

CITY OF COLUMBIA, ILLINOIS

ORDINANCE NO. 2672

**AN ORDINANCE TO AUTHORIZE A REAL ESTATE SALES
CONTRACT FOR THE CITY OF COLUMBIA, ILLINOIS TO
PURCHASE FROM BUDNICK CONVERTING, INC., A
DELAWARE CORPORATION, REAL ESTATE HAVING THE
ASSIGNED ADDRESS OF 118 OAK STREET, COLUMBIA,
ILLINOIS TO BE OWNED, USED, MAINTAINED, AND
OPERATED BY THE CITY OF COLUMBIA, ILLINOIS AS A
PUBLIC BUILDING AND PROPERTY**

**Adopted by the
City Council
of the
City of Columbia, Illinois
this 4th day of August, 2008**

**Published in pamphlet form by
authority of the City Council
of the City of Columbia,
Illinois, this 5th day
of August, 2008.**

ORDINANCE NO. 2672

STATE OF ILLINOIS
CITY OF COLUMBIA
FILED FOR RECORD

AUG 04 2008

Dealy J. Dyer
City Clerk

**AN ORDINANCE TO AUTHORIZE A REAL ESTATE SALES
CONTRACT FOR THE CITY OF COLUMBIA, ILLINOIS TO
PURCHASE FROM BUDNICK CONVERTING, INC., A
DELAWARE CORPORATION, REAL ESTATE HAVING THE
ASSIGNED ADDRESS OF 118 OAK STREET, COLUMBIA,
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WHEREAS, Budnick Converting, Inc., a Delaware Corporation, ("Budnick") is the owner of improved real estate having the assigned address of 118 Oak Street, in the City of Columbia, Illinois, which is improved by a brick office building located strategically across the street for the City of Columbia City Hall having the assigned address of 208 South Rapp Avenue in the City which Budnick is willing to sell to the City of Columbia, Illinois, (the "City"), for the purposes of the City owning, using, maintaining and operating, as a public building and property in the City (which may but shall not be required to include use for community center uses and purposes), for a purchase price of Four Hundred Thirty-Five Thousand Dollars (\$435,000.00);

WHEREAS, the City Council of the City has found and determined and does hereby declare that it is necessary and appropriate that the City purchase the subject Budnick property for the purchase price of Four Hundred Thirty-Five Thousand Dollars (\$435,000.00), in accordance with the Real Estate Sales Contract which is approved by this Ordinance; for the City to own, use, maintain and operate as a public building and property in the City; and,

WHEREAS, it is necessary and appropriate that the City make and enter into a Real Estate Sales Contract with Budnick to purchase the subject property in the form attached hereto, which is hereby approved as to form and authorized by this ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

Section 1. The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

Section 2. As soon as practicable, the Columbia Building Inspector is hereby directed to perform a complete inspection of the building and other improvements on the property at 118 Oak Street in the city which the city is intending to purchase under and pursuant to the Real Estate Cash Sales Agreement which is being conditionally authorized

and approved by this ordinance. If the Building Inspector determines the building and/or other improvements on the premises are in good order and repair then the Mayor may proceed with the signing of the Real Estate Sales Agreement for and on behalf of the city and the city shall proceed with the closing of the sale. If the Building Inspector, based upon his inspection of the building and other improvements on the premises determines the building and/or other improvements are in need of repairs or replacements that could result in significant cost to the city, then the sale shall be postponed pending further negotiations between the city and the property owner and/or a determination by the city council as to whether the city is still interested in purchasing the property.

Section 3. Subject to the inspection and approval of the building and other improvements on the property at 118 Oak Street in the city by the City's Building Inspector, as is made and provided for in the preceding Section of this ordinance, and the Building Inspector concluding that the building and other improvements on the property are in good order and repair and not in need of repairs or replacements that could result in significant cost to the city, the City Council of the City of Columbia, Illinois hereby authorizes the Mayor to make and enter into the Real Estate Sales Contract to purchase the Budnick property in the form attached hereto, which is hereby approved as to form; and, said City Council does hereby authorize and direct the Mayor to execute said Real Estate Sales Contract for and on behalf of the City, in as many counterparts as the Mayor shall decide; and, the City Council does hereby authorize and direct the City Clerk to attest the same and affix thereto the corporate seal of the City.

