, accountants and other representatives, during normal business hours and as often as may be reasonably requested, all books, records and files relating to and the Property, together with such additional information concerning the Property as the Buyer[❖]s attorneys, accountants or other representatives reasonably request. All such items and records are referred to herein as the [❖]Books and Records.[❖]

(iii) Copies of all existing surveys, title policies, title commitments and exceptions to such title policies or commitments with respect to the Property in the Seller's possession or otherwise available to the Seller without material charge.

13. COVENANTS OF THE BUYER.

(a) The Buyer hereby covenants and agrees with the Seller that the Buyer will use its reasonable efforts, and will cooperate with the Seller, to secure all necessary consents, approvals, authorizations, exemptions and waivers from third parties, including, without limitation, governmental authorities, as shall be required in order to enable the Seller to effect the transactions contemplated hereby, and will otherwise use its reasonable efforts to cause the consummation of such transactions in accordance with the terms and conditions hereof.

(b) The Buyer will deliver such instruments or resolutions as are necessary, or reasonably required by the Seller or the Title Company, to evidence the authority of the Buyer and its representatives executing the instruments and that the execution of such instruments is the official act and deed of the Buyer.

(c) The Buyer will deliver such affidavits or letters or indemnity as the Title Company shall require in order to omit from its insurance policy all standard exceptions including the exception for unfiled mechanic's, materialman's or similar liens and the issuance of policy endorsements required by the Seller.

14. CLOSING AND POSSESSION.

(a) The closing (the "Closing") of the transaction contemplated hereby shall occur at 10:00 a.m. on the Closing Date at the offices of the Title Company, provided that the parties may agree, in writing, to designate a date for Closing prior thereto. A party to this Agreement will not be required to be present in person at the Closing if such party has delivered all of the items it is required to deliver at the Closing to the Title Company on or before the Closing Date; provided, however, that if such items have been delivered to the Title Company with escrow instructions, such instructions must be consistent with the provisions of this Agreement. If any such instructions conflict with the provisions of this Agreement, the provisions of this Agreement shall govern and the parties hereby direct the Title Company to comply with the terms of this Agreement.

(b) The Seller. On the Closing Date, the Seller shall furnish and deliver to the Buyer, at the Seller's expense, the following all in form and substance reasonably acceptable to the Buyer and the Buyer's attorneys:

(i) A Warranty Deed to the Property in the form attached hereto as Exhibit G, subject only to the Permitted Exceptions, duly executed and acknowledged by the Seller.

(ii) A Bill of Sale for the Fixtures and the Annex Fixtures in the form attached hereto as Exhibit H, duly executed and acknowledged by the Seller.

(iii) A certificate executed by the Seller and dated the Closing Date certifying that all of the representations and warranties of the Seller set forth in this Agreement are true in all respects at and as of the Closing (except as stated therein and approved by the Buyer).

(iv) Such affidavits or letters of indemnity as the Title Company shall require in order to omit from its insurance policy all standard exceptions including the exception for unfiled mechanic's, materialman's or similar liens. It is understood that any liens may be satisfied from the Purchase Price proceeds, and that Buyer shall in all events take title subject to the current and future ad valorem property taxes, any existing utility easements affecting the Property, and building and zoning ordinances, and that the foregoing shall be deemed to be included in any reference herein to Permitted Exceptions.

(v) Such instruments or resolutions as are necessary, or reasonably required by the Buyer or the Title Company, to evidence the authority of the Seller and its representatives executing the instruments and that the execution of such instruments is the official act and deed of the Seller.

(vi) A FIRPTA Affidavit from the Seller confirming that the Seller is not a foreign person as required by federal law.

(vii) The Plans and Specifications.

(viii) Assignments of such Contracts the Buyer desires to assume, together with all required consents to such Assignments.

(ix) The original executed documents constituting the Leases or copies certified by Seller to be true and complete copies.

(x) A notice to the Young Men's Christian Association of Greater St. Louis, Motorola, Inc., and Broadway Shoe Repair of the completion of the sale which notice directs the tenant to pay all rent and other payments thereafter due at the direction of Buyer.

(xi) An assignment of all transferable licenses, permits, certificates of occupancy or equivalent, certificates and approvals, if any, existing in connection with the Property, to the extent that any such items have not already been assigned to Buyer.

(xii) The original, or copy, of each bill for current sewer charges and assessments, water charges and other utilities for the Property, together with proof of payment if they are then due and payable.

(xiii) All originals or copies thereof of the books and records of all original instruments reasonably necessary for the continued operation of the Property.

(xiv) Possession of the Property in broom clean condition.

(xv) A current reading of each utility meter made within two business days prior to closing.

(xvi) All original plans, specifications, surveys, audits, assessments, appraisals and other materials pertaining to the Property.

(xvii) Receipt for the Initial Earnest Money Deposit from the Escrow Agreement.

(xviii) An Estoppel Certificate from the Young Men's Christian Association of Greater St. Louis, Motorola, Inc., and Broadway Shoe Repair substantially in the form attached hereto as Exhibit I.

(c) The Buyer. On the Closing Date, the Buyer shall furnish and deliver to the Seller, at the Buyer's expense, the following all in form and substance reasonably acceptable to the Seller and the Seller's attorneys:

(i) By wire transfer to the Escrow Agent the balance of the Purchase Price in immediately available funds.

(ii) A certificate executed by the Buyer and dated the Closing Date certifying that all of the representations and warranties of the Buyer set forth in this

Agreement are true in all respects at and as of the Closing Date (except as stated therein and approved by the Seller).

(iii) Such instruments or resolutions as are necessary, or reasonably required by the Seller or the Title Company, to evidence the authority of the Buyer and its representatives executing the instruments and that the execution of such instruments is the official act and deed of the Buyer.

(iv) The Tax Deposit.

(d) Other Documents. The Seller and the Buyer further agree to execute closing statements and tax declaration forms as may be reasonably required in order to consummate and satisfy the obligations of the parties hereunder.

