

## AGREEMENT TO PURCHASE VACANT LAND

THIS AGREEMENT is made this 22<sup>nd</sup> day of June, 2011 in DeKalb, Illinois, by and between Castle Bank, N.A., a division of First National Bank of Omaha, as Trustee under Trust Agreement #2222 dated the 14<sup>th</sup> day of July, 2004, ("Seller"), and the DeKalb Public Library, a unit of local government ("Purchaser"), and Stephen P. Irving, sole beneficiary of Trust #2222, of DeKalb, Illinois ("Seller's Beneficiary").

### RECITALS:

A. The Seller is the owner of the Real Property (as herein defined), situated in the City of DeKalb, Illinois.

B. Seller's Beneficiary is the owner of the entire beneficial interest in the trust holding legal title to the Property, and holds the power of direction thereunder.

C. Seller and Seller's Beneficiary desire to sell, and Purchaser desires to purchase, the Real Property upon and subject to the terms and conditions hereinafter set forth.

### AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing premises and the respective representations, warranties, agreements, covenants and conditions herein contained, and other good and valuable consideration, Seller and Purchaser agree as follows:

#### *ARTICLE I* *DEFINITIONS*

1.01 *Definitions.* When used herein, the following terms shall have the respective meanings set forth opposite each such term:

*Agreement:* This Agreement to Purchase Vacant Land.

*Closing Date:* The thirtieth (30<sup>th</sup>) day following satisfaction or waiver by Purchaser of all conditions precedent set forth in Article XII or such earlier date as Purchaser may designate by at least ten (10) days' prior notice to Seller.

*Deed:* That certain recordable Trustee's Deed executed by Castle Bank, N.A., to be delivered by Seller to Purchaser at the closing conveying Property to Purchaser subject to the Permitted Exceptions.

*Deposit:* The sum of Ten Thousand Dollars (\$10,000.00), which shall be deposited by Purchaser with the Escrowee to be held in its usual form of Earnest Money Escrow Agreement to be executed by the Parties within five (5) days of the date of the last to execute this Agreement,

to be held as earnest money subject to the terms of this Agreement. The Parties shall share equally in the cost of the Earnest Money Escrow.

*Escrowee:* Fox Title Insurance Company, Sycamore, Illinois.

*Finch Property:* The Vacant Property situated at the Northwest corner of the intersection of Oak Street and North Third Street in the City of DeKalb and described on **Exhibit A**.

*Legal Requirements:* All laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all governments and governmental authorities having jurisdiction of the Real Estate and the operation thereof.

*Permitted Title Exceptions:* Exceptions as listed and described on **Exhibit A**, acts of Purchaser, rights of persons claiming by, through or under Purchaser, and any other matters which Purchaser shall approve in writing.

*Personal Property:* None.

*Property:* The Real Property.

*Purchase Price:* The consideration payable by Purchaser to Seller for the Property and all other covenants and warranties contained herein, as provided in **Section 3.01**.

*Real Property:* The Real Estate having the real estate tax identification numbers and legally described as Tract One on **Exhibit A**, together with all right, title and interest of Seller in and to all streets, alleys, passages and other rights-of-way included therein or adjacent thereto (before or after the vacation thereof).

*Survey:* ALTA survey to be prepared for the Purchaser by Hanna Surveyors, and certified to Purchaser and Title Insurer by Shawn Van Kampen.

*Title Commitment:* A commitment for an ALTA 2006 Form Owner's Title Insurance Policy for the Real Property issued by the Title Insurer in the full amount of the Purchase Price, covering title to the Real Property and the Finch Property on or after the date hereof, showing Castle Bank, N.A., Trustee under a certain Trust Agreement dated July 14, 2004, and known as Trust No. 2222, as owner of the Real Property in fee simple, subject only to the Permitted Title Exceptions, and other exceptions pertaining to liens or encumbrances of a definite or ascertainable amount (which in the aggregate do not exceed that portion of the Purchase Price payable to Seller on the Closing Date) which may be removed by the payment of money at closing and which Seller shall so remove, and providing for full extended coverage over all general title exceptions contained in such policies.

*Title Insurer:* Fox Title Insurance Company.

**ARTICLE II  
PURCHASE AND SALE**

2.01 *Purchase and Sale.* Subject to the conditions and on the terms contained in this Agreement, Purchaser agrees to purchase and acquire from Seller, and Seller and Seller's Beneficiary agree to sell and cause to be conveyed to Purchaser, the Property by Trustee's Deed.

**ARTICLE III  
PURCHASE PRICE**

3.01 *Purchase Price.* In the event this transaction closes on or before October 1, 2011, the Purchase Price shall be One Million Four Hundred Fifty Thousand and no/100ths Dollars (\$1,450,000.00) payable as hereinafter provided. In the event the closing occurs after said date, the price shall increase by \$25,000.00 for each month (or part of month) that elapses after said date. Purchaser agrees to pay to Seller and Seller accepts payment of the Purchase Price as follows:

- (a) The Deposit shall be applied against the Purchase Price at closing.
- (b) Upon Purchaser's ability to satisfy all conditions precedent set forth in Article XII, Purchaser shall deposit an additional sum of Twenty-Five Thousand Dollars (\$25,000.00) with Title Insurer's Earnest Money Escrow at which point all sums deposited will become non-refundable (except in the event of default by Seller).
- (c) Purchaser shall pay to Seller at closing the purchase price plus or minus prorations, as hereinafter provided, in cash or by certified, cashier's or escrowee check or bank wire transfer of collection federal funds, if Seller requests.
- (d) At closing, Purchaser shall accept title to the Property subject to the Permitted Title Exceptions.
- (e) Purchaser shall not assume, or become obligated with respect to, any obligations of Seller.

