



## RESOLUTION 01-2014

### A RESOLUTION TO AMEND RESOLUTION 15-2013 AUTHORIZING THE PURCHASE OF PROPERTY FOR THE VILLAGE OF ASHVILLE, OHIO, AND DECLARING AN EMERGENCY



WHEREAS, the Village of Ashville desires to purchase the real property located north of West Station Street and South of State Route 752.

WHEREAS, the Village of Ashville has received and will use Ohio Water Development Authority (OWDA) WWTP Planning and Design – Loan Account #6251 for purchase.

WHEREAS, the Village of Ashville has authority to purchase said land for public purposes and this public purpose will be to construct a wastewater facility; and

WHEREAS, the Village of Ashville considers said property to be a benefit to village residents, and as such has authority,

**NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF ASHVILLE, OHIO:**

**SECTION ONE:** The Village of Ashville accepts the terms of those Real Estate Purchase Agreements attached hereto as Exhibits "A" and "B" as set forth in Section Two below, and agrees to enter into said contracts for purchase of that property described as Parcel Number D12-0-001-00-147-00, D13-0-010-00-069-00, and D13-0-010-00-071-0.

**SECTION TWO:** The purchase price for the property is generally \$15,000.00 per acre and \$13,500 for a fifty (50) feet access strip to State Route 752 (to be purchased in fee simple subject to a reserved easement) plus associated adjustments and closing costs as specified in the contract. Specifically, the purchase price is:

- 10.241 acres from Citizen's Bank of Ashville for \$15,000 per acre. Total purchase price \$150,000 + \$3,615.00 for a \$153,615 total plus any associated purchase costs.
- +/-10.00 acres and the 50 foot fee simple access from that 10 acres to State Route 752 from Leo J. Hall Trustee. The price for the +/-10 acres is \$15,000 per acre and the access fee simple property for \$13,500 + \$3,780 = \$17,280. Total purchase price \$163,500 + \$3,780 = \$167,280 plus any associated purchase costs.
- The grantor, Leo J. Hall, Trustee, will reserve an easement for ingress and egress upon the 50 feet access strip.

**SECTION THREE:** The Village Administrator (or other officers of the Village) is hereby empowered by Council to execute Real Estate Purchase Agreements in substantially the same form and content as those attached hereto, and to sign all documents necessary to effectuate said purchase on behalf of the Village of Ashville.

**SECTION FOUR:** This Resolution is hereby declared to be an emergency measure and shall take effect and be in force immediately from and after its passage. The reason for the emergency lies in the fact that this Resolution is necessary for the immediate preservation of public peace, health, safety and welfare, including the immediate need to obtain land for a new waste water treatment plant in order to satisfy the requirements of Ohio law and the Ohio Environmental Protection Agency, and that Council believes the same is accomplished by this purchase,

All prior resolutions which conflict with the provisions of this resolution are hereby repealed to the extent that they are in conflict herewith. If any provision of this resolution, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this resolution which can be given effect without the invalid provision or application, and to this end the provisions are severable.

Vote on emergency measure Yeas 5 Nays 0 Excused Absences 1

Passed as an emergency measure Yeas 5 Nays 0 Excused Absences 1

PASSED THIS 3<sup>rd</sup> DAY OF FEBRUARY, 2014

ATTEST:

*Patricia S. Cavinee*

Patricia S. Cavinee, Tax Adm. - Minutes

APPROVED:

*Charles K. Wise*

Charles K. Wise, Mayor

Prepared 1/17/2014

Revised Date:

