

REAL ESTATE SALE CONTRACT
For Moss Avenue Adult Education Property

THIS REAL ESTATE SALE CONTRACT (Contract) is between **THIEN TAM BUDDHIST TEMPLE NFP** (Buyer), and the **CITY OF PEORIA, ILLINOIS** (Seller). Buyer hereby agrees to purchase the following described real estate (Property) together with all improvements and appurtenances thereon from upon the terms set forth in this Contract:

1. **Purchase Price and Description of Property.**

1.1 **Description of Property:** The Property to be purchased is described as follows:

SEE DESCRIPTION ATTACHED AS EXHIBIT A

1.2 **Purchase Price.** The purchase price for the Property is **\$150,000.00**.

1.3 **Earnest Money.** The earnest money shall be \$1,000.00 deposited with the title company for the delivery to Seller at the time of closing.

1.4 **Balance Due/Method of Payment at the Closing.** The balance due at the Closing, plus or minus any prorations or credits due Buyer and/or Seller hereunder, shall be due at the time of Closing.

2. **Closing.**

2.1 **Time.** The closing shall be on or before **January 29, 2016**, or at such other time as may be mutually agreed in writing.

2.2 **Place.** This sale shall be closed at the office of the title company or at another location as the parties may agree.

2.3 **Deed of Conveyance.** Conveyance shall be by recordable Special Warranty Deed, upon payment of the Purchase Price. Buyer shall inform Seller at least ten days prior to closing how Buyer wishes to take title.

3. **Possession.** Possession shall be at Closing.

4. **Compliance.** Seller and Buyer agree to provide all information necessary to complete and execute all documents and perform all actions necessary to comply with the following: (a) Real Estate Settlement Procedures Act of 1974; (b) Internal Revenue Service Form 1099S; (c) a mutually agreeable summary of the closing transaction; and (d) all laws, statutes, ordinances, rules and regulations applicable to the transaction.

5. **Transfer Taxes.** State, County, or City transfer taxes, if any, shall be paid by the Seller.

6. **Real Estate Taxes and Prorations.** The Property is currently exempt from real estate taxation. All taxes due on the Property subsequent to Closing shall be the responsibility of the Buyer.

7. **Incorporation of Terms of Request for Proposal.** The terms, conditions, and requirements of the City of Peoria's Request for Proposal are incorporated herein by reference. In the event of a conflict, the terms of this Contract will control.

8. **Notice.** All notices and demands hereunder shall be in writing. Service of notice shall be sufficient upon (a) depositing the notice in the U.S. Mail *via* certified mail, postage prepaid; or (b) personal delivery of the notice or demand to the parties at the addresses set forth below. Any notice or demand mailed as provided herein shall be deemed to have been given or made on the date of mailing. Notice to any one of a multiple person party shall be sufficient service to all.

Seller Contact (City of Peoria):	Christopher Setti Assistant City Manager City of Peoria 419 Fulton Room 207 Peoria, Illinois 61602 309-494-8618 (work) 309-472-6291 (cell) E-Mail: Csetti@peoriagov.org
Seller's Attorney	Donald B. Leist Corporation Counsel City of Peoria 419 Fulton Room 200 Peoria, IL 61602 309-494-8590 dleist@peoriagov.org
Buyer Contact:	Sam Mach Thien Tam Buddhist Temple NFP 206 W. Camp Street East Peoria, IL 61611 sammach@sbcglobal.net



Buyer's Attorney:	Dick Williams Dick L. Williams & Associates 139 East Washington Street East Peoria IL 61611
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9. **Condition of Property.** Buyer acknowledges that Buyer has inspected the real and personal property and is fully acquainted with the condition thereof and accepts the same as of the time the Buyer executed this Contract in "AS-IN CONDITION" with no warranties express or implied. **The Seller makes no warranty or representation, express or implied, or arising by operation of law, including, but in no way limited to, any warranty of condition, habitability, merchantability, or the Property's fitness for a particular purpose. Buyer acknowledges and agrees that the Buyer has made its independent investigation and examination of the Property and conditions associated with the Property. Except as otherwise expressly set forth in this Agreement the Seller and its officers, employees, or agents are hereby released by the Buyer from all responsibility and liability to the Buyer regarding the Property's condition, valuation, and merchantability, as well as the utility of the property or its suitability for any purpose whatsoever.**