**ARTICLE IV  
SURVEY**

4.01 *Survey.* Seller and Seller's Beneficiary shall procure and deliver the survey of the Property and the Finch Property within 35 days of even date herewith to Purchaser, the Title Insurer, and such other parties as Purchaser shall designate. The survey shall show no encroachments onto the Property from any adjacent property.

**ARTICLE V**  
**TITLE AND SEARCHES**

5.01 *Title.* No later than fifteen (15) days following the date of this Agreement, Seller and Seller's Beneficiary all deliver the Title Commitment to Purchaser, at Seller's Beneficiary's sole cost and expense. If the Title Commitment discloses exceptions to title other than the Permitted Title Exceptions and liens or encumbrances of a definite or ascertainable amount which can be removed by the payment of money at the time of closing in an amount not in excess of the amount to be paid in cash hereunder by Purchaser on the Closing Date, which Seller may so remove on the Closing Date by using the funds to be paid on delivery of the Deed, Seller's Beneficiary shall have thirty (30) days from the date thereof to have such exceptions removed from the Title Commitment and provide evidence thereof to Purchaser, and if Seller's Beneficiary fails to have such exceptions removed, Purchaser may elect, on or before the Closing Date, to (i) terminate this Agreement (in which event the Deposit, and any earnings thereon, shall be forthwith returned to Purchaser), or (ii) accept title subject to such unpermitted exceptions with the further right to deduct from the Purchase Price amounts secured by or constituting unpermitted liens or encumbrances of a definite or ascertainable amount, and/or cause the Title Insurer to issue its endorsement insuring against damage caused by such exceptions and deduct from the Purchase Price the cost of the premiums and security provided for said endorsement, as the case may be. Purchaser's exercise of the foregoing rights shall not be deemed a waiver or release of any of its remedies, at law or in equity or pursuant to this Agreement, for default if said exceptions to title were caused or suffered by or through Seller's Beneficiary or any party claiming by, through or under Seller. On the Closing Date, Seller's Beneficiary shall cause the Title Insurer to issue an owner's title insurance policy or prepaid commitment therefor pursuant to and in accordance with the Title Commitment insuring fee simple title to the Real Property in the Purchaser as of the Closing Date, subject only to the Permitted Title Exceptions and such other exceptions as Purchaser may approve pursuant to clause (ii) above. In the event Purchaser terminates this Agreement due to an Unpermitted Exception created or suffered by Seller's Beneficiary, Purchaser shall be entitled to recovery of the Deposit and all interest accrued thereon.

**ARTICLE VI**  
**POSSESSION, PRORATIONS AND CLOSING COSTS**

6.01 *Possession.* Sole and exclusive possession of the Property shall be delivered to Purchaser on the Closing Date.

6.02 *Prorations.* General real estate taxes for the year 2010 shall be paid by Seller; taxes shall be prorated by the parties for the year 2011 on the basis of 105% of the most recent ascertainable assessments and tax rates and shall be credited against the Purchase Price.

6.03 *Closing Costs.* Seller's Beneficiary shall pay all charges customarily attributable

to sellers, including, without limitation, all title charges and premiums, all state and county transfer taxes and all fees and other charges imposed by the holder of any existing Mortgage in connection with the transaction contemplated hereby. Purchaser shall pay all charges customarily attributable to purchasers, including, without limitation, recording the deed. Any municipal transfer tax shall be paid by the party on whom the ordinance imposes responsibility for payment unless the ordinance does not specify the party responsible for payment, in which case such tax shall be paid by Seller's Beneficiary.

## **ARTICLE VII**

### **BROKERAGE**

7.01 *Brokerage.* Seller and Seller's Beneficiary hereby represent and warrant to Purchaser that Seller and Seller's Beneficiary have not dealt with any broker or finder in respect to the transaction contemplated hereby, and Seller's Beneficiary hereby agrees to indemnify Purchaser for any claim for brokerage commission or finder's fee asserted by a person, firm or corporation claiming to have been engaged by Seller or Seller's Beneficiary. Purchaser hereby represents and warrants to Seller and Seller's Beneficiary that Purchaser has not dealt with any broker or finder in respect to the transaction contemplated hereby, and Purchaser hereby agrees to indemnify Seller and Seller's Beneficiary for any claim for brokerage commission or finder's fee asserted by a person, firm or corporation claiming to have been engaged by Purchaser.

## **ARTICLE VIII**

### **DESTRUCTION OR DAMAGE**

8.01 *Destruction or Damage.* If, subsequent to the date hereof and prior to the Closing Date, all or any portion of the Property destroyed or damaged by one or more incidents of vandalism, fire and/or other casualty covered by insurance as required hereunder, Seller's Beneficiary shall immediately give Purchaser's notice of such occurrence, and Purchaser may close the transaction contemplated in which event Purchaser shall have the right to participate in the adjustment and settlement of any insurance claim relating to said damage, and Seller and Seller's Beneficiary shall assign to Purchaser at closing all insurance proceeds collected or claimed with respect to said loss or damage.

