



2. The Court has directed and authorized the Receiver to, *inter alia*, do the following:
  - Use reasonable efforts to determine the nature, location and value of all property interests of the Receivership Defendants (Docket No. 16, Order ¶ 8(A));
  - Manage, control, operate and maintain the Receivership Estate and hold in his possession, custody and control all Receivership Assets, pending further Order of this Court (*Id.* ¶ 8(C));
  - Use Receivership Assets for the benefit of the Receivership Estate, making payments and disbursements and incurring expenses as may be necessary or advisable in the ordinary course of business in discharging his duties as Receiver (*Id.* ¶ 8(H));
  - Take such action as necessary and appropriate for the preservation of Receivership Assets (*Id.* ¶ 8(K));
  - Take immediate possession of all real property of the Receivership Defendants, wherever located, including but not limited to all ownership and leasehold interests and fixtures (*Id.* ¶ 19); and
  - Upon further Order of this Court, pursuant to such procedures as may be required by this Court and additional authority such as 28 U.S.C. §§ 2001 and 2004, the Receiver will be authorized to sell, and transfer clear title to, all real property in the Receivership Estate (*Id.* ¶ 39).

3. Thus, the Order authorizes the Receiver to take necessary and reasonable actions to cause the sale of all real property in the Receivership Estate either at public or private sale. (*See* Docket No. 16, Order, ¶ 38)

4. The sale is to comport with procedures as may be required by the Court and statutes such as 28 U.S.C. § 2001. (*Id.* ¶ 39) By way of this motion, the Receiver seeks Court approval for the sale process set forth below, including a finding that the public sale of the properties discussed below is consistent with the requirements of Section 2001.

5. At this time, and in conjunction with discussions with SVN Chicago Commercial, LLC (“SVN”), the Receiver has determined in his sound business judgment that it is appropriate

to dispose of the following multi-family residential apartment buildings which have potential to bring net proceeds into the Estate:

- i. 5001 S. Drexel Boulevard, Chicago, IL 60615 (“Drexel Property”);
- ii. 7500-06 S. Eggleston Avenue, Chicago, IL 60620 (“Eggleston Property”);
- iii. 7547-49 S. Essex Avenue, Chicago, IL 60649 (“7547 Essex Property”);
- iv. 7927-49 S. Essex Avenue, Chicago IL 60617 (“7927 Essex Property”);
- v. 8100 S. Essex Avenue, Chicago, IL 60617 (“8100 Essex Property”); and
- vi. 6160-6212 S. Martin Luther King Drive, Chicago, IL 60637 (“MLK Property”).

#### **THE PROPERTIES**

6. The Drexel Property is a 33-unit building with high occupancy. It was acquired on November 30, 2017 for a price of \$3,200,000. The property has a third-party conventional loan that appears to encumber this property. The property does not appear to have EquityBuild affiliate debt.

7. The Eggleston Property is a 24-unit building with high occupancy. It was acquired on October 2, 2017 for a price of \$1,375,000. It does not appear to be encumbered with institutional third-party debt or EquityBuild affiliate debt.

8. The 7547 Essex Property is a 23-unit building with high occupancy. It was acquired on January 8, 2018 for a price of \$1,435,000. It does not appear to be encumbered with institutional third-party debt or EquityBuild affiliate debt.

9. The 7927 Essex Property includes five buildings with 30-units total. The following buildings were acquired on November 9, 2017, each for a price of \$330,000: 7927-29 S. Essex, 7937-39 S. Essex, 7943-45 S. Essex, and 7947-49 S. Essex. The building at 7933-35 S. Essex was

acquired on December 7, 2017 for \$330,000. The buildings do not appear to be encumbered with institutional third-party debt or EquityBuild affiliate debt.

10. The 8100 Essex Property is a 44-unit building. It was acquired on April 20, 2016 for a price of \$2,100,000. It does not appear to be encumbered with institutional third-party debt.

11. The MLK Property is a 52-unit building. It was acquired November 9, 2016 for a price of \$1,750,000. It appears to be encumbered with a conventional loan, as well as EquityBuild affiliated debt.