10. **Limitations on Warranties and Representations.** Buyer acknowledges and agrees that the Buyer has made an independent inspection and determination to purchase the Property in its existing condition, and except as otherwise expressly set forth in this Contract, neither Seller nor any agent or representative of Seller has made or shall be deemed to have made any oral or written representation or warranty concerning any matter relating to the value or the condition of the land, improvements, personal property, appliances, equipment, and apparatus to be sold and conveyed to Buyer hereunder; or concerning any other matter connected with or related to the sale of the Property including the accuracy of any documents about the Property delivered to the Buyer by the Seller or any other party.

11. **Evidence of Title.**

11.1 **Title Insurance Commitment.** Within 20 calendar days of the effective date of this Contract, Seller shall furnish to Buyer, showing merchantable title in The Board of Education, Peoria School District No. 150 (District 150), a commitment for title insurance, issued by a title insurance company authorized to do business in the State of Illinois, committing the company to issue an ALTA owner's policy insuring title to the real estate in Buyer for the amount of the Purchase Price.

11.2 **Permissible Title Exceptions.** Permissible exceptions to title shall include only: (a) the lien of general taxes not yet payable; (b) city ordinances, zoning laws, and building code and condition requirements; (c) easements of record for utilities, drainage, and public roads, highways and improvements; (d) items assumed by Buyer hereunder; (e) covenants and restrictions of record; and (f) unrecorded easements, boundary lines and matters that could be discovered by an examination of the property or not shown on the survey provided pursuant to Paragraph 12.

11.3 **Non-Permitted Title Exceptions.** If the title evidence discloses exceptions other than those permitted in this Paragraph, Buyer shall give written notice of such exceptions to Seller within 10 days of the receipt of the title commitment. District 150 shall have a reasonable time to have such title exceptions removed. If District 150 is unable to cure such exceptions by the Closing date, Buyer shall have the options to either terminate this Contract and have its Earnest Money refunded or purchase the Property subject to the title exceptions.

12. **Survey.** Within 20 calendar days from the Effective Date of this Contract the Seller, will obtain and provide to the Buyer a Survey of the Property dated September 9, 2014. If the Survey shows other than the permissible exceptions described in Paragraph 11, Evidence of Title, of the Contract, encroachments from the adjacent property or that improvements are not within lot lines or any set back, then these shall be considered defects in the title to the Premises.

13. **Right of First Refusal.** At Closing, Purchaser shall grant to Seller a right of first refusal on the Real Property in the form attached hereto and made a part hereof as Exhibit B. The Right of First Refusal shall be recorded immediately after the deed and the purchase mortgage (if any). **Buyer's Contingencies.** The Buyer's obligation to close this sale is expressly subject to and conditioned upon, the following:

13.1 Buyer obtaining a commitment for a loan of not less than \$ _____ with an interest rate not to exceed _____ % per annum with payments based on an amortization term of _____ years with a term of not less than _____ years;

13.2 Buyer, at its option and expense, performs an environmental inspection of the subject property, including but not limited to testing for asbestos, radon, formaldehyde and other environmental defects, the findings of which are in its opinion acceptable to Buyer; and

13.3 The Buyer obtains zoning and special use permits from the City of Peoria that the property is properly zoned for the Buyer's intended use. **To be entitled to assert this contingency the Buyer must file its applications with the City by no later than October 29, 2015 with the Planning and Zoning Commission.** The Seller may, in its sole discretion, grant additional time to the buyer for this contingency to allow for the filing of applications with the City and obtaining approval of requested City use permits and approvals.

14. **Buyer's Notice of Contingencies.** In connection with the Buyer's contingencies set forth above, if Buyer informs Seller on or before **December 15, 2015**, that item 13.1, has not been satisfied; or by **December 31, 2015** that item 13.2 and 13.3 of the above conditions precedent have not been satisfied, this Agreement will terminate without any liability of Buyer to Seller and the Seller will return the Earnest Money deposit to the Buyer. If Buyer does not timely notify Seller in writing of Buyer's intent to terminate on the basis of any of these conditions precedent to Buyer's obligation to complete the purchase hereunder, then such conditions are waived and Buyer shall accept the premises in "as is" condition without warranty except as specifically set forth elsewhere in this Agreement.

