

# EXHIBIT B

## PURCHASE AND SALE AGREEMENT FOR PROPERTY LOCATED AT 635 4<sup>TH</sup> AVENUE, NAPERVILLE, ILLINOIS 60540

THIS PURCHASE AND SALE AGREEMENT (hereinafter "Agreement") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2017 by and between the City of Naperville, an Illinois Municipal Corporation and home rule unit of local government, with its principal offices at 400 South Eagle Street, Naperville, Illinois 60540 (hereinafter "Seller" or "City") and Forthright Ventures, LLC, an Illinois limited liability company registered to do business in the State of Illinois and with offices located at 530 W. Van Buren Avenue, Naperville, IL 60540 (hereinafter "Purchaser"). The City and the Purchaser may be referenced herein individually as "Party" or cumulatively as "Parties".

### RECITALS

A. The City owns certain real property located at 635 4<sup>th</sup> Avenue, Naperville, Il (08-18-203-005) in DuPage County which property is legally described on Exhibit A and depicted on Exhibit B attached hereto and made part hereof (hereinafter "Subject Property"); and

B. The City has determined that continued ownership of the Subject Property is no longer necessary, appropriate, required for the use of, or profitable to retain, and therefore, in the exercise of its home rule authority, has determined that it is in the best interests of the City to sell the Subject Property pursuant to the terms and conditions contained herein; and

**NOW, THEREFORE**, in consideration of the promises and mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Purchaser agree that:

#### **1. RECITALS INCORPORATED BY REFERENCE**

1.1 The Recitals set forth above are incorporated herein in their entirety by reference.

#### **2. PURCHASE PRICE**

2.1 The purchase price ("Purchase Price") of the Subject Property is Fifty-Five Thousand and no 100<sup>th</sup> Dollars (\$55,000.00). The Purchase Price (plus or minus closing prorations) shall be due and payable in cash upon Closing. There is no financing contingency for this Agreement.

#### **3. DEED.**

3.1 At Closing the City shall convey the Subject Property to the Purchaser by a recordable quit claim deed in a form approved by the City Attorney.

#### **4. SELLER'S REPRESENTATIONS AND COVENANTS**

4.1 The City represents that it has not entered into any lease or rental agreement of the Subject Property, or any portion thereof, and warrants that it shall not encumber the Subject Property, or any part of it, with any lease, lease renewal, or rental agreement prior to Closing.

4.2 The City represents that no part of the Subject Property is the subject of any ordinance or building code violation or pending condemnation action by the City.

**5. TITLE INSURANCE/SURVEY**

5.1 The Purchaser shall be responsible to obtain, at its cost, a title commitment and title policy for the Subject Property. Purchaser shall be solely responsible for the cost of extended coverage and any other title policy endorsements.

5.2 The City shall be under no obligation to provide Purchaser with a survey of the Subject Property. Notwithstanding the foregoing, the City will provide the Purchaser with any survey of the Subject Property which it has in its possession.

**6. DUE DILIGENCE**

6.1 Prior to the Effective Date of this Agreement, Purchaser was given the right to access the Subject Property to perform reasonable environmental and other inspections of the Subject Property. No additional due diligence period is provided for hereunder.

**7. CONDITION OF THE SUBJECT PROPERTY**

7.1 The City is selling the Subject Property “AS-IS” at the time of Closing. The Purchaser acknowledges that the City makes no representations, warranties, or guarantees with respect to the condition of the Subject Property, including but not limited to any environmental condition of any kind. The City does not assume any liability for encumbrances of any kind on the Subject Property.

**8. TERMINATION**

8.1 The Parties may agree to terminate this Agreement. Such agreement to terminate shall be in writing and signed by the Purchaser and the City Manager.

**9. TRANSFER TAX STAMPS**

9.1 The Parties shall execute a completed Real Estate Transfer Declaration signed by authorized agents in the form required by the Illinois Real Estate Transfer Act. This transaction is exempt from any city, county or State transfer stamps. The City shall be responsible for obtaining an exempt stamp for the City of Naperville Transfer Tax.