15. PRORATIONS. The items listed below shall be adjusted between the Seller and Buyer as of the Closing Date, shall be added to or subtracted from the Purchase Price and shall be reflected on a closing statement (the "Closing Statement") to be prepared by the Title Company based upon the information provided to it by Seller and Buyer at Closing, which information the parties agree to provide:

(a) Final readings for telephone, electric, gas, sewer, water and other utilities (collectively, the "Utilities") with respect to the Property will be made, if possible, on the Closing Date and Seller shall pay all outstanding amounts due as of that date which are allocable to the period prior to the Closing Date. Buyer shall pay to Seller all amounts allocable to the period after the Closing Date for any prepaid utility bills. If final readings cannot be obtained as of the Closing Date, Seller shall be responsible for having all meters read not earlier than two (2) days prior to the Closing Date and a final adjustment on a per them basis shall be made after the Closing Date when the next reading is available.

(b) Buyer shall pay to Seller the amount of any charges prepaid by the Seller for amounts due under any service contracts for the benefit of the Property, and Buyer shall receive a credit against the Purchase Price for the amount of any such charges which are allocable to periods prior to or on the Closing Date which are payable by Buyer after the Closing Date.

(c) Other items customarily adjusted upon the sale of a property similar to the Property shall be adjusted by the parties. Seller and Buyer shall diligently attempt to determine the exact amounts of prorations and adjustments prior to or at the Closing Date, however, the parties acknowledge that exact amounts may not be available on the Closing Date and agree to reprorate such items

following the Closing Date based upon final bills or statements, except for real estate and personal property taxes which shall not be readjusted except in the event of manifest error.

(d) It is the understanding of the parties that due to ownership by the City of St. Louis of the Property on January 1, 1998, that no real estate or personal property taxes will be levied for the year of closing (1998). Should this understanding be in error, the Parties agree to prorate the amount of taxes following the date of closing, with Seller paying to Buyer the amount of such taxes allocable to the period January 1, 1998 to and including the Closing Date.

(e) Buyer and Seller agree that the Title Company shall be the "reporting person" relative to the transaction contemplated herein for purposes of Section 6045(e) of the Internal Revenue Code of 1986, as amended.

16. EXPENSES. Buyer shall pay for (i) all costs of Buyer's inspection of the Property, (ii) one-half of the closing or escrow fees of the Title Company, (iii) the cost of any title insurance Buyer desires to buy, (iv) the cost of recording the deed to be given by Seller to Buyer at the Closing, and (v) the fees and expenses of Buyer's counsel. Seller shall pay for (i) the fees and expenses of Seller's counsel, (ii) one-half of the closing or escrow fees of the Title Company, and (iii) the costs of recording or filing any releases relating to any liens against Seller's interest in the Property.

17. BROKERAGE. Each party hereto hereby represents to the other that said party has dealt with no real estate broker or other person except in such a manner as to give rise to a claim for real estate commission or finder's fees against the other party. Each party hereto agrees to indemnify and hold harmless the other against all claims for real estate commission, and/or finder's fees from any parties with whom said party dealt. The indemnification herein contained shall survive Closing hereunder.

18. EMINENT DOMAIN. If, after the Acceptance Date and prior to the Closing Date, Seller receives notice of the commencement or threatened commencement of eminent domain proceedings against the Property or any portion thereof, Seller shall immediately give notice thereof to Buyer. Buyer shall elect within 30 days by notice to Seller either (i) to terminate this Agreement, in which event the Earnest Money plus any accrued interest shall be refunded to Buyer, or (ii) to close the transaction contemplated hereby in accordance with its terms but subject to such proceedings, in which event the Purchase Price shall not be reduced but Seller shall assign to Buyer all of Seller's rights in any condemnation award or proceeds. If Buyer does not give

notice timely, Buyer shall be deemed to have elected to close the transaction contemplated hereby in accordance with clause (ii) above.

19. DESTRUCTION OF IMPROVEMENTS. If any material part of the improvements on the Property is destroyed or materially damaged (excluding natural wear and tear) prior to Closing Date, Seller shall give notice to Buyer of such damage or destruction and of Seller's insurance coverage. Buyer shall elect within 30 days by notice to Seller either (i) to terminate this Agreement, in which event the Earnest Money plus any accrued interest shall be refunded to Buyer, or (ii) to close the transaction contemplated hereby, in which event the Purchase Price shall not be reduced but Seller shall assign to Buyer Seller's rights in any insurance proceeds paid or payable to Seller in connection with such damage or destruction. If Buyer does not give notice timely, Buyer shall be deemed to have elected to close the transaction contemplated hereby in accordance with clause (ii) of this section.

20. DEFAULT.

(a) If Buyer breaches or defaults in the performance of its obligations hereunder, then the Earnest Money shall be forfeited to Seller as Seller's sole and liquidated damages, such right on the part of Seller to be exercised by delivery of notice thereof to Buyer and the Title Company, and Buyer agrees to deliver written confirmation thereof to the Title Company upon demand by Seller; provided, however, that (i) if Buyer fails to deliver such written confirmation or if any dispute occurs over the delivery of the Earnest Money to Seller, then Seller shall have the right to recover from Buyer the amount of Seller's attorneys' fees and expenses incurred in obtaining payment of the Earnest Money (which reimbursement obligation shall be in addition to forfeiture of the Earnest Money), and (ii) nothing in the foregoing shall relieve Buyer from any of its indemnification obligations under paragraph 6 above.

(b) (i) If Seller breaches or defaults in the performance of its obligations hereunder, then Buyer shall have the right, at Buyer's option, to either (i) receive a refund of the Earnest Money, which right shall be exercised by the delivery of written notice to Seller and the Title Company requesting a refund of the Earnest Money in which event this Agreement shall be deemed terminated and neither party shall have any further obligations hereunder except for Buyer's indemnification obligation under paragraph 6 above, or (ii) bring any cause of action or any remedy in law or equity including an action in equity to specifically enforce Seller's obligations under this Agreement, which right shall be exercised by the delivery of written notice thereof to Seller and to

the Title Company, in which event the Title Company shall continue to hold the Earnest Money pending resolution of the action to enforce this Agreement.