15. **Inspection Indemnification.** Buyer agrees to protect, indemnify, defend, and hold Seller, District 150, and their officers, directors, employees, agents, and their successors or

assigns, and their property harmless from all costs, damages, liens, and expenses (including reasonable attorney's fees), including those to the person and property of the Buyer, its employees, agents, invitees, licensees, and others arising out of or in connection with the performance of any inspection, work or activity by Buyer or Buyer's contractors or agents in or about the Property necessitated by the inspection activities by Buyer or Buyer's contractors. This agreement of indemnification shall apply and survive any termination of this Agreement by Buyer or Seller.

16. **Parties.** The covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, and assigns of the parties.

17. **Earnest Money.** Upon receipt of a written request by Buyer or Seller for return or delivery of the earnest money, the holder shall promptly give the other party a copy of the request, and provide both parties a statement of how the holder proposes to distribute the earnest money. If the holder does not receive written objection to the proposed distribution from Buyer or Seller within thirty (30) days from service of the request and statement, the holder may proceed to distribute the earnest money in accordance with the proposed distribution. The Buyer and Seller instruct the holder of the earnest money that in the event of any dispute regarding the right to the earnest money, the holder shall retain the funds until receipt of joint written instruction from both Seller and Buyer or Order of Court. Alternatively, the holder may interplead any funds held into the Court for distribution after resolution of the dispute between Seller and Buyer, and the holder may retain from the funds the amount necessary to reimburse holder for court costs and reasonable attorney's fees incurred due to the interpleader. If the amount held is inadequate to reimburse holder for court costs and attorney's fees, Buyer and Seller shall jointly and severally indemnify holder for additional costs and fees incurred.

18. **Default.** If either party does not perform any obligation under this Contract (a default), the non-defaulting party shall give written notice of the default to the defaulting party. If the defaulting party does cure the default within ten (10) days of the notice, the non-defaulting party may pursue any remedy available at law or equity, but not including specific performance. In the event of litigation, the defaulting or losing party shall pay upon demand the reasonable attorney's fees and court costs, if any, incurred by the prevailing party. Notwithstanding the forgoing, the Seller's liability for any default in performance of this contract shall not include specific performance and the Buyer's damages shall be limited to a return of the earnest money.

19. **Modifications.** Any modification of this Contract must be signed by the parties.

20. **Casualty and Damage.** If, prior to the earlier of delivery of possession or closing hereunder, the improvements on the Property shall be materially damaged by fire or other casualty, then Buyer shall have the option of declaring this Contract null and void and receiving a refund of the Earnest Money. In no event shall Seller be obligated to repair or replace damaged improvements or pay insurance proceeds to the Buyer.

21. **Dates and Times.** The date and time of this Contract shall be the latest date and time in the spaces above the signatures. Time is of the essence of this Contract. If time for performance falls upon a Saturday, Sunday, State, or Federal Holiday, the time for performance shall be extended to the next business day.

22. **Counterparts.** This Contract may be executed in counterparts with all of the executed counterparts constituting one Contract.

WHEREFORE, the parties have caused this Contract to be duly executed as of the date and time as written below.

BUYER:

SELLER:

THIEN TAM BUDDHIST TEMPLE NFP

THE CITY OF PEORIA, ILLINOIS

BY: 

BY: 