Review Date

2460281.1 : 06698 00003

DATE: 2-6-14

DATE: 06-Feb-14

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088 170 896



# Real Estate Purchase Contract

Exhibit A

Industrial-Investment-Commercial

It is recommended that all parties be represented by legal counsel

1. PROPERTY DESCRIPTION: The undersigned Buyer offers to purchase from the Seller in accordance with the provisions of this Real Estate Purchase Contract ("Contract"), the following described real estate including, without limitation, appurtenant rights, privileges and easements located in the County of Pickaway, the State of Ohio and known as: **and further described on the attached Exhibit "A". Buyer understands the Property to include parcel numbers**.
2. PRICE AND TERMS: The purchase price of **One Hundred Fifty-Three Thousand, Six Hundred Fifteen Dollars (\$153,615)**, payable in cash at closing.
3. CONTINGENCIES:
  - (a) Property Inspection: (This paragraph 3 (a) not applicable if number of days not inserted) Buyer, at Buyer's expense shall have \_\_\_\_ days after the acceptance hereof to have the Property and all improvements, fixtures and equipment inspected to determine the suitability for Buyer's intended use. Seller shall cooperate in making the Property reasonably available for such inspection(s). Buyer agrees to indemnify and hold Seller harmless from any injury or damage caused by such inspection(s). If Buyer is not, in good faith, satisfied with the condition of the Property as disclosed by such inspection(s), Buyer may terminate this Contract by delivering written notice of such termination to Seller within the time period specified above. Failure of Buyer to so deliver written notice within such time period shall constitute a waiver of Buyer's right to terminate pursuant to this provision.
  - (b) Other Contingencies: **Buyer's obligations under this agreement shall be contingent upon the approval of this contract by Ashville Village Council and the appropriation of funds for the purchase of the property. Buyer's obligations shall also be contingent upon the condition subsequent of Buyer closing upon the purchase of an adjoining ten (10) acre tract being purchased from Leo Hall, Trustee.**
4. POSSESSION: Possession shall be given upon closing.
5. LEASES, RENTALS AND SECURITY DEPOSITS: Seller represents and warrants that there are no leases pursuant to which any person or entity has a current or future right of possession of the Property and that Seller and no one on Seller's behalf, is holding any security deposits made by any such tenants. This warranty and all warranties made by Seller herein shall survive the closing.
6. DAMAGE OR DESTRUCTION OF PROPERTY: Risk of physical loss to the Property and improvements shall be borne by Seller until closing, provided that if any property covered by this Contract shall be substantially damaged or destroyed before this transaction is closed, Buyer may (a) proceed with the transaction and be entitled to all insurance money, if any, payable to Seller under all policies covering the Property, or (b) rescind this Contract and thereby release all parties from liability hereunder by giving written notice to Seller within ten (10) days after Buyer has written notice of such damage or destruction. Failure by Buyer to so notify Seller shall constitute an election to proceed with the transaction. In the event this contract is rescinded pursuant to this paragraph, any deposit or earnest money paid by Buyer shall be promptly returned to Buyer.
7. EVIDENCE OF TITLE: Seller shall furnish and pay for an owner's title insurance commitment and policy [ALTA Form B (1970 REV. 10-17-70 & REV. 10-17-84)] within \_\_\_\_\_ days of acceptance hereof in the amount of One Hundred Fifty Thousand Dollars (\$150,000). In the event that Buyer desires to obtain coverage in an amount in excess of One Hundred Fifty Thousand Dollars (\$150,000), the Buyer shall pay the increased cost thereof. The title evidence shall be certified to within thirty (30) days prior to closing with endorsement not before 8:00 a.m. on the business day prior to the date of closing, all in accordance with the standards of the Columbus Bar Association, and shall show in Seller marketable title in fee simple free and clear of all liens and encumbrances except: (a) those created by or assumed by Buyer; (b) those specifically set forth in this Contract; (c) zoning ordinances; (d) legal highways and (e) covenants, restrictions, conditions and easements of record that do not unreasonably interfere with Buyer's intended use which is a waste water treatment plant with associated and related uses. Buyer shall pay any additional costs incurred in connection with mortgagee title insurance issued for the protection of Buyer's lender. If title to all or part of the Property is unmarketable, as determined by Ohio law with reference to the Ohio State Bar Association's Standards of Title Examination, or is subject to liens, encumbrances, easements, conditions, restrictions or encroachments other than those excepted in this Contract, Seller shall, within thirty (30) days after written notice thereof, remedy or remove any such defect, lien, encumbrance, easement, condition, restriction or encroachment or obtain title insurance without exception thereof. In the event Seller is unable to remedy or insure against the defect within the thirty (30) day period, the Buyer may declare this Contract null and void. In the event this contract is so declared null and void, any deposit or earnest money paid by Buyer shall be promptly returned to Buyer. At closing, Seller shall sign an affidavit with respect to off-record title matters in accordance with the community custom.
8. CONVEYANCE AND CLOSING: At closing, Seller shall pay transfer taxes and deed preparation and shall convey, at closing, marketable title (as described in paragraph 7) to the Property by deed of general warranty (or appropriate fiduciary deed if seller is a fiduciary) in fee simple, with release of dower, if any. The date of closing shall be **within thirty (30) days of the release of all Buyer's contingencies.** The general warranty deed shall convey the property to Buyer or an entity designated by Buyer prior to closing.