(ii) If Seller breaches or defaults in the performance of its obligations hereunder, then Buyer shall also have the right, at Buyer's option, to recover from Seller a sum equal to Buyer's reasonable expenses in connection with Buyer's due diligence and performance of Buyer's obligation under this Agreement, which right shall be exercised by the delivery of written notice to Seller and the Title Company; provided, however, that said sum shall in no event exceed \$25,000.

(c) If either party elects to assert its rights with respect to the refund or forfeiture of the Earnest Money as provided in this Agreement during the period of time when the Title Company is holding the Earnest Money, then the parties shall follow the procedure set forth in this subparagraph. The party claiming the right to receive the Earnest Money shall deliver an affidavit to the Title Company stating that it is entitled to the receipt of the Earnest Money and stating the reasons therefor. Upon the receipt of such affidavit, the Title Company shall deliver to the other party a copy of such affidavit together with a notice stating that if no objection to the disposition of the Earnest Money as set forth in the affidavit is received from the other party within ten (10) days after the date such notice is sent by the Title Company, then the Title Company will deliver the Earnest Money in accordance with the terms of such affidavit. If such other party fails to object to the disposition of the Earnest Money as contemplated in such affidavit within such ten (10) day period, then the Title Company may interplead the Earnest Money into a court of competent jurisdiction for a resolution of any disputes involving the Earnest Money.

(d) If any litigation is commenced to enforce the rights of any party to this Agreement (including, without limitation, the rights of any party to the Earnest Money, whether in an interpleader action or otherwise), then the non-prevailing party shall reimburse the prevailing party for all expenses incurred in connection with such litigation, including, without limitation, reasonable attorneys' fees and court costs, and any judgment obtained by the prevailing party shall so provide.

21. NOTICES. Any notice, demand or other document to be given hereunder shall be in writing and shall be delivered personally, sent by Federal Express or other reputable overnight courier or sent by United States registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the respective addresses set forth in the paragraph 1 of this Agreement, and the same shall be effective upon receipt if delivered personally, one business day

after deposit with Federal Express or other reputable overnight courier or two business days after deposit in the mails if mailed. In addition, notices may be sent by facsimile to the facsimile number indicated for each party in paragraph 1 of this Agreement, and the same shall be deemed delivered upon the transmission thereof to the correct number if the same is also sent by one of the other means provided above. A party may change its address for receipt of notices by services of a notice of such change in accordance herewith.

22. EXCULPATION. This Agreement is executed by the authorized representatives of Buyer and Seller, not individually, but solely on behalf of Buyer or Seller. All persons dealing with Buyer or Seller must look solely to the assets of Buyer or Seller for the enforcement of any claim against it. The obligations hereunder are not binding upon, nor shall resort be had to, the private property of any of the partners, directors, officers, advisors, employees or agents of Buyer or Seller.

23. HISTORIC RESTORATION AND PRESERVATION/RESERVATION OF EASEMENT. Buyer acknowledges that the Property is eligible to be listed on the National Register of Historic Places of the U.S. Department of the Interior and that Seller desires the restoration and ongoing maintenance of the Property as a historic structure. Buyer shall have the affirmative obligation to restore and maintain the property and to this end Seller shall have the right to enter the Property to assure compliance therewith. Seller hereby reserves for itself, its successors and assigns, the right, privilege and easement to maintain, restore, and repair the Marquette Building. Said reservation of easement shall be noted in the Deed hereto, and the Parties shall enter into an Easement Agreement in recordable form which shall be recorded simultaneously with the Deed hereto effectuating this section. A copy of said Easement Agreement is attached hereto as Exhibit J and is hereby incorporated herein by reference.

24. ASSIGNMENT. This Agreement shall not be assigned by either party without the prior written approval of the other party, which approval shall not be unreasonably withheld.

25. GENERAL PROVISIONS.

(a) Agreement Binding. This Agreement shall be binding upon each party hereto and such party's successors and assigns and shall inure to the benefit of each party hereto and such party's successors and assigns.

(b) Entire Agreement. This Agreement, and all Exhibits referenced herein and annexed hereto, contain the final, complete, and entire agreement of the parties

hereto with respect to the matters contained herein, and no prior agreement or understanding pertaining to any of the matters connected with this transaction shall be effective for any purpose. Except as may be otherwise provided herein, the agreements embodied herein may not be amended except by an agreement in writing signed by the parties hereto.

(c) Governing Law. This Agreement shall be governed by and construed under the laws of the state of Missouri.

(d) Further Assurances. Seller and Buyer each agrees to execute and deliver to the other such further documents or instruments as may be reasonable and necessary in furtherance of the performance of the terms, covenants and conditions of this Agreement. This covenant shall survive the Closing.

(e) Interpretation. The titles, captions, and paragraph headings are inserted for convenience only and are in no way intended to interpret, define, limit, or expand the scope or content of this Agreement or any provision hereof. If any party to this Agreement is made up of more than one Person, then all such Persons shall be included jointly and severally, even though the defined term for such party is used in the singular in this Agreement. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted. If any words or phrases in this Agreement shall have been stricken out or otherwise eliminated, whether or not any other words or phrases have been added, this Agreement shall be construed as if the words or phrases so stricken out or otherwise eliminated were never included in this Agreement and no implication or inference shall be drawn from the fact that said words or phrases were so stricken out or otherwise eliminated.

(f) Counterparts. This Agreement may be executed in separate counterparts. It shall be fully executed when each party whose signature is required has signed at least one (1) counterpart even though no one (1) counterpart contains the signatures of all of the parties to this Agreement.

(g) Non-waiver. No waiver by Seller or Buyer of any provision hereof shall be deemed to have been made unless expressed in writing and signed by such party. No delay or omission in the exercise of any right or remedy accruing to Seller or Buyer upon any breach under this Agreement shall impair such right or remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by Seller or Buyer of any breach of any term, covenant, or condition herein stated shall not be deemed to be a waiver of any

other breach, or of a subsequent breach of the same or any other term, covenant or condition herein contained.