### **SALE BY PUBLIC SALE**

12. Pursuant to 28 U.S.C. § 2002, a public sale of realty may be made where notice is published “once a week for four weeks prior to the sale in at least one newspaper regularly issued and of general circulation in the county, state or judicial district of the United States wherein the realty is situated.” The Receiver anticipates that notice of public sale for the properties subject to this motion will be placed in one and/or several of the following publications for that four week period: the Chicago Tribune, the Chicago Sun-Times, the Chicago Daily Law Bulletin, and/or the Wall Street Journal. Beyond publications, the Broker will also be marketing the public sale of the properties subject to this motion through the following public media websites<sup>1</sup> for the entire four week period:

- a. SVN
- b. SVN Chicago Commercial
- c. CoStar Group
- d. LoopNet

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<sup>1</sup> These websites are standard and common means of marketing properties for sale in Chicago and throughout the U.S.

- e. City Feet
- f. RealNex
- g. CREXI
- h. theBrokerList
- i. Real Connex
- j. LinkedIn

13. The Receiver plans to conduct the sale of the properties subject to this motion pursuant to a sealed bid sale process which is described in **Exhibit A**.

14. Any bid that is accepted by the Receiver after completion of the sealed bid sale process will be subject to and presented to the Court for approval. Any compensation to the broker associated with the sale also will be subject to and presented to the Court for approval.

15. As part of the sale process, and consistent with the Order, the Receiver requests authorization to sell, and transfer clear title to, these properties free and clear of all liens, claims, and encumbrances. (Docket No. 16, Order ¶ 39)

WHEREFORE, the Receiver respectfully requests that this Court grant this Motion and enter an order in the form of that attached hereto as **Exhibit B**, and grant such other relief as the Court deem just and proper.

Dated: November 12, 2018

Kevin B. Duff, Receiver

By: /s/ Michael Rachlis

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# **EXHIBIT A**

**Sealed Bid Public Sale of Real Estate  
Terms and Conditions**

**Property:** [ \_\_\_\_\_ ] (the “Property”)

**Description:** [ \_\_\_\_\_ ]

**Scheduled Tour Dates:** [ \_\_\_\_\_ ]

**Offer Due Date:** [ \_\_\_\_\_ ]

1. **Seller:** The Property is being sold by the Receiver for the EquityBuild Receivership Estate created by that certain Order Appointing Receiver dated August 17, 2018, and entered in the action styled *U.S. Securities and Exchange Commission v. EquityBuild, Inc., et al.*, Civil Action No. 1:18-cv-05587, in the United States District Court for the Northern District of Illinois, Eastern Division (the “Seller”). The Receivership Estate includes ownership and control of [ \_\_\_\_\_ ].
2. **Offers:** Offers shall be made on a “cash basis” without financing contingencies and shall be submitted on the form Purchase And Sale Agreement provided, accompanied by proof of funds, and delivered to Jeffrey Baasch (“Broker”), SVN Commercial Real Estate, 940 West Adams, Suite 200, Chicago, IL 60607, [jeffrey.baasch@svn.com](mailto:jeffrey.baasch@svn.com), by no later than 5:00 p.m. CST on [ \_\_\_\_\_ ]. Offers must be transmitted to the Broker by e-mail or enclosed in a sealed envelope and delivered by U.S. mail, by nationally-recognized overnight courier, or by hand. Untimely and non-conforming offers may be rejected at the sole discretion of the Broker. No liability shall attach to Seller, Broker, or any other party for failure to receive or open any Offer. The Seller strongly recommends that prospective purchasers pre-qualify for financing prior to submitting an Offer.
3. **Best and Final:** Although bidders are encouraged to submit their best offer, at the Seller’s sole discretion, a best and final round may be conducted. In that event, the Seller will select the most competitive bids and the corresponding bidders will be invited to participate in the best and final round to be conducted by the Broker. The best and final bidding process will be conducted by telephone and email.
4. **Earnest Money Deposit:** The winning bidder will be required to deposit a sum equal to ten percent (10%) of the purchase price contained in the accepted Offer to the Seller’s designated title company within three (3) business days after notification of acceptance. Said earnest money deposit shall become non-refundable at the expiration of the due diligence period (see Paragraph 6, below) and applied toward the purchase price at closing.
5. **Property Tours:** Property tours will be available to all bidders at scheduled times, and the Property may also be shown by appointment. The accuracy of the information contained in the bid materials cannot be guaranteed, and prospective bidders are therefore encouraged to complete any desired and non-invasive due diligence at their own expense.
6. **Due Diligence:** The winning bidder will be entitled to conduct a second due diligence review of the Property within ten days following acceptance of its offer and prior to closing.