**10. STATUTORY COMPLIANCE**

10.1 The Parties hereto shall provide, and consent to the reporting of, all information regarding this sale required by any act, regulation or statute, including all amendments thereto, of the United States of America, or the State of Illinois, or any agency or subdivision thereof.

10.2 The Parties hereto shall at all times comply with all of the requirements of all county, municipal, state, federal and other applicable governmental statutes or regulations, now in force, or which may hereafter be in force pertaining to the performance of this Agreement.

**11. CLOSING DATE AND POSSESSION**

11.1 When used herein, the term "Closing" (or "Close") shall mean the conveyance of the Subject Property by the City to the Purchaser upon payment of the Purchase Price in accord with the terms of this Agreement at a Title Company agreed upon by the Parties.

11.2 The Parties shall Close on the Subject Property within sixty (60) days of the Effective Date of this Agreement unless the Purchaser and legal counsel for the City agree in writing to Close on a later date or unless this Agreement is terminated as provided herein.

11.3 Possession of the Subject Property shall be granted to the Purchaser at the time of Closing.

11.4 The Subject Property has been tax exempt for the current year and will remain tax exempt until conveyance of the Subject Property at Closing; further, the Subject Property was tax exempt during the calendar year prior to the current year. Therefore, no tax proration at Closing will be necessary.

11.5 Except as otherwise provided herein, the Parties shall equally share the costs of Closing, including but not limited to a New York style closing. Each Party shall be responsible for payment of its own attorney's fees and costs associated with the conveyance of the Subject Property, including but not limited to the Closing.

11.6 At Closing the City shall furnish the Purchaser with an Affidavit of Title covering the date of Closing. Seller shall also furnish such other documents as are customarily required to be delivered by Seller at Closing.

**12. BROKER'S COMMISSION**

12.1 Each Party warrants and represents to the other that it has not retained a broker in connection with the purchase and sale of the Subject Property and each Party agrees to defend, indemnify, and hold harmless the other against all claims for broker's fees and/or similar commissions.

**13. DEFAULT**

13.1 Unless the City or the Purchaser have terminated this Agreement as provided herein, upon failure of either to Close on the Subject Property either Party may elect to pursue whatever remedies they deem appropriate at law or in equity.

**14. GENERAL TERMS AND CONDITIONS**

14.1 If any term of this Agreement is ambiguous, it shall not be construed for or against any party on the basis that the Party did or did not write it.

14.2 Unless otherwise specified as "business days", calendar days are intended. Business days as used in this Agreement are defined as Monday through Friday, excluding Federal holidays.

14.3 The Parties hereto waive trial by jury in any action, proceeding or counterclaim brought by either of the Parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Agreement, or for the enforcement of any remedy under any statute or law.

14.4 The legal representatives for the City and the Purchaser may agree in writing to revise any timeframe or due date provided for herein.

14.5 This Agreement contains the entire agreement between the Parties.

14.6 All negotiations between the parties are merged in this Agreement, and there are no understandings or agreements, verbal or written, other than those incorporated in this Agreement.

14.7 Venue for any action taken by either Party, whether in law or in equity, to enforce the terms of this Agreement shall be in the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois.

14.8 Neither Party may assign or transfer this Agreement unless said assignment or transfer is approved in advance in writing by the other Party.

14.9 If any of the provisions of this Agreement are determined by a court of competent jurisdiction to be invalid, such provisions shall be deemed to be stricken, and such adjudication shall not affect the validity of the remainder of the terms of this Agreement as a whole or of any paragraph, subparagraph, sentence or clause not adjudged to be invalid.