Section 4. This Ordinance shall be in full force and effect from and after its passage and publication in pamphlet form, as provided by law.

Alderman Row moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Oberfell, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Niemietz, Unnerstall, Row, Heina, Oberfell, Stumpf and

Mayor Hutchinson.

NAYS: None.

ABSENT: Alderman Agne.

ABSTAINED: None.

PASSED by the City Council and APPROVED by the Mayor this 4th day of August, 2008.


KEVIN B. HUTCHINSON, Mayor

ATTEST:


WESLEY J. HOEPFKEN, City Clerk

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

CERTIFICATE OF PUBLICATION

I, Wesley J. Hoeffken, certify that I am the duly elected and acting Municipal Clerk of the City of Columbia, Illinois.

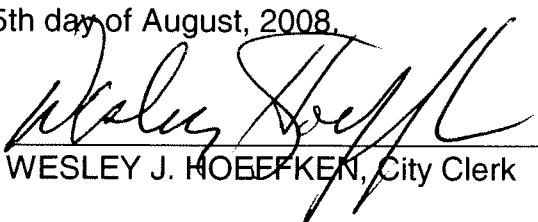
I further certify that on the 4th day of August, 2008, the Corporate Authorities of the City of Columbia, Illinois passed and approved Ordinance No. 2672, entitled:

**"AN ORDINANCE TO AUTHORIZE A REAL ESTATE SALES
CONTRACT FOR THE CITY OF COLUMBIA, ILLINOIS TO
PURCHASE FROM BUDNICK CONVERTING, INC., A
DELAWARE CORPORATION, REAL ESTATE HAVING THE
ASSIGNED ADDRESS OF 118 OAK STREET, COLUMBIA,
ILLINOIS TO BE OWNED, USED, MAINTAINED, AND
OPERATED BY THE CITY OF COLUMBIA, ILLINOIS AS A
PUBLIC BUILDING AND PROPERTY"**

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2672, including the ordinance and a cover sheet thereof, was prepared and a copy of such ordinance will be posted in the Columbia City Hall, commencing on the 5th day of August, 2008 (or as soon thereafter as is practicable) and continuing for at least ten (10) days thereafter. Copies of such ordinance were also available for public inspection upon request at the office of the City Clerk.

DATED at Columbia, Illinois this 5th day of August, 2008.



WESLEY J. HOEFFKEN, City Clerk

(SEAL)

Ordinance No. 2672
August 4, 2008

REAL ESTATE SALES CONTRACT

THIS AGREEMENT is made this 20th day of August, 2008, between BUDNICK CONVERTING, INC. a Delaware Corporation authorized to do business in the State of Illinois with its principal office located at 200 Admiral Weinel Boulevard in the City of Columbia, Illinois, as the SELLER (hereinafter referred to as the "SELLER" OR "Budnick") and the CITY of COLUMBIA, ILLINOIS, a municipal corporation and body both corporate and politic created and existing under and by virtue of the laws of the State of Illinois with its City Hall located at 208 South Rapp Avenue in the City of Columbia, Illinois, as the PURCHASER, (hereinafter referred to as the "PURCHASER" or the "City"), WITNESSETH:

WHEREAS, The Illinois Municipal Code allows and provides that Illinois Municipalities (such as the City) can acquire and own real property for public purposes which are necessary to the proper exercise of corporate powers conferred by law on the municipality (65 ILCS 2-2-12);

WHEREAS, by City Ordinance No. 2072, enacted by vote of the City Council the 4th day of August, 2008, the City Council of the City has found and determined, and therein has declared that it is necessary and appropriate in order to provide for the future expansion of the City Hall activities and facilities at a centralized location for the public convenience, welfare and safety and for other good and valid public uses and purposes (such as the use of the building on the premises as and for a community center) that the City purchase for public purposes and uses the building, real estate and facilities having the assigned

address of 118 West Oak Street in the City of Columbia, Illinois (the "Community Building") and did in and by said ordinance approve and authorize this Agreement; and,

WHEREAS, Budnick has agreed to sell to the City said hereinafter described real estate having the assigned address of 118 West Oak Street in the City, for the price and on the terms herein stated;