7. As-Is Sale: The Property is being sold “as-is,” with all faults, as of the closing date. Neither the Seller, the Broker, nor any of their respective agents, contractors, attorneys, officers, or directors (“Agents”) makes any representation or warranty with respect to the physical condition of the Property, nor any of the personalty, fixtures, machinery, or equipment located thereon, including any warranty of merchantability or fitness for a particular purpose, or any type of other warranty, express or implied. The Seller, the Broker, and their Agents specifically disclaim any warranty, guaranty, or representation, oral or written, past or present, express or implied, concerning the physical condition of the Property or any of the personalty, fixtures, machinery, or equipment located thereon. Neither the Seller, the Broker, nor any of their respective agents possesses any authority to make any oral or written representation regarding the condition of the Property or its contents, other than as may be set forth in the Purchase and Sale Contract, and no bidder may rely upon any such oral or written representation. The bidders shall conduct their own independent physical inspections of the Property and its contents, shall be charged with full knowledge of all documents made available for inspection, and shall submit offers based solely upon their own independent judgment and conclusions and not in reliance on any information provided by the Seller, the Broker, or their respective Agents.
8. Broker Participation Invited: A cooperating commission will be paid to a qualified, licensed real estate broker that procures the bidder who closes on the Property, provided that (1) said cooperating real estate broker is not prohibited by law from being paid such commission and, additionally, is not a principal or affiliate of the bidder and (2) no commission shall be considered earned or payable unless the broker registers its client on the Buyer Broker Registration form prior to the client's submission of a bid. Oral registrations will not be accepted. Under no circumstances shall any commission be paid if the sale does not close.
9. Closing: The closing shall be held within thirty (30) days following the Seller’s notification to the winning bidder that its offer was accepted. The Property will be conveyed by judicial deed, subject to any and all covenants, conditions, and restrictions of record, public utility easements, building lines, if any, real estate taxes not yet due and payable, and acts suffered or permitted by the grantee. All closing costs, including the cost of the closing escrow, shall be paid by the bidder.
10. Other Terms and Conditions:
  - a) The Closing shall remain subject to Court approval in *U.S. Securities and Exchange Commission v. EquityBuild, Inc., et al.*, Civil Action No. 1:18-cv-05587, in the United States District Court for the Northern District of Illinois, Eastern Division.
  - b) The Seller and the Broker reserve the right, in their sole and absolute discretion, to postpone or cancel the Sealed-Bid Public Sale of Real Estate with or without notice or to amend, modify, or add any terms and conditions to these general terms and conditions of sale and to announce such modifications or additional terms and conditions on or before the submission deadline. To the extent of any conflict between the provisions of these terms and conditions and the Purchase and Sale Agreement, the terms of the Purchase and Sale Agreement shall govern.



- c) These terms and conditions do not create any legal obligation on the part of the Seller or the Broker. If the sale fails to comply with any of these terms and conditions for any reason, the Seller and the Broker shall have no liability to any unsuccessful bidder.

# **EXHIBIT B**



Chicago IL 60617; (v) 8100 S. Essex Avenue, Chicago, IL 60617; and (vi) 6160-6212 S. Martin Luther King Drive, Chicago, IL 60637, free and clear of all liens, claims, and encumbrances.

Entered: \_\_\_\_\_  
Honorable

Date: \_\_\_\_\_



**CERTIFICATE OF SERVICE**

I hereby certify that on November 12, 2018, I electronically filed the foregoing **Notice and Receiver's Motion For Court Approval Of The Process For Public Sale Of Real Property By Sealed Bid** with the Clerk of the United States District Court for the Northern District of Illinois, using the CM/ECF system. A copy of the Notice and the Motion were served via the CM/ECF system upon counsel of record.

/s/ Michael Rachlis \_\_\_\_\_

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