(h) Severability. This Agreement is intended to be performed in accordance with and only to the extent permitted by applicable law. If any provision so of this Agreement or the application thereof to any Person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, but the extent of the invalidity or unenforceability does not destroy the basis of the bargain between the parties as contained herein, the remainder of this Agreement and the application of such provisions to other Persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

(i) Exhibits. The Exhibits referred in and attached to this Agreement are incorporated herein in full by this reference.

(j) Attorneys' Fees. In the event of any controversy, claim or dispute between the parties arising from or relating to this Agreement (including, but not limited to, the enforcement of any indemnity provisions), the prevailing party shall be entitled to recover reasonable costs, expenses and attorneys' fees including but not limited to court costs and other expenses through all appellate levels.

(k) No Third Party Beneficiary. This Agreement is made solely and specifically between and for the benefit of the parties hereto, and their respective successors and assigns, and no other Person whatsoever shall have the rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third party beneficial or otherwise.

(l) No Recording. Except as required by law, this Agreement shall not be lodged for recording in any place or office of public record unless Seller or Buyer is in default under this Agreement. If Buyer records this Agreement, Seller, at its option, may cancel this Agreement and retain the deposit as liquidated damages; provided, however, the filing or recording of this Agreement as part of any proceedings instituted in any court of proper jurisdiction to enforce the provisions of this Agreement shall not be deemed a breach of this Section.

(m) Publicity. Buyer and Seller agree that no press release or other public disclosure shall be made concerning this transaction without the prior written consent of the other party. This provision shall not prevent governmentally required disclosures.

(n) Further Assurances. At any time or from time to time after the Closing Date, either party shall, at the request and expense of the requesting party, execute and deliver any further instruments or documents and take all such further action as the requesting party may reasonably request in order to consummate the transactions contemplated hereby.

(o) Other Documents. The Buyer and the Seller further agree to execute closing statements and tax declaration forms as may be reasonably required in order to consummate and satisfy the obligations of the parties hereunder.

(p) Survival. Notwithstanding anything herein to the contrary, the obligations, covenants, warranties, and representations of the parties shall survive the Closing and any termination or cancellation of this Agreement.

IN WITNESS WHEREOF this Agreement is executed as of the dates set forth below.

"Buyer"

MARQUETTE ST. LOUIS ASSOCIATES, L.L.C.

BY: Marquette St. Louis Redevelopment
Corporation, Managing Member

By:
Joseph A. Tahl President
Date:

"Seller"

THE CITY OF ST. LOUIS, MISSOURI acting by and through the City
Treasurer as Chairman of the Parking Commission

By:
Larry C. Williams
Treasurer and Chairman of Parking
Commission
Date:

EXHIBIT A-1

to Purchase and Sale Agreement between the City of St. Louis and Marquette
St. Louis Associates, L.L.C.

DESCRIPTION OF PROPERTY

A Lot in Block 99 of the City of Saint Louis, fronting 114 feet 5 inches (114 feet 4 inches more or less by Deed), on the East line of Broadway by a depth Eastwardly of 135 feet 0 inches (135 feet, more or less by Deed), to a private alley; bounded North by Lot 13 of said Block or by property, now or formerly Saint Louis Union Trust Company, East by said private alley and on the South by Olive Street.

EXHIBIT A-2

to Purchase and Sale Agreement between the City of St. Louis and Marquette St. Louis Associates, L.L.C.

DESCRIPTION OF PARKING LOT

Parcel 1:

A lot of ground in Block Ninety-nine (99) of the City of St. Louis, fronting fifty-seven (57) feet One (1) inch, more or less, on the West line of Fourth Street by a depth Westwardly of One Hundred Twenty-two (122) feet Six and three-eighths (6-3/8) inches, more or less, to an alley Twelve (12) feet, more or less, wide, conditionally dedicated by instruments recorded in Book 782 page 13 and in Book 771 Page 378. Bounded South by Olive Street and North by property now or formerly of Robert McK. Jones, etal, Trustees. Together with rights, if any, of the Grantor in the property covered by conditionally dedicated alley.

Parcel 2:

A Lot in Block 99 of the City of St. Louis, fronting 57 feet, more or less, on the West line of Fourth Street, by a depth Westwardly of 120 feet, more or less, to an alley, bounded on the South by a line 57 feet 1 inch North of the North line of Olive Street, and on the North by property conveyed to Daniel Catlin by Wm. Lucas, et al., by deed recorded in book 959 page 245.

EXHIBIT B

to Purchase and Sale Agreement between the City of St. Louis and Marquette St. Louis Associates, L.L.C.

ANNEX PROPERTY DESCRIPTION

1. Brass Letter Box
2. Brass Building Directory
3. Brass Elevator Panels

EXHIBIT C

to Purchase and Sale Agreement between the City of St. Louis and Marquette St. Louis Associates, L.L.C.

EXCLUDED PROPERTY DESCRIPTION

Specifically excluded shall be the following:

1. gas boiler located in the lobby owned by Ware Energy Co.; and
2. any items of personal property, fixtures and equipment owned by tenants leasing said premises.

EXHIBIT D-1

to Purchase and Sale Agreement between the City of St. Louis and Marquette St. Louis Associates, L.L.C.

RECEIPT FOR EARNEST MONEY

The undersigned, as of Gateway Title Company ("Title Company"), hereby acknowledges that it is in receipt of \$200,000, representing the Earnest Money under that certain Purchase and Sale Agreement ("Sale Agreement"), dated as of April 1, 1998, by and between THE CITY OF ST. LOUIS, as "Seller," and MARQUETTE ST. LOUIS ASSOCIATES, L.L.C., as "Buyer." Title Company agrees to hold in escrow, disburse and apply the Earnest Money in accordance with the provisions of the Purchase and Sale Agreement and the Escrow Instructions.

Dated: , 1998.

GATEWAY TITLE COMPANY

By:
Title:

EXHIBIT D-2

to Purchase and Sale Agreement between the City of St. Louis and Marquette St. Louis Associates, L.L.C.