NOW, THEREFORE, the parties hereto, for and in consideration of the premises and the sum of money hereinafter stated to be paid by the PURCHASER to the SELLER in exchange for the sale and conveyance of real estate hereinafter in this agreement described by the SELLER to the PURCHASER, stipulate and agree as follows:

(1) Sale. SELLER agrees to sell and PURCHASER agrees to purchase the following described real estate, with its appurtenances, having the assigned address of 118 Oak Street, Columbia, Illinois 62236, more particularly described as follows:

Lots No's Two (2) and Three (3) in Block No. One (1) of Gardner and Williams Addition to the Town, now City of Columbia, Monroe County, Illinois; excepting 15 feet fronting South Second Street from Lot 2, heretofore conveyed to the Town of Columbia, for street purposes.

Permanent Property Index No. 04-15-370-011.

Subject to General Real Estate Taxes for year 2007 and ensuing years which have not been paid before the closing of the sale and which PURCHASER assumes and agrees to pay, proration of said taxes to be made at time of closing of sale.

Subject to Illinois Power Company easement, dated June 9, 1970 and recorded July 24, 1970 in Book 106, at Page 314 in the Office of the Monroe County Recorder.

Subject to all easements and restrictions created by the subdivision plat for the Gardner and Williams Addition Subdivision as recorded in the Monroe County, Illinois Recorders Office.

Subject to the rights of the public and others in and to that portion of the above-described tract being used for roadway purposes.

Subject to a written Lease Agreement between John E. White & Stephen J. Raney, D.M.D., an Illinois Professional Corporation, also known as White & Raney, Inc. and Budnick

Converting, Inc., a Delaware Corporation authorized to do business in the State of Illinois, dated June 29, 2007.

Subject to unwritten lease for month to month tenancy between J. W. Boyle & Co., Ltd., an Illinois Professional Corporation and Budnick Converting, Inc., a Delaware Corporation authorized to do business in Illinois.

Subject to rights of all persons claiming by, through or under PURCHASER; rights of the public or quasi-public utility companies in and to any portion of the land used for utility purposes and rights of way for drainage tiles, ditches, feeders, laterals, and underground pipes.

(2) **Subject to Rights of Tenants in Possession of Premises.** The parties acknowledge that there are two (2) corporate tenants who are currently in possession of the subject real estate premises, to wit: (1) John E. White & Stephen J. Raney, Professional Corporation (also known as White & Raney, Inc.) under written lease agreement dated June 29, 2007 (a copy of which is attached thereto as Exhibit "1" and by reference made part hereof) and (2) J. W. Boyle & Co., Ltd. an Illinois Corporation which is in possession of the subject real estate premises under and pursuant to an unwritten lease agreement for a month to month tenancy. The City agrees to purchase the property that is the subject of this sales agreement (which is described above) subject to said written lease of John E. White & Stephen J. Raney, P.C. and the month to month tenancy of J. W. Boyle & Co., Ltd. and subject to the rights of those tenants in possession of said real estate premises by virtue of said leases.

The parties further acknowledge and agree that the SELLER has a written lease agreement between Budnick and Dr. Jason King of St. Louis, Missouri, doing business as Columbia Health Center, LLC, dated October 4, (no year specified), (a copy of which is attached hereto as Exhibit "2" and by reference made part hereof) which tenant has abandoned said leasehold premises and has ceased making rental payments under said lease. The parties stipulate and agree that if said lease has not been terminated prior to the closing of the sale involved herein it shall be the obligation of the SELLER to pay for all costs necessary to be incurred in order to terminate said lease and to eliminate said lease as an encumbrance against the title to the property so that the PURCHASER'S title to the property will be free and clear of the encumbrance of said lease and of any rights of said tenant to use and occupy the subject leasehold premises.