## **ARTICLE IX**

### **AFFIRMATIVE COVENANTS OF SELLER'S BENEFICIARY**

9.01 *Affirmative Covenants of Seller's Beneficiary.*

(a) From the date of Seller's and Seller's Beneficiary's acceptance hereof to the Closing Date, Seller's Beneficiary shall maintain or cause to be maintained in full force and effect liability, casualty and other insurance upon and with respect to the Property against such

hazards and in current amounts.

(b) At the time of Closing, the legal and equitable title to the Property which is the subject matter of this contract is held in a land trust under a trust agreement dated the 14<sup>th</sup> day of July, 2004 and known as Trust No. 2222, of which Castle Bank is the trustee.

(c) That Stephen P. Irving is the sole beneficiary of the land trust described in the preceding paragraph and the only person authorized to exercise the power of direction under the trust agreement creating the trust, and in consideration of the undertakings of the Purchaser under this agreement, the Seller's Beneficiary expressly agrees to exercise the power of direction reserved to him under the trust agreement and to direct the trustee to perform this contract by delivery of trustee's deed, title documents, assignments and other requisite instruments.

## **ARTICLE X**

### **REPRESENTATIONS AND WARRANTIES OF SELLER'S BENEFICIARY**

10.01 *Representations and Warranties of Seller's Beneficiary.* To induce Purchaser to execute, deliver and perform this Agreement, Seller's Beneficiary hereby represents and warrants to Purchaser on and as of the date hereof and on as of the Closing Date as follows:

(a) All representations and warranties of Seller's Beneficiary appearing in other Sections of this Agreement are true and correct, and this Agreement shall not be cancelled upon the Closing.

(b) The information included in the Exhibits hereto and the documents to be delivered to Purchaser pursuant to **Section 9.01** shall be true, correct and complete in all material respects and the same shall not omit any material information required to make the submission thereof fair and complete.

(c) The information to be furnished by Seller's Beneficiary on which the computation of prorations is based shall be true, correct and complete in all respects.

(d) Except as otherwise agreed between the parties, there shall be no persons in possession or occupancy of the Real Property (other than Seller's Beneficiary) or any part thereof on the Closing Date, nor shall there be any persons who have possessory rights in respect to the Real Property or any part thereof.

(e) There are no claims, causes of action or other litigation or proceedings pending or threatened with respect to the ownership or operation of the Real Estate or any part thereof (including disputes with the holder of the Mortgage or any other mortgages, governmental authorities, utilities, contractors or adjoining land owners).

(f) Seller and Seller's Beneficiary have not received any notice of any

violations of any Legal Requirements in respect to the Real Estate which have not been entirely corrected.

(g) To the best of Seller's Beneficiary's knowledge, no Hazardous Materials (as defined below) have been located on the Real Estate or have been released into the environment, or discharged, placed or disposed of at, on or under the Real Estate; (ii) no underground storage tanks have been located on the Real Estate; (iii) the Real Estate has never been used as a dump for waste material; and (iv) the Real Estate and its prior uses comply with and at all times have complied with, any applicable governmental law, regulation or requirement relating to environmental and occupational health and safety matters and Hazardous Materials.

## **ARTICLE XI**

### **REPRESENTATIONS AND WARRANTIES OF PURCHASER**

11.01 *Representations and Warranties of Purchaser.* To induce Seller and Seller's Beneficiary to execute, deliver and perform this Agreement, Purchaser hereby represents and warrants to Seller on and as of the date hereof and on and as of the Closing Date as follows:

(a) All representations and warranties of Purchaser appearing in other Sections of this Agreement are true and correct.

(b) Purchaser is a unit of local government and is duly acknowledged under the laws of the State of Illinois.

(c) Purchaser has full capacity, right, power and authority to execute, deliver, and perform this Agreement and all documents to be executed by Purchaser pursuant hereto, and all required action and approvals therefor have been duly taken and obtained. The individual signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Purchaser is and shall be duly authorized to sign the same on Purchaser's behalf and to bind Purchaser thereto. This Agreement and all documents to be executed pursuant hereto by Purchaser are and shall be binding upon and enforceable against Purchaser in accordance with their respective terms.

## **ARTICLE XII**

### **CONDITIONS PRECEDENT AND TERMINATION**

12.01 *Purchaser's General Feasibility and Review.* The obligation of Purchaser to close the transaction will be subject to Purchaser satisfying each of the following within the respective periods set forth below:

1. Within one hundred twenty (120) days after the date of the formal contract between the parties (the "Effective Date"),

- (a) Obtaining financing acceptable to Purchaser for the purchase of the Property;
- (b) Consummating a satisfactory agreement and/or resolution between Purchaser and the City of DeKalb, if required, authorizing the purchase of the Property by Purchaser;
- (c) Obtaining a Development Agreement with the City addressing the following:
  - i) The vacation of North Third Street laying North of Oak Street, and extending northerly to the north boundary line of the existing library lot but extended westerly.
  - ii) Zoning or variation of use, if required, to authorize Purchaser to obtain building permits, approvals, certificates and any additional authorizations from City at a future date as may be necessary, appropriate and/or required for Purchaser's Intended Use of the Property as a public library facility.
- (d) Obtaining the release or relocation acceptable to Purchaser of any easements (recorded, unrecorded, utility or otherwise) affecting the Property which interfere, in Purchaser's sole determination, with the Intended Use;
- (e) Purchaser acquiring a satisfactory Phase 1 Environmental Report on the Property;
- (f) Seller's Beneficiary exhibiting to Purchaser a duly executed contract between Seller's Beneficiary and the owner of the Finch Property, agreeing to and authorizing the action or actions necessary to complete the simultaneous trade transaction set forth in Article XIII.