ESCROW AGENT INSTRUCTIONS

Buyer shall deliver \$200,000 (the Earnest Money) by wire transfer of immediately available funds by no later than 1:00 p.m. on the third business day after the Acceptance Date to:

Bank: Missouri State Bank, St. Louis, Missouri 63101
Contact:
ABA No.: 081 001 714
Account No.: 810 5066 + Escrow Account
Reference: To credit of: Gateway Title Company, Inc.

Seller shall deliver \$200,000 (the Remediation Deposit) by wire transfer of immediately available funds by no later than 1:00 p.m. on the fourth business day after the Acceptance Date to:

Bank: Missouri State Bank, St. Louis, Missouri 63101
Contact:
ABA No.: 081 001 714
Account No.: 810 5066 + Escrow Account
Reference: To credit of: Gateway Title Company, Inc.

Buyer shall deliver \$725,000 (the Purchase Price) by wire transfer of immediately available funds by no later than 1:00 p.m. on the Closing Date to:

Bank: Missouri State Bank, St. Louis, Missouri 63101
Contact:
ABA No.: 081 001 714
Account No.: 810 5066 + Escrow Account
Reference: To credit of: Gateway Title Company, Inc.

Buyer shall deliver \$20,000 (the Tax Deposit) by wire transfer of immediately available funds by no later than 1:00 p.m. on the Closing Date to:

Bank: Missouri State Bank, St. Louis, Missouri 63101
Contact:
ABA No.: 081 001 714
Account No.: 810 5066 + Escrow Account
Reference: To credit of: Gateway Title Company, Inc.

EARNEST MONEY ESCROW INSTRUCTIONS

TO: Gateway Title Company, Inc.
2025 South Brentwood Boulevard
St. Louis, Missouri 63144

The undersigned, _____ of the _____, submits these Escrow Instructions which constitute an agreement with respect to the deposit of funds into Escrow Account No. 8105066 (Escrow Account) in the amount of Two Hundred Thousand Dollars (\$200,000) by Marquette St. Louis Associates, L.L.C. to be held and disposed of by Gateway Title Company, Inc. (Escrow Agent) in accordance with these instructions and subject to the following terms and conditions:

1. Escrow Agent. Escrow Agent acts only as a depository and is not a party to or bound by any agreement or undertaking other than the ones described herein unless the agreement is in writing and signed by Escrow Agent. The parties hereto specifically acknowledge and agree that if these Escrow Instructions are in conflict with the terms and conditions of any other agreement between the parties, the terms and conditions set forth herein are controlling.
2. Liability. Escrow Agent shall not be liable for any error of judgment or for any act done or omitted by it in good faith, or if it acts in accordance with the opinion of its legal counsel.
3. Documents. Escrow Agent may conclusively rely on and shall be protected in acting on any statement, authorization, notice, request, draft, consent, order, or other document believed by it to be genuine and to have been assigned or given by the proper party. Escrow Agent shall have no duty or liability to verify any such statement, authorization, notice, request, draft, consent, order, or other document, and its sole responsibility shall be to act only as expressly set forth in these Escrow Instruction. Escrow Agent shall be under no obligation to institute or defend any action, suit, or proceeding in connection with these Escrow Instructions.

4. Delivery. Escrow Agent is authorized to release funds from the Account upon the written instructions of the City of St. Louis (a) to pay as they become due the obligations of Marquette St. Louis Associates, L.L.C. for the environmental remediation of the Marquette Building all pursuant to Section 9 of the Purchase and Sale Agreement between the City and Marquette St. Louis Associates, L.L.C. dated as of _____, 1998; or (b) in accordance with Section 20 of the Purchase and sale Agreement in the event of default.

5. Adverse Claims. In the event of any disagreement or presentation of adverse claims or demands in connection with the Escrow Account, Escrow Agent at its option may refuse to comply with any claim or demand and refrain from delivering any funds in the Escrow Account until all differences have been adjusted by agreement or pursuant to a final adjudication by a court of competent jurisdiction.

6. Investment. Funds in the Escrow Account shall be invested in an FDIC-insurance interest-bearing account. Any interest income shall be added to the account.

7. Amendment. These Escrow Instructions may be modified at any time by a writing signed by all parties hereto.

8. Compensation. Escrow Agent's fee for acting as Escrow Agent hereunder is _____ Dollars (\$_____). All of Escrow Agent's fees and miscellaneous expenses, including, but not limited to, [expenses], for maintaining the Escrow Account shall be shared equally by the parties hereto. Escrow Agent, in its discretion, may offset such fees and expenses against the amount in the Escrow Account.

9. Notices. Notices, if any, shall be given as follows:

To the City: Larry Williams, Treasurer
Room 220, City Hall
St. Louis, Missouri 63103

with a copy to: Thomas Ray, Deputy City Counselor
Room 314, City Hall
St. Louis, Missouri 63103

To Marquette St. Louis Joseph A. Tahl
Redevelopment Corporation: 405 Park Avenue, Suite 1103
New York, New York 10022

with a copy to: John Fox Arnold
714 Locust Street
St. Louis, Missouri 63101

To Gateway Title Company: 2025 South Brentwood Boulevard
St. Louis, Missouri 63144

Dated:

Escrow Agent acknowledges receipt of the above Escrow Instructions and agrees to hold and dispose of any deposits received hereunder in accordance with the terms and conditions above set forth.

Dated: GATEWAY TITLE COMPANY

By

Its

DELINQUENT TAX ESCROW INSTRUCTIONS

TO: Gateway Title Company, Inc.
2025 South Brentwood Boulevard
St. Louis, Missouri 63144

The undersigned, _____ of the _____, submits these Escrow Instructions which constitute an agreement with respect to the deposit of funds into Escrow Account No. 8105066 (Escrow Account) in the amount of Twenty Thousand Dollars (\$20,000) by Marquette St. Louis Associates, L.L.C. to be held and disposed of by Gateway Title Company (Escrow Agent) in accordance with these instructions and subject to the following terms and conditions:

1. Escrow Agent. Escrow Agent acts only as a depository and is not a party to or bound by any agreement or undertaking other than the ones described herein unless the agreement is in writing and signed by Escrow Agent. The parties hereto specifically acknowledge and agree that if these Escrow Instructions are in conflict with the terms and conditions of any other agreement between the parties, the terms and conditions set forth herein are controlling.
2. Liability. Escrow Agent shall not be liable for any error of judgment or for any act done or omitted by it in good faith, or if it acts in accordance with the opinion of its legal counsel.