In the event the SELLER has been unable to terminate the Dr. Jason King lease prior to the date for the closing of the sale involved herein the City shall withhold Five Thousand Dollars (\$5,000) from the sales proceeds at the time of the closing of the sale, which sum shall be available for the City to use to terminate said lease (including reasonable attorney fees and court costs necessary to be incurred by the City to eliminate any rights said tenant may have or claim to have under said lease). Should the expenses required by the City to be incurred for the termination of the lease (including reasonable attorney fees and court costs incurred by the City) exceed the amount escrowed the excess shall be reimbursed to the City by Budnick. Should the expenses be less than said amount withheld at closing of the sale the unused amount shall be paid by the City to Budnick as soon as practicable after the elimination of said lease (by a Forcible Entry and Detainer action in a court of competent jurisdiction, or otherwise). In lieu of the City incurring expenses to terminate the Dr. Jason King lease Budnick

may employ an attorney of Budnick's selection and at Budnick's expense to terminate the Dr. Jason King lease after the closing of the sale. Should Budnick elect to employ an attorney to terminate the lease and should the matter be not resolved within six (6) months after the closing of this sale the City may draw upon the escrowed funds to terminate the lease and eliminate the encumbrance of the lease.

The terms and provisions recited above regarding the termination of the Dr. Jason King lease shall survive the closing of the sale and shall not be merged in the deed and thereby extinguished at the time of the closing of this sale.

(3) **Purchase Price and Method of Payment.** The purchase price is Four Hundred Thirty Five Thousand Dollars (\$435,000.00), less prorations and adjustments for closing costs payable by SELLER, which shall be payable to SELLER on date of closing of the sale.

(4) **Title Insurance.** SELLER has furnished to PURCHASER on or before the date hereof a current dated title insurance commitment and at or as soon as practicable after the closing of the sale SELLER shall furnish to PURCHASER an owner policy of title insurance insuring PURCHASER to the full amount of the purchase price against loss or damage by reason of defect in SELLER'S title in the above-described premises, subject to the above-described exceptions or exclusions that do not affect the merchantability of the SELLER'S title. The title insurance commitment and insurance shall be issued by Mon-Clair Title Insurance Company at 321 Wedgewood Square, Columbia, Illinois 62236 and the SELLER shall pay for the title insurance commitment and owner policy and PURCHASER shall pay for the later date search for the issuance of the owner's policy.

(5) **Taxes and Assessments.** The SELLER has paid the calendar year 2006 General Real Estate Taxes. The estimated calendar years 2007 and 2008 General Real Estate Taxes that have not been paid prior to closing of the sale shall be pro-rated to date of closing of the sale based upon the last tax bill available or the estimate of the Taxing Authority and may be paid by SELLER deducting a sum equal to its share of said taxes from the balance of purchase money due and payable at closing. General Real Estate Taxes for those years which have not been paid prior to the closing are assumed and shall be paid by PURCHASER as same become due and payable in calendar year 2008 and thereafter.

(6) **Risk of Loss.** Risk of loss or damage to the premises by fire or other casualty between the date of this agreement and the date of closing shall be and is assumed by SELLER. SELLER shall maintain fire and extended casualty insurance on the building and other improvements on the premises, for the full value thereof, and shall pay the premiums thereon until closing hereunder. Such insurance shall be maintained with one or more qualified and rated insurance companies.

If after this contract is executed, the premises shall be destroyed or damaged by fire, windstorm, or other casualty, the PURCHASER shall have the option of canceling or enforcing the agreement on seven (7) days written notice to SELLER. If enforced, the PURCHASER shall have the obligation of restoration and shall be subrogated to all of the SELLER'S claims under its insurance policy but SELLER shall thereby be entirely relieved from any cost or expense of restoration. If canceled, the contract shall be rendered null and void and of no further force and effect and each of the parties shall be relieved of any obligation for payment or performance.

(7) **Closing.** Time is the essence of this contract. Closing shall take place at Mon-Clair Title Insurance Company, 321 Wedgewood Square, Columbia, Illinois, within thirty (30) days of the date hereof. At closing SELLER shall provide PURCHASER with a good and sufficient General Warranty Deed to the real estate premises, with State of Illinois Revenue Transfer Tax Stamps to be affixed thereto at SELLER'S expense (if not exempt from payment of said tax by 35 ILCS 200/31-45) and PURCHASER shall pay the balance of purchase money due and owing to SELLER, less prorations and adjustments for closing costs payable by SELLER.

(8) **Possession.** PURCHASER shall be entitled to possession of the real estate premises, subject to the rights of the tenants in possession of said real estate premises as is made in provided for in Section (2) above, on date of closing following the closing of the sale.