2. Seller and Seller's Beneficiary agree to cooperate and assist Purchaser in obtaining such sign approvals, and/or governmental approvals and in obtaining any other approvals, certificates or other authorizations required, in Purchaser's opinion, to permit Purchaser's Intended Use, applications, etc. Seller's Beneficiary upon request, shall cause Castle Bank, as Trustee, to execute applications, petitions and other such instruments as Purchaser may request in connection with such site plan approvals, sign approvals, authorizations, certificates and other approvals, the cost of all of which applications, etc. shall be borne by Purchaser. Such site plan approvals, sign approvals, authorizations, certificates and other approvals must be valid, enforceable by Purchaser, unconditional and final and not subject to any relinquishing, conveyance or deduction of any part of the Property. Purchaser agrees to use reasonable efforts



to cause the conditions set forth in this subparagraph to be satisfied and to perform all actions hereunder diligently in good faith and at Purchaser's expense; and

3. If Purchaser, in its sole discretion, determines that it will be unable to satisfy any of the conditions precedent set forth within the specified applicable time period, Purchaser may, at its option, by notice given to Seller's Beneficiary not later than five (5) days prior to expiration of the applicable period, extend the said period for an additional thirty (30) days. Extension of the above time period for satisfaction of the applicable conditions precedent shall not be deemed a waiver of Purchaser's right to terminate this Agreement as a result of Purchaser's ultimate failure to satisfy any of the conditions precedent, as hereinabove provided. If Purchaser, in its sole discretion, determines that it will be unable to satisfy any of said conditions precedent set forth within the specified applicable time period (including any extension thereof as provided in the preceding sentence), Purchaser may, at its option, elect to terminate this Agreement by notice given to Seller not later than thirty (30) days after the expiration of such time period (as it may be so extended), in which even the earnest money shall forthwith be returned to Purchaser, and thereupon neither party shall have any further rights or obligations under the contract.

*12.02 Truth of Seller's Beneficiary's Representations, Affirmative Covenants, Warranties and Performance of Seller's Beneficiary's Obligations.* The obligation of Purchaser to close the transaction contemplated hereby is, at Purchaser's option, further subject to all representations, covenants and warranties of Seller's Beneficiary contained in this Agreement being true and correct at and as of the Closing Date and all obligations of Seller and Seller's Beneficiary to have been performed on or before the Closing Date having been timely and duly performed. Upon failure of any condition precedent as set forth in this Section Purchaser may, by notice to Seller and Seller's Beneficiary, elect at any time thereafter either to terminate this Agreement, provided that Purchaser is not itself in default, without waiver or release of any of its remedies for default, or to seek specific performance of this Agreement. If this Agreement is terminated pursuant to this Section, the Deposit shall forthwith be returned to Purchaser.

*12.03 Performance of Purchaser's Obligations.* 1) The obligation of Seller and Seller's Beneficiary to close the transaction contemplated hereby is, at Seller's Beneficiary's option, subject to the following:

- 1) All obligations of Purchaser which were to have been performed on or before the Closing Date having been timely and duly performed.
- 2) Seller's Beneficiary in his sole discretion being satisfied that Purchaser will fulfill the terms and conditions of this agreement on a timely basis.
- 3) If Purchaser's obligations hereunder have not been fulfilled and satisfied on or before the Closing Date, Seller and Seller's Beneficiary may, by notice to Purchaser, elect at any time thereafter to terminate this Agreement, provided that Seller and Seller's Beneficiary are not itself in

default, and if such termination is due to Purchaser's fault, Seller and Seller's Beneficiary shall retain the Deposit as full and complete liquidated damages (and not as a penalty or forfeiture) in lieu of any and all other legal and equitable rights which Seller and/or Seller's Beneficiary may have hereunder, and all other documents theretofore delivered hereunder or deposited in escrow by either party shall be forthwith returned to each party.

### **ARTICLE XIII**

#### **SIMULTANEOUS EXCHANGE OF REAL ESTATE**

13.01 *Finch Property.* Seller's Beneficiary has represented to Purchaser that he has negotiated a letter of intent with the owner of the Finch Property for the simultaneous exchange of properties as hereinafter set forth. Seller's Beneficiary agrees that he will negotiate a binding contract with the Owner of the Finch Property providing for the exchange of properties in the manner hereinafter set forth in paragraphs 13.02 and 13.03.

13.02 *Simultaneous Exchange.* It is understood that the Seller's Beneficiary (at or before the time of closing) shall cause the conveyance of the Southwest Corner of North 3<sup>rd</sup> Street and Oak Street (227 N 3rd Street, Parcel No. 08-231-56-010 and 218 Oak Street Parcel No. 08-231-56-009) to the owner of the Finch Property simultaneously with the conveyance set forth in paragraph 13.03. The deed conveying this Property to the third party, shall include a restrictive covenant allowing Purchaser and Purchaser's patrons the right to park vehicles on the property at all times during Purchaser's business hours, except for those periods or occasions when the owner thereof shall be conducting visitations or funerals.

13.03 *Simultaneous Exchange.* It is understood that the owner of the Finch Property shall convey the Finch Property (parcel No. 08-231-53-007) to Seller in exchange for the property described in paragraph 13.02 above. This parcel will be conveyed to the Purchaser at the time of closing.