3. Documents. Escrow Agent may conclusively rely on and shall be protected in acting on any statement, authorization, notice, request, draft, consent, order, or other document believed by it to be genuine and to have been assigned or given by the proper party. Escrow Agent shall have no duty or liability to verify any such statement, authorization, notice, request, draft, consent, order, or other document, and its sole responsibility shall be to act only as expressly set forth in these Escrow Instruction. Escrow Agent shall be under no obligation to institute or defend any action, suit, or proceeding in connection with these Escrow Instructions.

4. Delivery. Escrow Agent is authorized to release funds from the Account upon the written instructions of the City of St. Louis to pay the delinquent property taxes identified in accordance with Section 11 of the Purchase and Sale Agreement between the City and Marquette St. Louis Associates, L.L.C. dated as of _____, 1998.

5. Adverse Claims. In the event of any disagreement or presentation of adverse claims or demands in connection with the Escrow Account, Escrow Agent at its option may refuse to comply with any claim or demand and refrain from delivering any funds in the Escrow Account until all differences have been adjusted by agreement or pursuant to a final adjudication by a court of competent jurisdiction.

6. Investment. Funds in the Escrow Account shall be invested according to the instructions of the City of St. Louis.

7. Amendment. These Escrow Instructions may be modified at any time by a writing signed by all parties hereto.

8. Compensation. Escrow Agent's fee for acting as Escrow Agent hereunder is _____ Dollars (\$_____). All of Escrow Agent's fees and miscellaneous expenses, including, but not limited to, [expenses], for maintaining the Escrow Account shall be shared equally by the parties hereto. Escrow Agent, in its discretion, may offset such fees and expenses against the amount in the Escrow Account.

9. Notices. Notices, if any, shall be given as follows:

To the City: Larry Williams, Treasurer
Room 220, City Hall
St. Louis, Missouri 63103

with a copy to: Thomas Ray, Deputy City Counselor
Room 314, City Hall
St. Louis, Missouri 63103

To Marquette St. Louis Joseph A. Tahl
Redevelopment Corporation: 405 Park Avenue, Suite 1103
New York, New York 10022

with a copy to: John Fox Arnold
714 Locust Street
St. Louis, Missouri 63101

To Gateway Title Company: 2025 South Brentwood Boulevard
St. Louis, Missouri 63144

Dated:

Escrow Agent acknowledges receipt of the above Escrow Instructions and agrees to hold and dispose of any deposits received hereunder in accordance with the terms and conditions above set forth.

Dated: GATEWAY TITLE COMPANY, INC.

By

Its

REMEDATION DEPOSIT ESCROW INSTRUCTIONS

TO: Gateway Title Company, Inc.
2025 South Brentwood Boulevard
St. Louis, Missouri 63144

The undersigned, _____ of the _____,
submits these Escrow Instructions which constitute an agreement with respect to the deposit of funds into Escrow Account No. 8105066 (Escrow Account) in the amount of Two Hundred Thousand Dollars (\$200,000) by the Treasurer of the City of St. Louis to be held and disposed of by Gateway Title Company (Escrow Agent) in accordance with these instructions and subject to the following terms and conditions:

1. Escrow Agent. Escrow Agent acts only as a depository and is not a party to or bound by any agreement or undertaking other than the ones described herein unless the agreement is in writing and signed by Escrow Agent. The parties hereto specifically acknowledge and agree that if these Escrow Instructions are in conflict with the terms and conditions of any other agreement between the parties, the terms and conditions set forth herein are controlling.

2. Liability. Escrow Agent shall not be liable for any error of judgment or for any act done or omitted by it in good faith, or if it acts in accordance with the opinion of its legal counsel.

3. Documents. Escrow Agent may conclusively rely on and shall be protected in acting on any statement, authorization, notice, request, draft, consent, order, or other document believed by it to be genuine and to have been assigned or given by the proper party. Escrow Agent shall have no duty or liability to verify any such statement, authorization, notice, request, draft, consent, order, or other document, and its sole responsibility shall be to act only as expressly set forth in these Escrow Instruction. Escrow Agent shall be under no obligation to institute or defend any action, suit, or proceeding in connection with these Escrow Instructions.

4. Delivery. Escrow Agent is authorized to release funds from the Account upon the written instructions of the City of St. Louis to pay the remediation expenses identified in accordance with Section 9 of the Purchase and Sale Agreement between the City and Marquette St. Louis Associates, L.L.C. dated as of _____, 1998.

5. Adverse Claims. In the event of any disagreement or presentation of adverse claims or demands in connection with the Escrow Account, Escrow Agent at its option may refuse to comply with any claim or demand and refrain from delivering any funds in the Escrow Account until all differences have been adjusted by agreement or pursuant to a final adjudication by a court of competent jurisdiction.

6. Investment. Funds in the Escrow Account shall be invested according to the instructions of the City of St. Louis.

7. Amendment. These Escrow Instructions may be modified at any time by a writing signed by all parties hereto.

8. Compensation. Escrow Agent's fee for acting as Escrow Agent hereunder is _____ Dollars (\$_____). All of Escrow Agent's fees and

miscellaneous expenses, including, but not limited to, [expenses], for maintaining the Escrow Account shall be shared equally by the parties hereto. Escrow Agent, in its discretion, may offset such fees and expenses against the amount in the Escrow Account.

9. Notices. Notices, if any, shall be given as follows:

To the City: Larry Williams, Treasurer
Room 220, City Hall
St. Louis, Missouri 63103

with a copy to: Thomas Ray, Deputy City Counselor
Room 314, City Hall
St. Louis, Missouri 63103

To Marquette St. Louis Joseph A. Tahl
Redevelopment Corporation: 405 Park Avenue, Suite 1103
New York, New York 10022

with a copy to: John Fox Arnold
714 Locust Street
St. Louis, Missouri 63101

To Gateway Title Company: 2025 South Brentwood Boulevard
St. Louis, Missouri 63144

Dated:

Escrow Agent acknowledges receipt of the above Escrow Instructions and agrees to hold and dispose of any deposits received hereunder in accordance with the terms and conditions above set forth.