(9) **Default by PURCHASER.** Time is of the essence of this contract. In the event PURCHASER fails to make the payment of the purchase money promptly when the same shall become due as herein specified, or promptly to perform any covenant or agreement herein contained, SELLER may elect to specifically enforce this agreement or to terminate this agreement. Service of all demands, notices or other papers with respect to such termination may be made by registered mail at the address as set forth above, or such other address as PURCHASER may indicate in writing to SELLER. No waiver by SELLER of any default on the part of the PURCHASER shall be construed as a waiver of any subsequent default.

(10) **Default by SELLER.** If SELLER is unable to convey title in accordance with the terms of this contract, the amount paid on account of the purchase price and PURCHASER'S net costs, if any, of examining the title (including reasonable attorney fees incurred by PURCHASER in connection with this real estate sale), shall be reimbursed to PURCHASER by SELLER on demand.

(11) **Assignment.** This agreement shall not be assignable by PURCHASER without the prior written consent of the SELLER.

(12) **Condition of Premises.** PURCHASER stipulates that a full inspection of the premises has been made and that SELLER and/or SELLER'S agents or authorized representatives, if any, shall not be held to any covenant respecting the condition of any improvements on the premises, or to any agreement for alterations, improvements, or repairs. THERE ARE NO WARRANTIES OF SELLER REGARDING THE FITNESS OR CONDITION OF SAID REAL ESTATE OR THE IMPROVEMENTS THEREON, THERE IS NO OBLIGATION ON THE PART OF SELLER TO MAKE RENOVATIONS, REPAIRS OR IMPROVEMENTS THERETO; AND, IT IS UNDERSTOOD AND AGREED THAT THE PURCHASER IS BUYING THE PROPERTY THAT IS THE SUBJECT OF THIS SALE, "AS IS", IN THE CONDITION SAID PROPERTY IS IN ON THE DATE HEREOF, NORMAL WEAR AND TEAR BETWEEN THE DATE OF THIS AGREEMENT AND THE DATE OF CLOSING, EXCEPTED.

(12) **Homestead Warranty.** SELLER expressly warrants that the real estate that is the subject of this agreement is not Homestead Property under the Homestead Exemption Laws of the State of Illinois.

(13) **Attorney's Fees and Costs.** In the event that there is a default under this agreement and it becomes necessary for any party hereto to employ the services of an attorney either to enforce or to terminate this agreement, with or without litigation, the losing party or parties to the controversy shall pay

to the successful party or parties a reasonable attorney's fee and, in addition thereto, such reasonable costs and expenses as are incurred in enforcing or terminating this agreement.

(14) **Closing Costs.** SELLER shall be solely responsible and liable for the payment and discharge of the following closing costs in connection herewith, to wit:

(a) The attorney's fees due any attorney employed to represent the SELLER with regard to this contract and the sale of the subject property by Budnick to the City;

(b) Revenue Transfer Tax Stamps to be affixed to PURCHASER'S deed on closing of this sale (estimated \$653.00) if such taxes are required to be paid and are not exempt from tax due to the sale being to a unit of government;

(c) The cost of the title insurance commitment (estimated \$150.00) and owner policy of title insurance (estimated \$1,056.00) to be issued by Mon-Clair Title Insurance Company;

(d) Courthouse copy costs related to title search;

(e) Estimated General Real Estate Taxes for tax year 2007 and year 2008 that have not been paid before closing of the sale (based upon the last available real estate tax bill or the estimate of the taxing authority), pro-rated to the date of closing of the sale;

(f) One-half (½) the escrow closing fee due Mon-ClairTitle Company for closing of this sale (estimated \$150.00);

(g) The cost to record the mortgage release from SELLER'S mortgage lender (estimated \$33.00) for each mortgage lien against the premises at time of closing, if any.

PURCHASER shall be solely responsible and liable for payment and discharge of the following closing costs in connection herewith, to wit:

(a) The attorney's fees due Tom D. Adams, of Adams and Huetsch, Attorneys-at-Law, the City's Attorney, for preparation of this Sales Agreement and for all legal services rendered to the City in connection with this real estate sale;

(b) The later date search fee (estimated \$40.00) for the title search to cover the period between the date of the title insurance commitment and the issuance of the owner's policy of title insurance for closing of the sale;

(c) The Mapping and Platting fee to be paid to the Monroe County, Illinois General Fund (estimated \$10.00), if applicable;

(d) Cost to record PURCHASER'S deed (estimated \$33.00), if applicable; and,

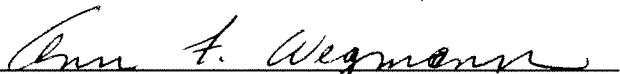
(e) One-half (½) the escrow closing fee due the Title Company for closing of this sale (estimated \$150.00).