**15. BINDING EFFECT**

15.1 This Agreement shall be binding upon the Parties hereto, their successors, assigns, transferees, and grantees.

**16. NOTICES**

16.1 Notices required herein shall be in writing and shall be delivered either personally or by overnight FedEx mail addressed as follows:

FOR SELLER/CITY:                   City of Naperville  
  Legal Department/Attention: City Attorney  
  400 S. Eagle St.  
  Naperville, IL 60540

FOR PURCHASER:                   Paul M. Mitchell, attorney  
  530 W. Van Buren Avenue  
  Naperville, IL 60540

16.2 Notice served by overnight FedEx mail shall be effective upon receipt.

**17. AUTHORITY TO EXECUTE**

17.1 The corporate authorities of the City warrant that they have the authority to enter into this Agreement and that the undersigned has the authority to execute this Agreement on behalf of the City.

17.2 The Purchaser warrants that it has the authority to enter into this Agreement and that the undersigned has the authority to execute this Agreement on behalf of the Purchaser.

**18. EFFECTIVE DATE**

18.1 The effective date ("Effective Date") of this Agreement shall be the date upon which it is signed by both Parties hereto.

**THE PARTIES TO THIS AGREEMENT** by their signatures acknowledge they have read and understand this agreement and intend to be bound by its terms.

/SIGNATURES ON FOLLOWING PAGES/

**CITY OF NAPERVILLE**

By: \_\_\_\_\_  
Douglas A. Krieger  
City Manager

**ATTEST**

By: \_\_\_\_\_  
Pam Gallahue, Ph.D.  
City Clerk

State of Illinois                    )  
  )SS  
County of DuPage                 )

The foregoing instrument was acknowledged before me by Douglas A. Krieger, City Manager of the City of Naperville and Pam Gallahue, City Clerk for the City of Naperville this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name

-seal-

**PURCHASER: FORTHRIGHT VENTURES, LLC**

By: *Paul M. Mitchell*

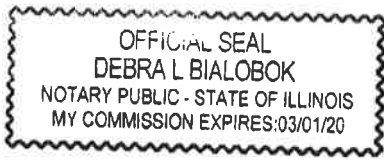
Printed Name: Paul M. Mitchell

Its: Manager

State of Illinois                    )  
  )SS  
County of DuPage                 )

The foregoing instrument was acknowledged before me by Paul M. Mitchell this 27<sup>th</sup> day of October, 2017

*Debra L. Bialobok*  
Notary Public



Debra L. Bialobok  
Print Name

-seal-

**EXHIBIT A**  
**LEGAL DESCRIPTION**

LOT 1 IN FORTRIGHT SUBDIVISION, PART OF SECTION 18,  
TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL  
MERIDIAN, ALL IN DUPAGE COUNTY, ILLINOIS.



# PRELIMINARY / FINAL PLAT OF SUBDIVISION FORTHRIGHT SUBDIVISION

PART OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 10 EAST  
OF THE THIRD PRINCIPAL MERIDIAN, ALL IN DUPAGE COUNTY,  
ILLINOIS.

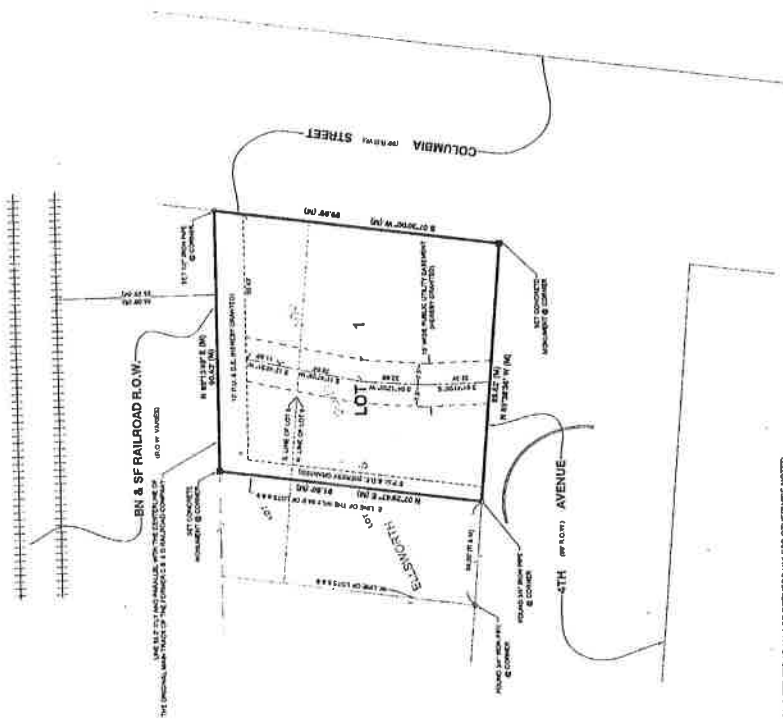
F.A.N. 08-14-2008  
651 4TH AVENUE, MARIETTA, ILLINOIS  
THIS PLAT HAS BEEN SUBMITTED FOR  
RECORDING BY AND RETURN TO:  
NAME: FRED BUCHHOLZ  
ADDRESS: 400 S. SAGLE STREET  
MARIETTA, IL 62561-1001

