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Cook County Recorder 49.00



AGREEMENT FOR THE SALE AND REDEVELOPMENT OF LAND

(The Above Space For Recorder's Use Only)

This AGREEMENT is made on or as of the 28th day of June, 1999 by and between the **CITY OF CHICAGO**, an Illinois municipal corporation ("City"), having its principal offices at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602 and **The Society of Mount Carmel, Inc.** ("Not For Profit Agency"), located at 1317 Frontage Road, Darien, Illinois 60561.

RECITALS

WHEREAS, the Not For Profit Agency holds legal title to certain parcels of real property ("Abutting Parcels") which are located at 6410-6458 South Harper Avenue and 6401-6459 South Harper Avenue in the County of Cook, State of Illinois, and which are currently used for educational, charitable or philanthropic purposes, and for those structures and additional uses which are reasonably necessary to permit such educational, charitable or philanthropic purposes, and other similar uses and facilities; and

WHEREAS, on June 10, 1998, the City Council of the City of Chicago approved an ordinance (C.J. pp.71652-7), a copy of which is attached as Exhibit A and which is hereby incorporated ("Ordinance") which Ordinance provided for the vacation of that part of South Harper Avenue between East 64th Street and East 65th Street except the north 100.00 feet, more or less, together with all of the public alleys in the area bounded by East 64th Street, East 65th Street, South Blackstone Avenue and South Stony Island Avenue (hereinafter referred to as "Property"), the Property being more particularly described in Exhibit A; and

WHEREAS, the vacation provided in the Ordinance is conditioned upon the execution and recording by the Not For Profit Agency of a redevelopment agreement that provides that the Property shall be used only for educational, charitable or philanthropic purposes and for those

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structures and additional uses which are reasonably necessary to permit such educational, charitable and philanthropic uses, and other similar uses and facilities;

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE PASSAGE AND APPROVAL OF THE VACATION ORDINANCE AND THE VESTING OF TITLE IN THE NOT FOR PROFIT AGENCY, WITHOUT THE REQUIREMENT THAT THE NOT FOR PROFIT AGENCY PAY COMPENSATION TO THE CITY, THE NOT FOR PROFIT AGENCY DOES HEREBY AGREE WITH AND COVENANT TO THE CITY OF CHICAGO AS FOLLOWS:

SECTION 1. IMPROVEMENTS.

The Not For Profit Agency agrees to construct structures and facilities on the Property in accordance with drawings which are attached and incorporated as Exhibit B ("Improvements"). No material deviation from Exhibit B shall be made without the prior written approval of the City's Department of Transportation ("CDOT").

The Not For Profit Agency shall be solely responsible for and shall pay all costs of the Project, including: the relocation, installation or construction of private or public utilities; curb cuts and driveways; the repair or reconstruction of any curbs, sidewalks or parkways deteriorated or damaged as a result of the Not For Profit Agency's redevelopment; the removal of existing pipes, utility equipment or building foundations; and the termination of existing water or other services.

SECTION 2. LIMITED APPLICABILITY.

The City's approval of Exhibit B is for the purpose of this Agreement only and does not constitute the approval required by the City's Building Department or any other City department; nor does the approval by the City pursuant to this Agreement constitute an approval of the quality, structural soundness or the safety of any improvements located or to be located on the Property. The approval given by the City shall be only for the benefit of the Not For Profit Agency and any lienholder authorized by this Agreement.

SECTION 3. COMMENCEMENT AND COMPLETION OF IMPROVEMENTS.

The construction of the Improvements shall be commenced within 60 days of the recordation of this Agreement ("Conveyance"), and except as otherwise provided in this Agreement, shall be completed (as evidenced by the issuance of the Certificate by the City) within 90 days after such conveyance. If the Not For Profit Agency is unable to comply with these deadlines for cause, the City shall grant a time extension upon written notice from the Not For Profit Agency. Within five (5) days from the commencement of construction, the Not For Profit Agency shall notify the City that construction has begun.

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CDOT Rev.

If the Not For Profit Agency abandons or substantially suspends construction of the

Improvements and such abandonment or suspension is not cured within sixty (60) days of the date the Not For Profit Agency receives written demand by the City to cure, then the provisions provided in Section 10 of this Agreement shall apply.

SECTION 4. CERTIFICATE OF COMPLETION.