Dated: GATEWAY TITLE COMPANY, INC.

By

Its

DEMOLITION DEPOSIT ESCROW INSTRUCTIONS

TO: Gateway Title Company, Inc.

2025 South Brentwood Boulevard
St. Louis, Missouri 63144

The undersigned, _____ of the _____, submits these Escrow Instructions which constitute an agreement with respect to the deposit of funds into Escrow Account No. 8105066 (Escrow Account) by Marquette St. Louis Associates, L.L.C. to be held and disposed of by Gateway Title Company (Escrow Agent) in accordance with these instructions and subject to the following terms and conditions:

1. Escrow Agent. Escrow Agent acts only as a depository and is not a party to or bound by any agreement or undertaking other than the ones described herein unless the agreement is in writing and signed by Escrow Agent. The parties hereto specifically acknowledge and agree that if these Escrow Instructions are in conflict with the terms and conditions of any other agreement between the parties, the terms and conditions set forth herein are controlling.
2. Liability. Escrow Agent shall not be liable for any error of judgment or for any act done or omitted by it in good faith, or if it acts in accordance with the opinion of its legal counsel.
3. Documents. Escrow Agent may conclusively rely on and shall be protected in acting on any statement, authorization, notice, request, draft, consent, order, or other document believed by it to be genuine and to have been assigned or given by the proper party. Escrow Agent shall have no duty or liability to verify any such statement, authorization, notice, request, draft, consent, order, or other document, and its sole responsibility shall be to act only as expressly set forth in these Escrow Instruction. Escrow Agent shall be under no obligation to institute or defend any action, suit, or proceeding in connection with these Escrow Instructions.
4. Delivery. Escrow Agent is authorized to release funds from the Account upon the written instructions of the City of St. Louis to pay the demolition costs identified in accordance with Section 9 of the Purchase and Sale Agreement between the City and Marquette St. Louis Associates, L.L.C. dated as of _____, 1998.
5. Adverse Claims. In the event of any disagreement or presentation of adverse claims or demands in connection with the Escrow Account, Escrow Agent at its option may refuse to comply with any claim or demand and refrain from delivering any funds in the Escrow Account until all differences have been

adjusted by agreement or pursuant to a final adjudication by a court of competent jurisdiction.

6. Investment. Funds in the Escrow Account shall be invested according to the instructions of the City of St. Louis.

7. Amendment. These Escrow Instructions may be modified at any time by a writing signed by all parties hereto.

8. Compensation. Escrow Agent's fee for acting as Escrow Agent hereunder is _____ Dollars (\$_____). All of Escrow Agent's fees and miscellaneous expenses, including, but not limited to, [expenses], for maintaining the Escrow Account shall be shared equally by the parties hereto. Escrow Agent, in its discretion, may offset such fees and expenses against the amount in the Escrow Account.

9. Notices. Notices, if any, shall be given as follows:

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St. Louis, Missouri 63103

with a copy to: Thomas Ray, Deputy City Counselor
Room 314, City Hall
St. Louis, Missouri 63103

To Marquette St. Louis Joseph A. Tahl
Redevelopment Corporation: 405 Park Avenue, Suite 1103
New York, New York 10022

with a copy to: John Fox Arnold
714 Locust Street
St. Louis, Missouri 63101

To Gateway Title Company: 2025 South Brentwood Boulevard
St. Louis, Missouri 63144

Dated:

Escrow Agent acknowledges receipt of the above Escrow Instructions and agrees to hold and dispose of any deposits received hereunder in accordance with the terms and conditions above set forth.

Dated: GATEWAY TITLE COMPANY, INC.

By

Its

EXHIBIT E

to Purchase and Sale Agreement between the City of St. Louis and Marquette St. Louis Associates, L.L.C.

LEASES OR RIGHTS OF OCCUPANCY

1. LEASE TO W. LAYTON STEWART, Suite 1010, until March 27, 2001, 2,000 sq. ft., monthly base rent \$1,250 (subject to 3% annual increase); landlord has right to relocate to similar location (sec. 8.2 of lease).

2. LEASE TO YMCA OF GREATER OF ST. LOUIS, Suites 300 and 400 (3rd and 4th Floors); Lease expired 12/31/96, currently month-to-month, monthly base rent \$16,124.

3. LEASE TO COFFMAN & TOWNSLEY, Suite 1700, until 12/21/98, 4400 sq. ft., monthly base rent \$3,483.33.

4. LEASE TO MOTOROLA, INC., Marquette building roof and attached tower and 20th floor equipment rooms; term expires 9/1/2000, with a 5-year renewal term; monthly rental is revenue split on other users (60% landlord, 40% tenant).

5. LEASE TO BROADWAY SHOE REPAIR, Lobby, until 10/31/98; has 3-year renewal provision; monthly base rent \$635.91.

EXHIBIT F

to Purchase and Sale Agreement between the City of St. Louis and Marquette St. Louis Associates, L.L.C.

LIST OF INSURANCE POLICIES

(To be supplied by City)

EXHIBIT G

to Purchase and Sale Agreement between the City of St. Louis and Marquette St. Louis Associates, L.L.C.