13.04 *Contingency.* This Agreement is expressly conditioned upon the ability of Seller to acquire ownership of the Finch property on or before the date of closing. In the event the Seller is not able to acquire said property on terms and conditions which are acceptable to Seller in Seller's Beneficiary's sole discretion, this Agreement shall become null and void and all earnest money shall be refunded to Purchaser. On the date hereof, Seller's Beneficiary has signed a Letter of Intent with the owner of the Finch property which sets forth, generally, the terms hereinabove recited and Seller's Beneficiary shall, forthwith, endeavor to acquire a Contract with the owner of the Finch property consistent with the terms hereof and upon securing said Contract, Seller and Seller's Beneficiary agree to immediately waive this contingency.

**ARTICLE XVI**

**CLOSING**

14.01 *Time and Place.* The transaction contemplated hereby shall close at 10:00 A.M. on the Closing Date at the offices of the Title Insurer, or on such other date, time and place as the parties may mutually agree.

**ARTICLE XV**

**NOTICES**

15.01 *Notices.* Any notice, request, demand, instruction or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be delivered personally or sent by United States registered or certified mail, return receipt requested, postage prepaid or by overnight express courier, postage prepaid and addressed to the parties at their respective addresses set forth below, and the same shall be effective upon receipt of delivered personally or two (2) business days after deposit in the mails if mailed. A party may change its address for receipt of notices by service of a notice of such change in accordance herewith.

If to Purchaser, to:           Dee Coover, Director  
DeKalb Public Library  
309 Oak St.  
DeKalb, IL 60115

With a copy to:               Gary W. Cordes  
Klein, Stoddard, Buck, Waller & Lewis, LLC  
2045 Aberdeen Court, Suite A  
Sycamore, IL 60178

If to Seller and Seller's  
Beneficiary to:               Stephen P. Irving  
4 Arrowhead Lane  
DeKalb, IL 60115

With a copy to:               Keith L. Foster  
The Foster & Buick Law Group  
2040 Aberdeen Court  
Sycamore, IL 60178

and the same shall inure to the benefit of and be binding upon the respective successors and

assigns of the Parties.

15.02 *No Third Party Benefits.* Except as otherwise provided herein, this Agreement is for the sole and exclusive benefit of the parties hereto and their respective successors and assigns, and no third party is intended to or shall have any rights hereunder.

15.03 Time is of the essence of this Agreement.

15.04 *Offer and Acceptance.* Delivery by Purchaser to Seller and Seller's Beneficiary of a copy of this Agreement executed by Purchaser shall constitute an offer to purchase the Property upon the terms and conditions herein set forth which shall be effective for a period of seventy-two (72) hours following the time of such delivery. If Seller's Beneficiary fails to deliver a fully executed counterpart of this Agreement to Purchaser prior to expiration of such seventy-two (72) hour period, then at Purchaser's sole option, said offer may be revoked and rescinded in its entirety at any time thereafter, and upon such revocation and rescission, said offer and this Agreement shall have no further force or effect.

15.05 The parties contemplate that this agreement is to purchase vacant land, however, at the time of this agreement, some of the land is improved with buildings. It is understood that the Seller's Beneficiary may or may not demolish the buildings to provide vacant land to the Purchaser at the time of closing, however, it is further understood that the price being paid contemplates that all improvements will be demolished at the expense of or by the Seller's Beneficiary. In the anticipated event that demolition needs to occur after the closing, the parties agree that they will escrow with the Title Company funds reasonably considered to be necessary to pay for such demolition which amount will be used for said purpose. The exact amount to be escrowed for this purpose is set forth below. It is further understood that the Seller's Beneficiary will undertake the demolition effort immediately after the closing, weather permitting, and will manage said efforts using contractors of his choosing.

House Demolition                      \$ 18,000 per house that is not demolished

15.06 The parties further contemplate that the Seller's Beneficiary will cause the improvement of the parking lot on the Southwest corner of North 3<sup>rd</sup> Street and Oak Street, as part of the consideration for the Property and the simultaneous exchange with the owner of the Finch Property. Again, at the time of this agreement, the demolition and construction of a new parking lot will likely not be complete. Accordingly, the Parties agree to escrow with the Title Company Purchaser's funds reasonably considered to be necessary to pay for such construction, which amount will be used for said purpose. The exact amount to be escrowed for this purpose is set forth below. It is further understood that Seller's Beneficiary will immediately undertake the construction effort after the closing and will manage said efforts using contractors of his choosing.

Parking lot Construction        \$ 170,500

15.07 *Tax Free Exchange.* The parties understand that the Seller is desirous of retaining the option to exchange the proceeds from this sale into other like-kind property in accordance with the terms and conditions of Section 1031 of the Internal Revenue Code. Buyer agrees to cooperate with Seller's exchange and execute any and all documents that are or may be necessary to so cooperate; however, it is understood that nothing involved in the Seller's exchange will require the expenditure of any funds by the Buyer or expose the Buyer to any liability (except as is customary and normal in similar transactions -- it being understood that the Contract is likely to be assigned to a third party and the Buyer will need to consent to such assignment). The parties further understand that the Seller does not, as of the execution of this Agreement, have exchanged property identified that he is willing to purchase and this Agreement is and shall remain contingent upon the Seller securing suitable exchange property, the suitability of which shall be determined by the Seller in his sole and absolute discretion. In the event Seller is unable to find suitable exchange property within 30 days prior to the date of closing, Seller shall have the option to either waive this contingency and go forward with the closing or declare this Agreement null and void and cause any and all earnest money to be returned to the Buyer with no further liability or responsibility on the part of either party hereto.