Promptly after completion of the Improvements in accordance with this Agreement, the City shall furnish the Not For Profit Agency with a Certificate of Improvement Completion ("Certificate"). The Certificate shall be a conclusive determination of satisfaction and termination of the covenants in this Agreement with respect to the obligations of the Not For Profit Agency to construct the Improvements. The Certificate shall be in recordable form. Within forty-five (45) days after receipt of a written request by the Not For Profit Agency for a Certificate, the City shall provide the Not For Profit Agency with either the Certificate or a written statement indicating in adequate detail how the Not For Profit Agency has failed to complete the Improvements in conformity with this Agreement, or is otherwise in default, and what measures or acts will be necessary, in the sole opinion of the City, for the Not For Profit Agency to take or perform in order to obtain the Certificate. If the City requires additional measures or acts to assure compliance, the Not For Profit Agency shall resubmit a written request for the Certificate upon compliance with the City's response.

SECTION 5. RESTRICTIONS ON USE.

The Not For Profit Agency agrees that it:

A. Shall devote the Property to a use stated in the Ordinance for 40 years from the date of Conveyance. This Agreement shall be binding on the Not For Profit Agency, its successors and assigns, and shall be enforceable by the City, its successors and assigns. The Not For Profit Agency's obligations under this Agreement may be released or abandoned only upon approval of the City Council of the City of Chicago which may condition its approval upon the payment of such additional compensation by the Not For Profit Agency or any persons claiming under the Not For Profit Agency, which said City Council of the City of Chicago deems to be equal to the benefits accruing because of the release or abandonment of the Agreement.

B. Shall not discriminate based upon race, color, religion, sex, national origin or ancestry, military status, sexual orientation, source of income, age, handicap, in the sale, lease, rental, use or occupancy of the Property or any improvements located or to be erected thereon.

SECTION 6. PROHIBITION AGAINST TRANSFER OF PROPERTY.

Prior to the issuance of the Certificate by the City with regard to completion of the Improvements, the Not For Profit Agency shall not, without the prior written consent of the City: (a) sell or convey the Property or any part thereof except to a land trust where the Not For Profit Agency is the sole beneficiary of said trust; or (b) create any assignment with respect to this

Agreement or the Property that would take effect prior to the issuance of the Certificate by the City; or (c) contract or agree to: (1) sell or convey the Property, or (2) create any assignment with respect to this Agreement or the Property that would take effect prior to the issuance of the Certificate by the City. If the Property is acquired by a corporation, partnership or other legal entity, there shall be no transfer of ten percent (10%) or more interest in the entity nor any similar significant change in the constitution of the entity until the Certificate is issued or the City consents in writing to the transfer or change. The provisions of this Section 6 shall not limit the Not For Profit Agency's rights under Section 8 of this Agreement.

SECTION 7. REAL ESTATE TAXES/LIENS.

Not For Profit Agency shall pay all taxes, assessments, and water and sewer charges assessed against the Property. Additionally, Not For Profit Agency shall not suffer or permit any levy or attachment, material suppliers' or mechanics' lien, or any other lien or encumbrance unauthorized by this Agreement to attach to the Property.

SECTION 8. LIMITATION UPON ENCUMBRANCE OF PROPERTY.

Prior to the completion of the Project and the issuance of the Certificate by the City, the Not For Profit Agency shall not engage in any financing or other transaction which creates an encumbrance or lien upon the Property, except for the purposes of obtaining: (a) funds necessary to construct the Improvements; or (b) funds necessary for architects, surveyors, appraisers, environmental consultants or attorneys in connection with the Project.

SECTION 9. COVENANTS RUNNING WITH THE LAND.

The parties agree that all of the covenants provided in this Agreement shall be covenants running with the land, binding the Not For Profit Agency and its successors and assigns to the fullest extent permitted by law and equity for the benefit and in favor of the City, and shall be enforceable by the City.

SECTION 10. PERFORMANCE AND BREACH.

A. Permitted Delays. Neither party shall be considered in breach of its obligations with respect to the commencement or completion of construction of the Improvements in the event of a delay in the performance of such obligations due to unforeseeable causes beyond such party's control and without such party's fault or negligence, including but not limited to, delays or halts in construction of the Improvements which are compelled by court order, acts of God, acts of the public enemy, acts of the United States government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, embargoes and unusually severe weather or delays of subcontractors due to such cause. The time for the performance of the obligations shall be extended only for the period of the delay if such party requests it in writing of the other party

within twenty (20) days after the beginning of any such delay.