9. **TAXES AND ASSESSMENTS:** At closing, Seller shall pay or credit on purchase price all delinquent taxes, including penalty and interest, all assessments that are a lien on the date of this Contract and all agricultural use tax recoupments for years prior to the year of closing. At closing, Seller also shall pay or credit on the purchase price all other unpaid real estate taxes that are a lien for years prior to closing and a portion of such taxes and agricultural use tax recoupments for year of closing, prorated through date of closing and based on a 365-day year and, if undetermined, on most recent available tax rate and valuation, giving effect to applicable exemptions, recently voted millage, change in valuation, etc., whether or not certified. With regard to further assessments, Seller warrants that, as of the date of the acceptance hereof, no improvements or services to the site or area have been installed or furnished that would result in the costs being assessed against the Property, and no written notification has been received by Seller from public authority or owners' association of future improvements that would result in costs being assessed against the Property. Real estate taxes and assessments are subject to retroactive change by governmental authority. The real estate taxes for the Property for current tax year may change as a result of the transfer or as a result of a change in the tax rate. The proration of taxes and assessments set forth on the settlement statement shall be final.
10. **BUYER'S EXAMINATION:** BUYER IS RELYING SOLELY UPON ITS OWN EXAMINATION OF THE PROPERTY AND INSPECTIONS HEREIN REQUIRED, IF ANY, FOR ITS PHYSICAL CONDITION, CHARACTER, AND SUITABILITY FOR BUYER'S INTENDED USE AND ALL OTHER MATTERS RELATING TO THE PROPERTY AND IS NOT RELYING UPON ANY REPRESENTATIONS BY SELLER, EXCEPT FOR THOSE CONTAINED IN THIS CONTRACT. THE PROPERTY SHALL BE CONVEYED IN "AS IS" AND "WHERE IS" CONDITION WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, EXCEPT AS SET FORTH IN THIS CONTRACT.
11. **INDEMNITY:** Seller agrees to defend, indemnify and hold harmless Buyer, and its agents and employees for any cost or liability that may be incurred by or imposed on Buyer for any breach by Seller of any representation or warranty or for any misrepresentation or concealment of fact by Seller in connection with the Property. Seller will also defend indemnify and hold harmless the Buyer for any claims, causes of action, suits or demands by the current tenant (if any) for acts or omissions of the Seller prior to Closing.
12. **BROKERS:** Buyer and Seller acknowledge that there are no brokers or real estate agents representing either of them and that there are no commissions or fees owed to any brokers or real estate agents in relation to this transaction. In the event a claim for a commission or similar fee is made by a broker, agent or similar person or firm, the party through whom such claim is made shall indemnify, defend and hold harmless the other party to this agreement in relation to such claim.
13. **MISCELLANEOUS:** This Contract constitutes the entire agreement and no oral or implied agreement exists. Any amendments to this Contract shall be in writing, signed by Buyer(s) and Seller(s) and copies provided to them. This Contract shall be binding upon the parties, their heirs, administrators, executors, successors and assigns. Time is of the essence of all provisions of this Contract. All provisions of this Contract shall survive the closing. In compliance with fair housing laws, no party shall in any manner discriminate against any Buyer or Buyers because of race, color, religion, sex, familial status, handicap or national origin. Paragraph captions are for identification only and are not a part of this Contract.
14. **EXPIRATION AND ACCEPTANCE:** This offer shall remain open for acceptance until 5:00 pm Columbus, Ohio time on \_\_\_\_\_, 20\_\_\_\_, and a signed copy shall be returned to Buyer upon acceptance.
15. **ADDITIONAL TERMS:** None.

Buyer hereby makes the foregoing offer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BUYER: The Village of Ashville, Ohio

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**BUYER'S ADDRESS FOR NOTICES:**

Village of Ashville  
Attention: Franklin Christman  
200 East Station Street  
Ashville, Ohio 43103

Name of Buyer's Attorney: Patrick M. Pickett, Esq, 2 Miranova Place, Suite 700, Columbus, Ohio 43215 Phone: (614) 221-2121 Fax: (614) 365-9516

Seller agrees to and accepts the foregoing offer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