IN WITNESS WHEREOF, this Agreement has been executed and delivered by Seller, Seller's Beneficiary, and Purchaser on the respective dates set forth beneath each of their signatures, and is intended to be effective as of the latest of such dates.

SELLER

Castle Bank, N.A., a division of First National Bank of Omaha, as Trustee under Trust Agreement #2222 dated the 14<sup>th</sup> day of July, 2004.

By: Stephen P. Irving  
Stephen P. Irving, beneficiary and duly authorized agent of Castle Bank, Trustee

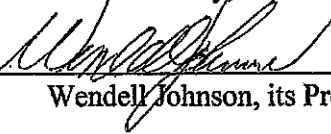
Dated: June 22<sup>nd</sup>, 2011.

SELLER'S BENEFICIARY

By: Stephen P. Irving  
Stephen P. Irving

PURCHASER:

DeKalb Public Library, a unit of local government

By:   
Wendell Johnson, its President

Dated: June 22, 2011.

# Exhibit A

**315 N. Third St.**

**PIN: 08-23-153-006**



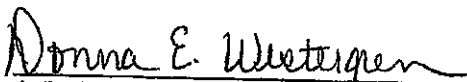
SCHEDULE A

OWNER'S POLICY

Case No. 84580  
Date of policy: January 28, 2011 at 5:00 p.m.  
Amount of insurance: \$200,000.00  
Policy No. IL0213-82-84580-2011.82306-83009468

1. Name of insured: Castle Bank, N.A., a division of First National Bank of Omaha, as Trustee under Trust No. 2222, dated the 14<sup>th</sup> day of July, 2004
2. The estate or interest in the land which is covered by this policy is fee simple.
3. Title to the estate or interest in the land is vested in:  
Castle Bank, N.A., a division of First National Bank of Omaha, as Trustee under Trust No. 2222, dated the 14<sup>th</sup> day of July, 2004
4. The land referred to in this Policy is described as follows:  
Lots 7 and 8 in Block 2 in Lewis Huntley's Addition to the Village (now city) of DeKalb, according to the plat thereof recorded in Book "A" of Plats, Page 8 1/4, on June 9, 1855, in DeKalb County, Illinois.

Issued at FOX TITLE COMPANY

  
Authorized Officer or Agent

This Policy is invalid unless the cover sheet and Schedule B are attached.

**DeKalb County Office**  
630 Plaza Drive, Suite 6  
Sycamore, IL 60178  
Phone: 815.899.3333  
Fax: 815.899.3565

**Kane County Office**  
423 South Second Street  
St. Charles, IL 60174  
Phone: 630.584.9330  
Fax: 630.377.6768

**McHenry County Office**  
241 Commerce Bank, Suite 212  
Crystal Lake, IL 60014  
Phone: 815.455.4146  
Fax: 815.455.4155

**DuPage County Office**  
1847 West Jefferson Avenue  
Naperville, IL 60540  
Phone: 630.584.9330  
Fax: 630.377.6768

**SCHEDULE B                    EXCEPTIONS FROM COVERAGE**

**Case No.            84580**

**Policy No.        IL0213-82-84580-2011.82306-83009468**

**THIS POLICY DOES NOT INSURE AGAINST LOSS OR DAMAGE (and the Company will not pay costs, attorneys' fees or expenses) WHICH ARISE BY REASON OF:**

1.    **Easements, claims of easement or encumbrances which are not shown by the public records.**
2.    **Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land**
3.    **2009 Permanent Tax Number is:            08-23-153-006.**  
  
      **Subject to general taxes for the year of 2010 and subsequent years.**  
  
      **General taxes for the year of 2010 and subsequent years are not yet due or payable.**  
  
      **General taxes for the year 2009 are marked paid in the Collector's Book.**
4.    **Right of ways for drainage ditches, tiles, feeders and laterals.**
5.    **Rights of the State of Illinois, the municipality, and the public in and to that part of the subject property which may fall in any road or highway.**
6.    **Rights of the public and of the State of Illinois in and to any part of the premises in question covered by the waters of any stream together with the rights of owners of property abutting those streams, if any, to have maintained the natural flow of the waters thereof.**

**END**

**DeKalb County Office**  
630 Plaza Drive, Suite 6  
Sycamore, IL 60178  
Phone: 815.899.3333  
Fax: 815.899.3865

**Kane County Office**  
423 South Second Street  
St. Charles, IL 60174  
Phone: 630.584.9330  
Fax: 630.377.6768

**McHenry County Office**  
241 Commerce Bank, Suite 212  
Crystal Lake, IL 60014  
Phone: 815.455.4146  
Fax: 815.455.4155

**DuPage County Office**  
1847 West Jefferson Avenue  
Naperville, IL 60540  
Phone: 630.584.9330  
Fax: 630.377.6768

**214-216 Oak St.**

**PIN: 08-23-156-002**

SCHEDULE A

OWNER'S POLICY

I hereby certify this is a true and exact copy. Fox Title Company by:

*Juan Capps*

Case No. 84844  
Date of policy: April 5, 2011 at 5:00 p.m.  
Amount of insurance: \$130,000.00  
Policy No. IL0213-82-84844-2011.82306-83507062