(15) **Wood Infestation Report.** If required by the PURCHASER, prior to closing of the sale, at PURCHASER'S expense, the SELLER shall obtain a written report from a pest control firm or inspector certifying to PURCHASER that the premises have been inspected for termite and other wood destroying insect infestation. If active infestation is found, either party shall have the right to rescind this agreement or, alternatively, the parties shall proceed with the sale with such modifications of the agreement (including but not limited to adjustment of the purchase price and/or with regard to payment of expenses of treatment and/or repair of structural damage to the improvements on the premises caused by the infestation) as are mutually agreeable to the parties

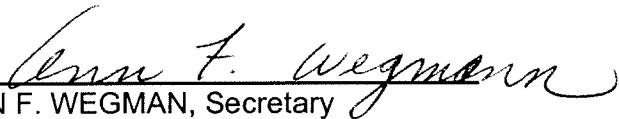
(16) **Binding Effect.** The covenants and agreements herein contained shall inure to the benefit of and be binding upon the successors and assigns of the respective parties.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the date set forth below to take effect on the date set forth below in the notary acknowledgements.

BUDNICK CONVERTING, INC. a Delaware Corporation authorized to do business in Illinois, SELLER:


ANN F. WEGMAN, President

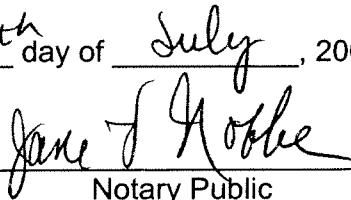
ATTEST:


ANN F. WEGMAN, Secretary

STATE OF ILLINOIS)
)
COUNTY OF MONROE)
)

The undersigned, a Notary Public in and for the County and State aforesaid, hereby certifies that ANN F. WEGMAN, personally known to me, know to me to be the President and Secretary, respectively, of BUDNICK CONVERTING, INC, a Delaware Corporation, and known to me to be the same person whose names is subscribed to the above and foregoing document as such corporate officers, said corporation being referred to in the above agreement as the SELLER, appeared before me, in person, this date, and acknowledged that she executed the above and foregoing document as his free and voluntary act and deed and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and Notary Seal this 29th day of July, 2008.


Jane V. Nobbe
Notary Public



CITY OF COLUMBIA, ILLINOIS, a Municipal corporation
and body both corporate and politic of the State of Illinois,
PURCHASER:

By:


KEVIN B. HUTCHINSON, Mayor

ATTEST:

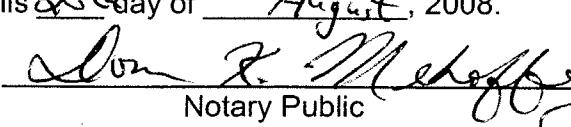

WESLEY J. HOEFFKEN, City Clerk

(SEAL)

STATE OF ILLINOIS)
)
COUNTY OF MONROE)

The undersigned, a Notary Public in and for the County and State aforesaid, hereby certifies that KEVIN B. HUTCHINSON and WESLEY J. HOEFFKEN, personally known to me and known to me to be the same persons whose names are subscribed to the above and foregoing document as Mayor and City Clerk, respectively, of the City of Columbia, Illinois, said City being referred to as PURCHASER in the above agreement, appeared before me, in person, this date, and acknowledged that they executed and delivered the above and foregoing document as their free and voluntary act and deed and as the free and voluntary act and deed of the City of Columbia, Illinois for the uses and purposes therein set forth.

Given under my hand and Notary Seal this 20th day of August, 2008.


Notary Public

ADDRESS OF PROPERTY:
118 Oak Street
Columbia, Illinois 62236

THIS DOCUMENT PREPARED BY:
TOM D. ADAMS #13439
ADAMS AND HUETSCH
Attorneys-at-Law
321 Wedgewood Square
P.O. Box 647
Columbia, Illinois 62236
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E-mail Address: tdadams@htc.net.