SPECIAL WARRANTY DEED

This SPECIAL WARRANTY DEED (this **Deed**), dated as of _____, 1998, is granted by CITY OF ST. LOUIS (**Grantor**), to Marquette St. Louis Associates, L.L.C. (**Grantee**), a Missouri Limited Liability Corporation, whose address for receipt of tax bills is _____. For and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration paid by Grantee to Grantor, the receipt and sufficiency of which consideration are hereby acknowledged, Grantor does hereby BARGAIN AND SELL, CONVEY AND CONFIRM unto Grantee, and Grantee's successors and assigns, all of the real property situated in the City of St. Louis, Missouri, described on Exhibit A to Warranty Deed attached hereto and made a part hereof, together with all and singular the rights and appurtenances pertaining thereto, and together with all improvements situated thereon (said land, rights, appurtenances and improvements being hereinafter referred to collectively as the **Property**); subject, however, to all covenants, conditions, restrictions, easements, rights of way and other matters of record, real estate taxes and assessments for the calendar year in which this Deed is dated and hereafter, applicable zoning and land use regulations and the Easement Agreement provided in this Deed (collectively, the **Permitted Exceptions**). The Property is in **as is** condition with no representations or warranties being made by Grantor as to environmental conditions.

Grantor hereby reserves for itself, its successors, and assigns the right, privilege, and easement to maintain, restore, and repair the Property pursuant to Easement Agreement of even date hereto. Such Easement shall run with the land and be binding upon Grantee and its successor and assigns, until abandoned as set forth in the Easement Agreement.

TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions, unto Grantee, Grantee's successors and assigns, FOREVER; and Grantor does agree to WARRANT AND FOREVER DEFEND title to the Property unto Grantee, Grantee's successors and assigns, against any person lawfully claiming the same by, through or under Grantor, but none other, subject to the Permitted Exceptions.

IN WITNESS WHEREOF, this Deed has been executed by Grantor to be effective as of the date and year first above written.

"Buyer"

MARQUETTE ST. LOUIS ASSOCIATES, L.L.C.

BY: Marquette St. Louis Redevelopment Corporation, Managing Member

By: Joseph A. Tahl President

Date:

"Seller"

THE CITY OF ST. LOUIS, MISSOURI acting by and through the City Treasurer as Chairman of the Parking Commission

By:

Larry C. Williams
Treasurer and Chairman of Parking Commission

Date:

[INSERT ACKNOWLEDGEMENTS] EXHIBIT A-1

to Purchase and Sale Agreement between the City of St. Louis and Marquette St. Louis Associates, L.L.C.

DESCRIPTION OF PROPERTY

A Lot in Block 99 of the City of Saint Louis, fronting 114 feet 5 inches (114 feet 4 inches more or less by Deed), on the East line of Broadway by a depth Eastwardly of 135 feet 0 inches (135 feet, more or less by Deed), to a private alley; bounded North by Lot 13 of said Block or by property, now or formerly Saint Louis Union Trust Company, East by said private alley and on the South by Olive Street.

EXHIBIT H

to Purchase and Sale Agreement between the City of St. Louis and Marquette St. Louis Associates, L.L.C.

BILL OF SALE

THE CITY OF ST. LOUIS, MISSOURI

PURCHASE AND SALE AGREEMENT
WITH
MARQUETTE ST. LOUIS ASSOCIATES, L.L.C.

This BILL OF SALE AND ASSIGNMENT made as of the 1st day of April, 1998, by the City of St. Louis, a body politic and corporate of the state of Missouri, acting by and through the City Treasurer, Chairman of the Parking Commission (Transferor) to the Marquette St. Louis Associates, L.L.C. (Transferee).

Transferor and Transferee have executed that certain Purchase and Sale Agreement dated as of April 1, 1998 (the Agreement), pursuant to which Transferor is to transfer and assign, subject to the terms and conditions of the Agreement, certain personal property more fully described below to Transferee. Transferor hereby warrants that it is the owner of such personal property, and has full right and title thereto, and authority to sell and dispose of same, and that such personal property is now free and clear of all liens and encumbrances of every kind.

NOW, THEREFORE, pursuant to the terms and conditions of the Agreement and for valuable consideration, the receipt of which is hereby acknowledged, Transferor hereby sells, conveys, transfers, assigns and delivers to Transferee, its successors and assigns, the following described personal property located in the City of St. Louis, State of Missouri, TO WIT:

any and all removable fixtures and equipment located at the premises known as the Marquette Building, St. Louis, Missouri as described in Section 2 of the Agreement.

The personal property conveyed pursuant to this Bill of Sale and Assignment is sold AS IS. Transferor expressly DISCLAIMS ANY AND ALL WARRANTIES AS TO THE CONDITION OR QUALITY OF SAID PROPERTY INCLUDING WITHOUT LIMITATION ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. The description of the personal property conveyed hereby is for the sole purpose of identifying said property and does not constitute a warranty that said property shall conform to the description.

Notary Public

My commission expires:

EXHIBIT I

to Purchase and Sale Agreement between the City of St. Louis and Marquette St. Louis Associates, L.L.C.

ESTOPPEL CERTIFICATE

TO: Marquette St. Louis Redevelopment Corporation as Managing Member of Marquette St. Louis Associates, L.L.C.

1. The _____ is in possession of the premises on the _____ floor of the Marquette Building [Suite _____]. The _____ [had held] [holds] the premises under a written lease which [expired] [expires] on _____, 199____.
2. The _____ occupies the premises [on a month-to-month basis] [under lease dated _____].
3. No rent has been paid by the _____ in advance except the rent that became due on _____, 1998 for the current month.
4. The _____ has no claim against the Seller for any deposits.
5. The _____ as of the date of this Certificate has no defenses or offsets to allege in any action brought against the _____ accruing under the prior lease.

The _____ makes this Certificate with the understanding that Marquette St. Louis Redevelopment Corporation as Managing Member of Marquette St. Louis Associates, L.L.C. is contemplating purchase of the Marquette Building, and that if Marquette Associates does purchase the Marquette Building, it will do so in material reliance on this Certificate.

Executed on April _____, 1998, at the City of St. Louis, State of Missouri, by the _____ of the _____.

◆ _____ ◆

By

Its

EXHIBIT J

to Purchase and Sale Agreement between the City of St. Louis and Marquette
St. Louis Associates, L.L.C.

**AGREEMENT OF ARCHITECTURAL, FA~~DE~~ ADE, AND HISTORIC
PRESERVATION EASEMENT**

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
05/22/98	05/22/98	W&M	07/15/98	
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
07/10/98			07/17/98	07/24/98
ORDINANCE	VETOED		VETO OVR	
64440				