1. Name of insured: Castle Bank, a division of First National Bank of Omaha, DeKalb, Illinois its successor and successors, as Trustee under the provisions of a Trust Agreement dated the 14<sup>th</sup> day of July, 2004, known as Trust Number 2222

2. The estate or interest in the land described or referred to in this commitment and covered herein is:

FEE SIMPLE

3. TITLE to the estate or interest in the land is at the effective date vested in:

Castle Bank, a division of First National Bank of Omaha, DeKalb, Illinois its successor and successors, as Trustee under the provisions of a Trust Agreement dated the 14<sup>th</sup> day of July, 2004, known as Trust Number 2222

4. The land referred to in this commitment is described as follows:

Lot "B" of the Resubdivision of Lot 1 in Block "B" of the Original Town (now City) of DeKalb, according to the Plat thereof recorded in Book "I" of Plats, Page 38, as Document No. 276739, on March 3, 1955, situated in DeKalb County, Illinois.

Issued at FOX TITLE COMPANY

*Donna E. Westergren*  
Authorized Officer or Agent

This Policy is invalid unless the cover sheet and Schedule B are attached.

DeKalb County Office  
630 Plaza Drive, Suite 6  
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Kane County Office  
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St. Charles, IL 60174  
Phone: 630.584.9330  
Fax: 630.377.6768

McHenry County Office  
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Crystal Lake, IL 60014  
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Fax: 815.455.4155

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Naperville, IL 60540  
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Fax: 630.377.6768

SCHEDULE B EXCEPTIONS FROM COVERAGE

Case No. 84844

Policy No. IL0213-82-84844-2011.82306-83507062

THIS POLICY DOES NOT INSURE AGAINST LOSS OR DAMAGE (and the Company will not pay costs, attorneys' fees or expenses) WHICH ARISE BY REASON OF:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land
5. Any lien or right to a lien, for service, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.
6. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for the value the estate or interest or mortgage thereon covered by this commitment.
7. 2009 Permanent Tax Number is: 08-23-156-002.  
  
Subject to general taxes for the year of 2010 and subsequent years.  
  
General taxes for the year of 2010 and subsequent years are not yet due or payable.  
  
General taxes for the year 2009 are marked paid in the Collector's Book.
8. Right of ways for drainage ditches, tiles, feeders and laterals.
9. Rights of the State of Illinois, the municipality, and the public in and to that part of the subject property which may fall in any road or highway.
10. Rights of the public and of the State of Illinois in and to any part of the premises in question covered by the waters of any stream together with the rights of owners of property abutting those streams, if any, to have maintained the natural flow of the waters thereof.

END

**DeKalb County Office**  
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**McHenry County Office**  
241 Commerce Bank, Suite 212  
Crystal Lake, IL 60014  
Phone: 815.455.4148  
Fax: 815.455.4155

**DuPage County Office**  
1847 West Jefferson Avenue  
Naperville, IL 60540  
Phone: 630.584.9330  
Fax: 630.377.6768

**232 N. Second St.**

**PIN: 08-23-156-001**

SCHEDULE A

OWNER'S POLICY

Case No. 84845  
 Date of policy: May 4, 2011 at 5:00 p.m.  
 Amount of insurance: \$210,000.00  
 Policy No. IL0213-82-84845- 2011.82306-83730295

I hereby certify this is  
 a true and exact copy.  
 Fox Title Company by:  
*Susan Capps*

Name of insured: Castle Bank, N.A., a division of First National Bank of Omaha, DeKalb, Illinois as Trustee under the provisions of a Trust Agreement dated the 14<sup>th</sup> day of July, 2004, known as Trust Number 2222

2. The estate or interest in the land which is covered by this policy is:

FEE SIMPLE

3. TITLE to the estate or interest in the land is vested in:

Castle Bank, N.A., a division of First National Bank of Omaha, DeKalb, Illinois as Trustee under the provisions of a Trust Agreement dated the 14<sup>th</sup> day of July, 2004, known as Trust Number 2222

4. The land referred to in this Policy is described as follows:

Lot A of the Resubdivision of Lot 1 in Block "B" of the Original Town (now city) of DeKalb according to the plat thereof recorded March 3<sup>rd</sup>, 1955 in Book "I" of Plats, Page 38, as Document No. 276739, situated in DeKalb County, Illinois

Issued at FOX TITLE COMPANY

*Donna E. Westergren*

Authorized Officer or Agent

This Policy is invalid unless the cover sheet and Schedule B are attached.

**DeKalb County Office**  
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 St. Charles, IL 60174  
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 241 Commerce Bank, Suite 212  
 Crystal Lake, IL 60014  
 Phone: 815.455.4146  
 Fax: 815.455.4155

**DuPage County Office**  
 1847 West Jefferson Avenue  
 Naperville, IL 60540  
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 Fax: 630.377.6768

**SCHEDULE B            EXCEPTIONS FROM COVERAGE**

**Case No.            84845**

**Policy No.            IL0213-82-84845- 2011.82306-83730295**

**THIS POLICY DOES NOT INSURE AGAINST LOSS OR DAMAGE (and the Company will not pay costs, attorneys' fees or expenses) WHICH ARISE BY REASON OF:**

1.    Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
2.    Easements, claims of easement or encumbrances which are not shown by the public records.
3.    2010 Permanent Tax Number is: 08-23-156-001  
  
      Subject to general taxes for the year of 2011 and subsequent years.  
  
      General taxes for the year of 2011 and subsequent years are not yet due or payable.  
  