B. Breach.

1. Generally. Except as otherwise provided in this Agreement, in the event of a default by either party in the performance of its obligations under this Agreement, the defaulting party, upon written notice from the other, shall cure or remedy the default not later than sixty (60) days after receipt of such notice. If the default is not capable of being cured within the sixty (60) day period but the defaulting party has commenced action to cure the default and is diligently proceeding to cure the default within the sixty (60) day period, then the sixty (60) day period shall be extended for the length of time that is reasonably necessary to cure the default. If the default is not cured in the time period provided for herein, the aggrieved party may terminate this Agreement and institute such proceedings at law or in equity as may be necessary or desirable in its sole discretion to cure and remedy the default, including but not limited to, proceedings to compel specific performance.
2. Event of Default. For purposes of this Agreement, the occurrence of any one or more of the following shall constitute an "event of default":
 - a. The Not For Profit Agency fails to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations required under this Agreement; or
 - b. The Not For Profit Agency makes or furnishes a warranty, representation, statement or certification to the City which is not true and correct in any material respect; or
 - c. A petition is filed by or against the Not For Profit Agency under the Federal Bankruptcy Code or any similar state or federal law, whether now or hereinafter existing, which is not vacated, stayed or set aside within thirty (30) days after filing; or
3. After Conveyance. If during the forty (40) year period subsequent to the conveyance of the Property to the Not For Profit Agency, the Not For Profit Agency defaults in any specific manner described in this Section 10.B, the City, by written notice to the Not For Profit Agency, may utilize any and all remedies available to the City at law or in equity. However, if the Not For Profit Agency defaults in any specific manner described in this Section 10.B during the first fifteen (15) years of the forty (40) year period subsequent to the conveyance of the Property the City also has the right to re-enter and take possession of the Property,

terminate the estate conveyed to the Not For Profit Agency, and revert title to the Property in the City.

C. Waiver and Estoppel. Any delay by the City in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not operate as a waiver of such rights or operate to deprive the City of or limit such rights in any way. No waiver made by the City with respect to any specific default by the Not For Profit Agency shall be construed, considered or treated as a waiver of the rights of the City with respect to any other defaults of the Not For Profit Agency.

D. Access to the Property. After the effective date of the Ordinance ("Effective date"), any duly authorized representative of the City shall have access to the Abutting Property and Property at all reasonable times for the purpose of confirming the Not For Profit Agency's compliance with this Agreement.

SECTION 11. CONFLICT OF INTEREST; CITY'S REPRESENTATIVES NOT INDIVIDUALLY LIABLE.

The Not For Profit Agency warrants that no agent, official, or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such agent, official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is directly or indirectly interested. No agent, official, or employee of the City shall be personally liable to the Not For Profit Agency or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Not For Profit Agency or successor or on any obligation under the terms of this Agreement.

SECTION 12. INDEMNIFICATION.

The Not For Profit Agency agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation, attorneys' fees and court costs) suffered or incurred by the City arising from or in connection with: (i) the failure of the Not For Profit Agency to perform its obligations under this Agreement; (ii) the failure of the Not For Profit Agency or any contractor to pay contractors, subcontractors or material suppliers in connection with the construction of the Improvements; (iii) a material misrepresentation or omission in Exhibit B which is the result of information supplied or omitted by the Not For Profit Agency or by any agents, employees, contractors or persons acting under the control or at the request of the Not For Profit Agency; (iv) the failure of the Not For Profit Agency to redress any misrepresentations or omissions in this Agreement or any other agreement relating hereto; (v) any personal injury or property damage arising from the performance or non-performance by the Not For Profit Agency or by any agents, employees, contractors, or persons acting under the control or at the request of

the Not For Profit Agency; and (vi) any actions resulting from any activity undertaken by the Not For Profit Agency on the Property prior to or after the conveyance of said Property to the Not For Profit Agency by the City. This indemnification shall survive any termination of this Agreement.

SECTION 13. ENVIRONMENTAL MATTERS.

The City makes no covenant, representation or warranty as to the environmental condition of the Property or the suitability of the Property for any purpose whatsoever, and the Not For Profit Agency agrees to accept the Property "as is".

In the event that the Not For Profit Agency performs any environmental test, the Not For Profit Agency agrees to deliver to the City a copy of each report prepared by or for the Not For Profit Agency regarding the environmental condition of the Property.

If after the Conveyance, the environmental condition of the Property is not in all respects entirely suitable for the use to which the Property is to be utilized pursuant to the terms of this Agreement, it shall be the sole responsibility and obligation of the Not For Profit Agency to take such action as may be necessary to put the Property in a condition entirely suitable for the intended use of the Property. The Not For Profit Agency agrees to release and indemnify the City from any claims and liabilities relating to or arising from the environmental condition of the Property and to undertake and discharge all liabilities of the City arising from any environmental condition which existed on the Property prior to the Conveyance.

SECTION 14. HEADINGS.