**FRED BUCHHOLZ**  
DUPAGE COUNTY RECORDER  
MAY 22, 2017 10:28 AM 08-19-20-081  
PLAT PAGE COUNT: 2  
000 PAGES R2017-06267



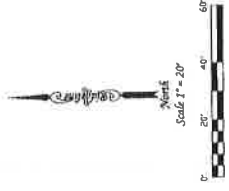
OWNER / APPLICANT  
KROENKE CONSULTANTS LLC  
CITY OF MARIETTA  
400 S. SAGLE STREET  
MARIETTA, IL 62561  
PHONE (618) 797-7977  
FAX (618) 797-7434

SURVEYOR  
KROENKE CONSULTANTS LLC  
CITY OF MARIETTA  
400 S. SAGLE STREET  
MARIETTA, IL 62561  
PHONE (618) 797-7977  
FAX (618) 797-7434



**SUBDIVISION NOTES**

- 3/4" INCH DIAMETER X 24" IRON PIPES SET AT ALL LOT CORNERS UNLESS OTHERWISE NOTED
- ALL MEASUREMENTS AND DISTANCES ARE GIVEN IN FEET AND DECIMAL PARTS THEREOF
- BOUNDARY MEASUREMENTS ON THIS PLAT MAP ARE ASSUMED FOR THE PURPOSE OF SHOWING ANGULAR RELATIONSHIPS
- ALL EASEMENTS SHOWN ON THIS PLAT MAP ARE FOR PUBLIC UTILITIES AND DRAINAGE PURPOSES UNLESS OTHERWISE NOTED. REFER TO THE PUBLIC UTILITIES AND DRAINAGE EASEMENT PROVISIONS STATEMENT ON SHEET 1 FOR SPECIFIC TERMS AND CONDITIONS.



- SYMBOL & LINE TYPE LEGEND**
- BUILDING LINE
  - CENTERLINE OF EXISTING RAILROAD TRACK
  - CONCRETE MONUMENT SET
  - BOUNDARY MONUMENT
  - PROPERTY CORNER
  - RIGHT OF WAY LINE
  - SUBDIVISION BOUNDARY LINE

- ABBREVIATION LEGEND**
- E = EAST
  - N = NORTH
  - S = SOUTH
  - W = WEST
- ALL N.E.C.E. = PUBLIC UTILITY AND DRAINAGE EASEMENT

AREAS:	LOT AREA LIST
0.0000 ± 0.0001 SQ. FT.	LOT 1 = 6,293.1 SQ. FT.
0.0000 ± 0.0001 SQ. FT.	LOT 2 = 1,205.000 SQ. FT.
0.0000 ± 0.0001 SQ. FT.	LOT 3 = 1,205.000 SQ. FT.

CITY PROJECT NUMBER 17-10000208  
FORTHRIGHT SUBDIVISION  
PAGE 1 OF 2

ROBERT H. BULLIAGE, P.L.L.C. 038-00000000 EXAMINATION DATE 11/03/2016  
BY: P.L.L.C. 038-00000000 EXAMINATION DATE 11/03/2016  
PROFESSIONAL SEAL NO. 184-00000000  
STATE OF ILLINOIS  
MARIETTA, ILLINOIS



