

ORDINANCE NO. 196-19

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PURCHASE AND SALE AGREEMENT BETWEEN THE MEDINA COUNTY PARK DISTRICT AND THE CITY OF MEDINA FOR THE PURCHASE OF THREE (3) ACRES OF REAL PROPERTY.

- SEC. 1:** That the Mayor is hereby authorized to execute a Purchase and Sale Agreement between the Medina County Park District and the City of Medina for purchase of three (3) acres of real property and known as being a part of Permanent Parcel No. 028-19C-23-001.
- SEC. 2:** That a copy of the Purchase and Sale Agreement is marked Exhibit A, attached hereto and incorporated herein.
- SEC. 3:** That the funds to cover this purchase, in the amount of not to exceed \$27,500.00, are available in Account No. 143-0748-54411.
- SEC. 4:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 5:** That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: December 9, 2019

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: December 10, 2019

SIGNED: Dennis Hanwell
Mayor

Effective date: January 9, 2020

PURCHASE AND SALE AGREEMENT

ORD 196-19
Exh. A

This Agreement is made between **Medina County Park District**, a political subdivision of the State of Ohio, 6364 Deerview Lane, Medina, Ohio 44256 ("Seller"), and the **City of Medina, Ohio**, an Ohio municipal corporation, 132 North Elmwood Avenue, Medina, Ohio 44256 ("Purchaser"). The effective date of this Agreement is the date last signed by either party hereto.

1. **Subject Property.** Purchaser agrees to buy and the Seller agrees to sell, convey and transfer to the Purchaser all of the Seller's right, title and interest in and to approximately **3 acres** of real property thereon situated in Medina, in Medina County, Ohio, and known as *being a part of Permanent Parcel No. 028-19C-23-001*, together with all easements, fixtures, timber, water and/or mineral rights located thereon and appurtenances thereto (the "Property"). The Medina County Tax Map of the Property is attached hereto as Exhibit "A" and made a part hereof by reference. The agreement is to split the property into two parcels. The Buyer will purchase exactly 3 acres in the northern section of the original parcel. The Seller will retain the remaining acreage of approximately 5.29 acres.
2. **Purchase Price.** The Purchaser hereby agrees to pay to the Seller as and for all its right, title and interest in and to the Property the total sum of **Twenty-seven Thousand Dollars (\$27,000)** (the "Purchase Price."), which equals \$9,000 per acre. The Purchaser shall deposit with the escrow agent all required funds on or before Closing.
3. **Real Estate Taxes and Assessments and Property Value.** Real estate taxes and assessments of Seller's interest shall be prorated as of the day of closing and shall be paid by Seller at closing. The Purchaser is not responsible for back-taxes owed by the Seller.
4. **Condition of the Property/No Warranties.** Purchaser hereby states that it has inspected the Property, is aware of its condition and is hereby accepting the same in its present condition and "as is" without representation or warranty by Seller of any kind whatsoever. Seller shall not be responsible for any statements, representations or warranties of any kind furnished to Purchaser by any other person. No materials, brochures or documents delivered by Seller to Purchaser or any other person shall be deemed a representation, warranty or agreement of Seller with respect to this Agreement. Purchaser shall have the exclusive responsibility to verify any facts or conditions set forth or described in any such materials, brochures or documents. The

Parties shall split the cost of a lot-split boundary survey, including two legal descriptions (one for the 3-acre parcel to be the purchased Property; the second for the approximately 5.29-acre parcel to be retained by the Seller), and any other costs associated with splitting the parcel. Purchaser shall undertake any and all inspections and environmental reviews it deems necessary, prudent and advisable, at its expense. Immediately upon the signing of this purchase agreement, Purchaser shall have the right to enter onto the Property to conduct further inspections and survey activities of the Property.

5. **Delivery of Deed and Evidence of Title.** Seller shall deliver to Purchaser, within thirty (30) days after signing of this Agreement a commitment for an ALTA owner's fee policy of title insurance for the Property (the "Title Commitment"), with such endorsements (the "Title Endorsements") and such deletion of standard exceptions as Purchaser may desire, which will be issued by the hereinafter named Escrow Agent. The Parties shall each pay one-half of the cost of the Title Commitment. To the extent that title endorsements or deletion of standard exceptions desired by Purchaser require more than thirty (30) days' time to issue the Title Commitment, the Parties agree to extend the period for furnishing the Title Commitment a reasonable period of time for such purposes. The Title Commitment shall show in Seller good and marketable title to the Property in fee simple absolute, free and clear of all liens, encumbrances, easements, restrictions and reservations excepting the following (which shall hereinafter be collectively referred to as the "Permitted Exceptions"):