The headings of the various sections of this Agreement have been inserted for convenient reference only and shall not in any manner be construed as modifying, amending, or affecting in any way the express terms and provisions thereof.

SECTION 15. GOVERNING LAW.

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

SECTION 16. ENTIRE AGREEMENT.

This Agreement constitutes the entire agreement between the parties and supersedes and replaces completely any prior agreements between the parties with respect to the subject matter hereof. This Agreement may not be modified or amended in any manner other than by supplemental written agreement executed by the parties.

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SECTION 17. SEVERABILITY.

If any provision of this Agreement, or any paragraph, sentence, clause, phrase or word, or the application thereof is held invalid, the remainder of this Agreement shall be construed as if such invalid part were never included and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

SECTION 18. NOTICES.

Any notice, demand or communication required or permitted to be given hereunder shall be given in writing at the addresses set forth below by any of the following means: (a) personal service; (b) facsimile; (c) overnight courier; or (d) registered or certified first class mail, postage prepaid, return receipt requested:

If to the City:

Commissioner
Department of Transportation
City of Chicago
30 North LaSalle Street
Suite 1100
Chicago, Illinois 60602
Attn: Robert Cyboran
Fax: 312-744-1200

With a copy to:

City of Chicago
Department of Law
30 North LaSalle Street
Room 1610
Chicago, Illinois 60602
Attn: Real Estate Division
Fax: 312-742-0277

If to the Not For Profit Agency:

Daniel O'Neill
Treasurer
1317 Frontage Road
Darien, Illinois 60561

Any notice, demand or communication given pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch by facsimile, respectively. Any notice, demand or communication given pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier. Any notice, demand or communication sent pursuant to clause (d) shall be deemed received three (3) business days after mailing. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, demands or communications shall be given.

SECTION 19. COUNTERPARTS.

This Agreement may be executed in counterparts, each of which shall constitute an original instrument.

SECTION 20. ORGANIZATION AND AUTHORITY.

The Not For Profit Agency (if other than an individual) represents and warrants that it is duly organized and validly existing under the laws of the State of Illinois, with full power and authority to acquire, own and redevelop the Property, and that the person(s) signing this Agreement on behalf of the Not For Profit Agency has the authority to do so.


SECTION 21. SUCCESSORS AND ASSIGNS.

Except as otherwise provided in this Agreement, the terms and conditions of this Agreement shall apply to and bind the successors and assigns of the parties.

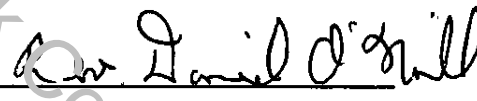
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IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and behalf by its Commissioner of Transportation, and the Not For Profit Agency has signed the same on or as of the day and year first above written.

CITY OF CHICAGO,
an Illinois municipal corporation

BY: 
Thomas Walker
Commissioner of Transportation

Not For Profit Agency:

By: 
TITLE Treasurer

This instrument was prepared by:

Andrea L. Yao
Assistant Corporation Counsel
30 North LaSalle Street
Room 1610
Chicago, Illinois 60602
(312) 744-1826

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Rosie Burks, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Thomas Walker, personally known to me to be the Commissioner of the Department of Transportation of the City of Chicago, an Illinois municipal corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and being first duly sworn by me acknowledged that as the Commissioner, he signed and delivered the instrument pursuant to authority given by the City of Chicago, as his free and voluntary act and as the free and voluntary act and deed of the corporation, for the uses and purposes therein set forth.

GIVEN under my notarial seal this 28th day of June, 1999.

Rosie Burks
NOTARY PUBLIC



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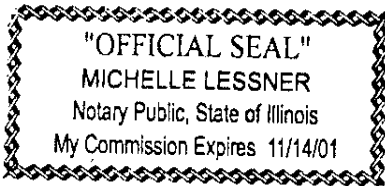
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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Michelle Lessner, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Rev. Daniel O'Neill, personally known to me to be the Treasurer of The Society of Mount Carmel, Inc., and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and being first duly sworn by me severally acknowledged that as such Treasurer, he signed and delivered the instrument pursuant to authority given by The Society of Mount Carmel as his free and voluntary act and as the free and voluntary act and deed of the Corporation for the uses and purposes therein set forth.

GIVEN under my notarial seal this 23 day of June, 1999.



Michelle Lessner
NOTARY PUBLIC

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EXHIBIT A

ORDINANCE

NO P.I.N.AVAILABLE - RECENTLY VACATED PUBLIC WAY

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EXHIBIT B

DRAWINGS

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EXHIBIT C

DRAWINGS

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