      General taxes for the year 2010 are marked paid in the Collector's Book.
4.    Right of ways for drainage ditches, tiles, feeders and laterals.
5.    Rights of the State of Illinois, the municipality, and the public in and to that part of the subject property which may fall in any road or highway.
6.    Rights of the public and of the State of Illinois in and to any part of the premises in question covered by the waters of any stream together with the rights of owners of property abutting those streams, if any, to have maintained the natural flow of the waters thereof.
7.    Resolution authorizing Commonwealth Edison Company (Public Service Company Division), its successors and assigns, to construct, operate and maintain an electric light and power transmission and distribution system in roads and highways in the Town of DeKalb, DeKalb County, Illinois, dated February 8, 1961 and recorded in Book 353, Page 621 on July 10, 1961.

**END**

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# Finch Property

The "Finch Property" will be conveyed to Purchaser subject to such title conditions as may currently exist which are acceptable to Purchaser. (No title policy or commitment available). The Finch property is identified as the parcel currently improved as a parking lot on the North West corner of Oak Street and Third Street in DeKalb, Illinois and legally described as follows:

Lot 6 in Block 2 in Lewis Huntley's addition to the Village (now City) of DeKalb according to the plat thereof recorded in Book "A" of Plats, page 8 1/4 on June 9, 1855 in DeKalb County, Illinois.

PIN: 08-23-153-007.

**Rider to Agreement to Purchase Vacant Land**

**between**

**Castle Bank, N.A. a division of First National Bank of Omaha,  
as Trustee under Trust Agreement #2222, dated July 14, 2004 (the "Seller")**

**and**

**DeKalb Public Library, a unit of Local Government (the "Purchaser")**

**and**

**Stephen P. Irving sole beneficiary of Trust #2222 (the "Seller's Beneficiary")**

This Rider amends the Agreement to Purchase Vacant Land between Seller, Purchaser and Seller's Beneficiary dated as of June 22, 2011 (the "June 22<sup>nd</sup> Agreement"). In the event of any inconsistency or conflicts between the provisions of this Rider and the provisions of the June 22<sup>nd</sup> Agreement, the provisions of this Rider shall govern and prevail in all respects.

WHEREAS, consummation of the June 22<sup>nd</sup> Agreement is conditioned upon Purchaser's ability to enter into a binding Inter-Governmental Development Agreement (the "Development Agreement") with the City of DeKalb (the "City") on or before October 20, 2011; or November 19, 2011 (if extend as permitted pursuant to the Agreement); and

WHEREAS, the Purchaser and City's staff have entered into extensive negotiations relative to the Development Agreement, and are now prepared to submit the terms and conditions thereof for approval by the DeKalb Planning and Zoning Commission and subsequently by the DeKalb City Council; and

WHEREAS, the notice of vacating a portion of the North Third Street must be republished to more accurately describe the vacated portion of North Third Street; and

WHEREAS, the additional publication will cause a delay in the previously scheduled Planning and Zoning Commission and City Council public meetings to consider and approve the Development Agreement; and

WHEREAS, said delays shall extend beyond the October 20<sup>th</sup> and the November 19<sup>th</sup> termination dates of Purchaser's due diligence term, as set forth in Paragraphs 1 and 3 of Section 12.01 of Article XII; and

WHEREAS, it has become necessary to extend, modify or otherwise amend the terms and conditions of the June 22<sup>nd</sup> Agreement so as to consummate the Parties' sale and purchase of the property.

NOW, THEREFORE, in consideration of One (\$1.00) Dollar and other good and valuable consideration, it is mutually covenanted and agreed by and between the parties hereto as follows:

1. The Parties hereto amend the June 22<sup>nd</sup> Agreement by revoking Paragraph 3 of Section 12.01 of Article XII, and by inserting in lieu thereof the following:

If Purchaser, in its sole discretion, determines that it will be unable to satisfy any of the conditions precedent set forth within the specified applicable time period, Purchaser may, at its option, by notice given to Seller's Beneficiary not later than five (5) days prior to the expiration of the applicable period, extend said period to December 14, 2011. Extension of the above time period for satisfaction of applicable conditions precedent shall not be deemed a waiver of Purchaser's right to terminate this Agreement as a result of Purchaser's ultimate failure to satisfy sub-paragraphs (b) or (c) of the conditions precedent, as hereinabove provided. If Purchaser, in its sole discretion, determines that it will be unable to satisfy sub-paragraphs (b) or (c) of said conditions precedent set forth within the specified applicable time period (including any extension thereof as provided in the preceding sentence), Purchaser may, at its option, elect to terminate this Agreement by notice give to Seller not later than thirty (30) days after the expiration fo such time period (as it may be so extended), in which even the earnest money shall forthwith be returned to Purchaser, and thereupon neither party shall have any further rights or obligations under the Agreement.

2. The remaining provisions of the Agreement shall remain in full force and effect and be binding upon all of the parties hereto, save and except to the extent herein modified, revised and/or amended hereby.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals in duplicate, this \_\_\_\_\_ day of October, 2011.

PURCHASER:

DeKalb Public Library

By: Clark D. Neher  
Clark D. Neher, President

SELLER:

Castle Bank, N.A. a division of First National Bank of Omaha, as Trustee under Trust Agreement #2222 dated 7/14/04

By: Stephen P. Irving  
Stephen P. Irving, Beneficiary and duly authorized agent of Castle Bank, Trustee

Stephen P. Irving  
Stephen P. Irving, sole beneficiary of Trust #2222