Its: SAM MACH

Its: City Manager

Date: 10/01/2015

Date: 10/6/15

EXHIBIT A

LEGAL DESCRIPTION

Lots 9 through 16 of School Inspector's Addition, a subdivision of part of the SE $\frac{1}{4}$ of Section 5; Lot 16 and parts of Lots 18 and 19 of Moss Addition, Range 2, a subdivision of part of the SE $\frac{1}{4}$ of Section 5; and a part of the SE $\frac{1}{4}$ of Section 5; all in Township 8 North, Range 8 East of the 4th P.M., more particularly described as follows: Commencing at the Southeast Corner of Lot 5, Block 5, of Antis Addition, a subdivision of part of the SE $\frac{1}{4}$ of said Section 5 as the Point of Beginning of the tract to be described; thence South along the West ROW line of Orange Street, a distance of 96 feet to the Northeast Corner of said Lot 19 of said Moss Addition, Range 2; thence Southwesterly along the Northwesterly line of said Lot 19, a distance of 41.08 feet to a point 7.1 feet Northeasterly of the Northwest Corner of said Lot 19; thence in a Southeasterly direction, a distance of 95 feet, more or less, to a point on the Northeasterly line of said Lot 18, 55.4 feet Northwesterly of the Southeast Corner of said Lot 18 as measured along the Northeasterly line of said Lot 18; thence in a Southeasterly direction, a distance of 56 feet, more or less, to a point on the Northwesterly ROW line of Moss Avenue 3.25 feet Southwesterly of the Southeast Corner of said Lot 18; thence Southwesterly along the Northwesterly ROW line of Moss Avenue, a distance of 262.53 feet to the Northeasterly ROW line of Garfield Avenue; thence Northwesterly along the Northeasterly ROW line of Garfield Avenue, a distance of 203 feet to a point on the Easterly ROW line of Garfield Avenue; thence Northerly along the Easterly ROW line of Garfield Avenue, a distance of 181.2 feet to the Northwest Corner of said Lot 14 of said School Inspector's Addition; thence Easterly along the North line of said School Inspector's Addition, a distance of 316 feet to the Point of Beginning, situate, lying and being in the County of Peoria and State of Illinois.

PIN: 18-05-482-018 and 18-05-482-015

Commonly Known As; 839 West Moss Avenue, Peoria, IL 61604

EXHIBIT B

RIGHT OF FIRST REFUSAL

This Right of First Refusal is dated as of _____, 2015 between the City of Peoria, Illinois ("City") and Thien Tam Buddhist Temple NFP ("Temple").

BACKGROUND

The Temple owns the real estate described on Exhibit 1 attached hereto and made a part hereof (the "Property"). In consideration of certain other agreements between the Temple and the City, the Temple has agreed to give the City a right of first refusal on the sale of the Property as set forth herein.

AGREEMENT

1. Right of First Refusal. The Temple shall not sell the Property or any portion thereof to any party other than the City except as set forth below. In the event that the Temple receives a bona fide offer to purchase the Property or any portion thereof that the Temple wishes to accept, the Temple shall deliver a notice of said offer to the City along with a copy of the offer. The City shall have thirty (30) days from the date of receipt of said notice to agree in writing to purchase the Property or portion thereof on the same terms and conditions as contained in said offer, said writing to be delivered to the Temple within said thirty (30) day period. In the event that the City does not exercise said option, the Temple shall be entitled to sell the Property in accordance with the terms of said offer.

2. Notices. All notices, requests, consents and other communications required or permitted under his Agreement shall be in writing and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service or mailed by registered or certified mail (postage prepaid), return receipt requested, addressed to:

If to Thien Tam Buddhist Temple NFP:

Sam Mach
206 W Camp Street
Peoria, IL 61602

With a copy to:

Dick Williams
Dick L. Williams & Assoc.
139 E Washington St.
East Peoria, IL 61611

If to the City:

City of Peoria, Illinois
419 Fulton Street
Peoria, IL 61602
Attn: City Manager

With a copy to:

City of Peoria, Illinois
419 Fulton Street
Peoria, IL 61602
Attn: Corporation Counsel

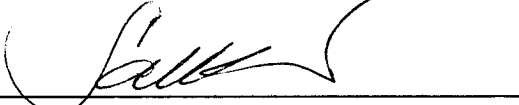
Each such notice shall be deemed delivered on the date delivered if by hand delivery and on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed.

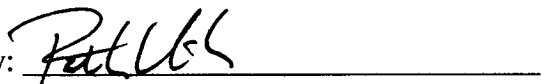
3. Binding Effect. The provisions of this Right of First Refusal shall inure to the benefit of and bind the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have caused this Right of First Refusal to be executed as of the date first written above.

THIEN TAM BUDDHIST TEMPLE NFP

CITY OF PEORIA, ILLINOIS

By: 

By: 

Its: SAM MACTH

Its: City Manager

DATE = 10/01/2015

10/6/15