- a. those created or expressly assumed by Purchaser;
- b. zoning, building and other laws, ordinances or regulations;
- c. taxes and assessments which are not to be paid by Seller under this agreement;
- d. any reservations, restrictions, leases, covenants, conditions and easements which appear of record and do not adversely affect marketable title;
- e. any encroachments, easements, discrepancies, conflicts in boundary lines, variations or shortages in area or content, rights of parties in possession, or other facts which an accurate survey would disclose;
- f. all legal highways;

On or before fifteen (15) days after delivery of the Title Commitment, Purchaser shall advise Seller in writing of any exceptions, other than those permitted above, which Purchaser will require Seller to remove on or before closing. In the event Seller is unable to remove any such exception, Purchaser may elect to terminate this Agreement in which case Purchaser shall have no obligation to purchase the Property and Seller's obligations hereunder shall terminate. If Purchaser fails to notify Seller of any objection

in the time period provided, it will have waived any objection and Purchaser shall accept all matters set forth in the title commitment. Purchaser shall take title as follows: City of Medina, Ohio, Tax Mailing Address: 132 North Elmwood Avenue, Medina, Ohio 44256. Seller shall convey marketable title to Purchaser by good and sufficient general warranty deed delivered to the escrow agent prior to closing.

6. **Title Insurance.** Seller shall furnish to the Purchaser, an Owner's Fee Policy of Title Insurance, in an amount equal to the Purchase Price, evidencing good and marketable title in and to the Property, to be valid in the Purchaser and subject only to the exceptions as permitted and set forth in this Agreement. Said Title Insurance Policy shall be issued through **Stewart Title, 4015 Medina Rd., Suite 70, Medina, OH 44256**. The Parties shall each pay one-half of the cost of the Owner's Fee Policy premium.
7. **Seller's Promise Not to Further Encumber or Change.** Seller shall not, without the prior written consent of Purchaser, enter into any leases, contracts, options or agreements whatsoever which would affect the Property or in any way impede Seller's ability to perform hereunder and deliver title as agreed herein. Seller shall not in any way prior to closing change the Property, including but not limited to its trees, vegetation, streams, soil and terrain.
8. **Maintenance of the Property/Risk of Loss.** Seller will maintain the Property, including improvements, lawns, shrubs, and trees, in its present condition pending the closing of this transaction, normal and reasonable wear excepted. Prior to transfer of possession, Risk of loss from fire or other casualty shall be on the part of Seller until close of escrow and transfer of title. If the Property or improvements are damaged or destroyed, in whole or in part, by casualty prior to closing, the contract will continue in full force and effect, and Purchaser will be subrogated to Seller's right of coverage with respect to any insurance carried by Seller. All existing property insurance now in effect will be continued by Seller until closing. All policies will be exhibited immediately to Purchaser, who may secure additional insurance on property if so desired. Any additional insurance will name Seller and Purchaser as co-insureds as their interests appear.
9. **Closing – Escrow Agent and Escrow Instructions.** All funds and documents required to complete this transaction shall be placed in escrow on or before Closing. **Stewart Title, 4015 Medina Rd., Suite 70, Medina, OH 44256**, is hereby designated to act as escrow agent under the terms of this Agreement. A signed copy of this Agreement shall be used as escrow instructions, subject to the escrow agent's usual conditions of acceptance. In the event of any conflict between this Agreement and the standard conditions of acceptance, this Agreement shall govern. Upon receipt of all funds and documents

necessary to effectuate and close this transaction, the escrow agent shall file all documents, issue the fee owner's policy to Purchaser, and disperse the proceeds accordingly. The closing date shall be on or before **March 13, 2020**. The closing date may be extended by mutual agreement of the parties. The date of proration of all taxes, assessments, leases, licenses and other matters regarding payments of fees shall be the closing date.

10. **Expenses of Transfer – Purchaser.** The escrow agent shall charge to Purchaser and the Purchaser shall pay through escrow the following:

- a. One-half the cost of the lot-split boundary survey, including two legal descriptions (one for the 3-acre parcel to be the purchased Property; the second for the approximately 5.29-acre parcel to be retained by the Seller), and any other costs associated with splitting the parcel;
- b. One-half of the escrow fee;
- c. One-half of the owner's fee policy premium and title commitment;
- d. One-half of the title search charges;
- e. One-half of the recording costs of the deed;
- f. One-half of the cost of preparation of the deed conveyance;
- g. One-half of any County Auditor's conveyance fee;

11. **Expenses of transfer – Seller.** The escrow agent shall charge to the Seller from Seller's funds the following:

- a. One-half the cost of the lot-split boundary survey, including two legal descriptions (one for the 3-acre parcel to be the purchased Property; the second for the approximately 5.29-acre parcel to be retained by the Seller), and any other costs associated with splitting the parcel;
- b. One-half of the escrow fee;
- c. One-half of the owner's fee policy premium and title commitment;
- d. One-half of the title search charges;
- e. One-half of the recording costs of the deed;
- f. One-half of the cost of preparation of the deed conveyance;
- g. One-half of any County Auditor's conveyance fee;

- h. The cost of clearing title and recording fees for any document required to clear title.
12. **Brokerage.** There are no real estate brokers involved in this transaction and there are no commissions due and payable to any brokers whatsoever.
13. **Legal Counsel.** Each party shall bear the cost of any legal counsel representing the party.
14. **Possession.** Unless an earlier date is agreed upon between the parties, possession of the Property shall be on the closing date.
15. **Seller's Warranties.** The Seller represents and warrants to the Purchaser that it is a valid existing governmental authority in Medina County, Ohio, and that appropriate board and government actions have been taken by it so to authorize and empower its officers to act hereunder.
16. **Purchaser's Warranties.** The Purchaser represents and warrants to the Seller that it is a valid existing governmental authority in Medina County, Ohio, and that appropriate government actions have been taken by it so to authorize and empower its officers to act hereunder.
17. **Notices.** Any notice required or permitted to be given hereunder by the parties shall be delivered personally or served by certified mail, return receipt requested, to the parties at the addresses set forth below, or to such other address as either party may specify in writing:

If to Purchaser: Mayor Dennis Hanwell
City of Medina
132 North Elmwood Avenue
Medina, OH 44256
(330) 722-9020
dhanwell@medinaoh.org

With a copy to: Law Director
City of Medina
132 North Elmwood Avenue
Medina, OH 44256
(330) 722-9070

If to Seller: Medina County Park District
Attention: Nathan D. Eppink, Director
6364 Deerview Lane
Medina, OH 44256
Phone: (330) 722-9364
neppink@medinaco.org

With a Copy to: Holland & Muirden, Attorneys at Law
1343 Sharon-Copley Road
P.O. Box 345
Sharon Center, OH 44274
Phone: (330) 239-4480
Fax: (330) 239-6224
jjholland@hmlawohio.com

All such notices and other communications shall be deemed to have been sufficiently given for all purposes hereof on the date of delivery, if made by personal delivery, or, if sent by U.S. mail, as of the date of mailing provided the communication is also dispatched by telecopier at the time of mailing; otherwise, it will be deemed to have been delivered upon receipt.

18. **Mechanic's Liens.** Seller represents that no work has been performed on the Property or materials supplied in connection with the improvement thereof which will not have been paid for in full prior to the Closing Date. Seller shall immediately discharge any mechanic's or materialmen's liens filed against the Subject Property whether prior to or after the Closing Date arising out of work performed or materials supplied or claimed to have been performed or supplied prior to the Closing Date. Notwithstanding the foregoing, if any such lien or claim of lien is not discharged of record or bonded within thirty (30) days after Seller's receipt of notice thereof, then Purchaser shall have the right to pay the full amount of any such lien or claim of lien to the lien claimant or lien claimants and receive full reimbursement from Seller. This provision shall survive the closing of this transaction and shall not be merged with the deed of conveyance.
19. **Multiple Counterparts.** This Agreement may be executed in multiple counterparts each of which shall be deemed an original.
20. **Section Headings.** All section headings and other titles and captions herein are for convenience only, do not form a substantive part of this agreement, and shall not restrict or enlarge any substantive provisions of this agreement.
21. **Further Assurances.** It is mutually agreed by and between the Seller and Purchaser that all representations and warranties contained in this Agreement shall survive the closing and the recording of the documents.

22. **General language.** Whenever the context so requires, the use of words herein in the singular shall be construed to include the plural, and words in the plural, the singular; and words whether in the masculine, feminine or neuter gender shall be construed to include all of said genders.
23. **Governing Law.** This Agreement shall be governed by the laws of the State of Ohio, and is entered into at Medina County, Ohio.
24. **Assignment.** This Agreement may not be assigned by either party without express written authority of all parties hereto.
25. **Confidentiality.** This Agreement and the terms contained herein are strictly confidential and shall not be disclosed and/or disseminated until fully executed.
26. **Successor in Interest.** This Agreement shall be binding upon the respective parties', successors, administrators and assigns.

IN WITNESS WHEREOF, the parties hereto have set their hands to this Agreement on the dates following their signatures.

PURCHASER:
City of Medina, Ohio

By: Dennis Hanwell
Dennis Hanwell, Mayor

Date: January 10, 2020

SELLER:
Medina County Park District

By: Nathan Eppink
Nathan Eppink, Director

Date: 01/10/2020

EXHIBIT A

ORD 196-19



Parcel Number: 028-19C-23-001
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