SELLER: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

SELLER'S ADDRESS FOR NOTICE PURPOSES: \_\_\_\_\_

Name of Seller's Attorney: \_\_\_\_\_



**Real Estate Purchase Contract**

Industrial-Investment-Commercial

It is recommended that all parties be represented by legal counsel

1. **PROPERTY DESCRIPTION:** The undersigned Buyer offers to purchase from the Seller in accordance with the provisions of this Real Estate Purchase Contract ("Contract"), the following described real estate including, without limitation, appurtenant rights, privileges and easements located in the County of Pickaway, the State of Ohio and known as: and further described on the attached Exhibit "A". Buyer understands the Property to include parcel numbers \_\_\_\_\_.  
Seller may reserve unto itself for the benefit of itself and its successors and assigns, a permanent, non-exclusive easement for ingress and egress to seller's adjoining land using the fifty foot wide strip described on Exhibit "B"
2. **PRICE AND TERMS:** The purchase price of One Hundred Sixty-Seven Thousand, Two Hundred Eighty Dollars (\$167,280), payable in cash at closing.
3. **CONTINGENCIES:**
  - (a) **Property Inspection:** (This paragraph 3 (a) not applicable if number of days not inserted) Buyer, at Buyer's expense shall have \_\_\_\_\_ days after the acceptance hereof to have the Property and all improvements, fixtures and equipment inspected to determine the suitability for Buyer's intended use. Seller shall cooperate in making the Property reasonably available for such inspection(s). Buyer agrees to indemnify and hold Seller harmless from any injury or damage caused by such inspection(s). If Buyer is not, in good faith, satisfied with the condition of the Property as disclosed by such inspection(s), Buyer may terminate this Contract by delivering written notice of such termination to Seller within the time period specified above. Failure of Buyer to so deliver written notice within such time period shall constitute a waiver of Buyer's right to terminate pursuant to this provision.
  - (b) **Other Contingencies:** Buyer's obligations under this agreement shall be contingent upon the approval of this contract by Ashville Village Council and the appropriation of funds for the purchase of the property. Buyer's obligations shall also be contingent upon Buyer closing upon the purchase of an adjoining 10.241 acre tract being purchased from The Citizens Bank of Ashville, Ohio.
4. **POSSESSION:** Possession shall be given upon closing.
5. **LEASES, RENTALS AND SECURITY DEPOSITS:** Seller represents and warrants that there are no leases pursuant to which any person or entity has a current or future right of possession of the Property and that Seller and no one on Seller's behalf, is holding any security deposits made by any such tenants. This warranty and all warranties made by Seller herein shall survive the closing.
6. **DAMAGE OR DESTRUCTION OF PROPERTY:** Risk of physical loss to the Property and improvements shall be borne by Seller until closing, provided that if any property covered by this Contract shall be substantially damaged or destroyed before this transaction is closed, Buyer may (a) proceed with the transaction and be entitled to all insurance money, if any, payable to Seller under all policies covering the Property, or (b) rescind this Contract and thereby release all parties from liability hereunder by giving written notice to Seller within ten (10) days after Buyer has written notice of such damage or destruction. Failure by Buyer to so notify Seller shall constitute an election to proceed with the transaction. In the event this contract is rescinded pursuant to this paragraph, any deposit or earnest money paid by Buyer shall be promptly returned to Buyer.
7. **EVIDENCE OF TITLE:** Buyer shall furnish and pay for an owner's title insurance commitment and policy [ALTA Form B (1970 REV. 10-17-70 & REV. 10-17-84)] within \_\_\_\_\_ days of acceptance hereof in the amount of One Hundred Sixty-Three Thousand Five Hundred Dollars (\$163,500). In the event that Buyer desires to obtain coverage in an amount in excess of One Hundred Sixty-Three Thousand Five Hundred Dollars (\$163,500), the Buyer shall pay the increased cost thereof. The title evidence shall be certified to within thirty (30) days prior to closing with endorsement not before 8:00 a.m. on the business day prior to the date of closing, all in accordance with the standards of the Columbus Bar Association, and shall show in Seller marketable title in fee simple free and clear of all liens and encumbrances except: (a) those created by or assumed by Buyer; (b) those specifically set forth in this Contract; (c) zoning ordinances; (d) legal highways and (e) covenants, restrictions, conditions and easements of record that do not unreasonably interfere with Buyer's intended use which is a waste water treatment plant with associated and related uses. Buyer shall pay any additional costs incurred in connection with mortgagee title insurance issued for the protection of Buyer's lender. If title to all or part of the Property is unmarketable, as determined by Ohio law with reference to the Ohio State Bar Association's Standards of Title Examination, or is subject to liens, encumbrances, easements, conditions, restrictions or encroachments other than those excepted in this Contract, Seller shall, within thirty (30) days after written notice thereof, remedy or remove any such defect, lien, encumbrance, easement, condition, restriction or encroachment or obtain title insurance without exception thereof. In the event Seller is unable to remedy or insure against the defect within the thirty (30) day period, the Buyer may declare this Contract null and void. In the event this contract is so declared null and void, any deposit or earnest money paid by Buyer shall be promptly returned to Buyer. At closing, Seller shall sign an affidavit with respect to off-record title matters in accordance with the community custom.
8. **CONVEYANCE AND CLOSING:** At closing, Seller shall pay transfer taxes and deed preparation and shall convey, at closing, marketable title (as described in paragraph 7) to the Property by fiduciary deed in accordance with Revised Code Section 5302.09. The date of closing shall be within thirty (30) days of the release of all Buyer's contingencies. The fiduciary deed shall

convey the property to Buyer or an entity designated by Buyer prior to closing.

9. **TAXES AND ASSESSMENTS:** At closing, Seller shall pay or credit on purchase price all delinquent taxes, including penalty and interest, all assessments that are a lien on the date of this Contract. At closing, Seller also shall pay or credit on the purchase price all other unpaid real estate taxes that are a lien for years prior to closing and a portion of such taxes for the year of closing, prorated through date of closing and based on a 365-day year and, if undetermined, on most recent available tax rate and valuation, giving effect to applicable exemptions, recently voted millage, change in valuation, etc., whether or not certified. With regard to further assessments, Seller warrants that, as of the date of the acceptance hereof, no improvements or services to the site or area have been installed or furnished that would result in the costs being assessed against the Property, and no written notification has been received by Seller from public authority or owners' association of future improvements that would result in costs being assessed against the Property. Real estate taxes and assessments are subject to retroactive change by governmental authority. The real estate taxes for the Property for current tax year may change as a result of the transfer or as a result of a change in the tax rate. The proration of taxes and assessments set forth on the settlement statement shall be final.
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11. **INDEMNITY:** Seller agrees to defend, indemnify and hold harmless Buyer, and its agents and employees for any cost or liability that may be incurred by or imposed on Buyer for any breach by Seller of any representation or warranty or for any misrepresentation or concealment of fact by Seller in connection with the Property. Seller will also defend indemnify and hold harmless the Buyer for any claims, causes of action, suits or demands by the current tenant (if any) for acts or omissions of the Seller prior to Closing.
12. **BROKERS:** Buyer and Seller acknowledge that there are no brokers or real estate agents representing either of them and that there are no commissions or fees owed to any brokers or real estate agents in relation to this transaction. In the event a claim for a commission or similar fee is made by a broker, agent or similar person or firm, the party through whom such claim is made shall indemnify, defend and hold harmless the other party to this agreement in relation to such claim.
13. **MISCELLANEOUS:** This Contract constitutes the entire agreement and no oral or implied agreement exists. Any amendments to this Contract shall be in writing, signed by Buyer(s) and Seller(s) and copies provided to them. This Contract shall be binding upon the parties, their heirs, administrators, executors, successors and assigns. Time is of the essence of all provisions of this Contract. All provisions of this Contract shall survive the closing. In compliance with fair housing laws, no party shall in any manner discriminate against any Buyer or Buyers because of race, color, religion, sex, familial status, handicap or national origin. Paragraph captions are for identification only and are not a part of this Contract.
14. **EXPIRATION AND ACCEPTANCE:** This offer shall remain open for acceptance until 5:00 pm Columbus, Ohio time on \_\_\_\_\_, 20\_\_\_\_, and a signed copy shall be returned to Buyer upon acceptance.
15. **ADDITIONAL TERMS:** None.

Buyer hereby makes the foregoing offer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BUYER: The Village of Ashville, Ohio

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**BUYER'S ADDRESS FOR NOTICES:**

Village of Ashville  
Attention: Franklin Christman  
200 East Station Street  
Ashville, Ohio 43103

Name of Buyer's Attorney: Patrick M. Pickett, Esq, 2 Miranova Place, Suite 700, Columbus, Ohio 43215 Phone: (614) 221-2121 Fax: (614) 365-9516

Seller agrees to and accepts the foregoing offer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

SELLER: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

SELLER'S ADDRESS FOR NOTICE PURPOSES: \_\_\_\_\_

Name of Seller's Attorney: \_\_\_\_\_