

RESOLUTION NO. 24-18
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER John Falcher ON THE 19th
DAY OF MARCH, 2018.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO TAKE ALL STEPS AND EXECUTE ALL DOCUMENTS NECESSARY IN ORDER TO AFFECT THE PURCHASE OF REAL PROPERTY AGREEMENT WITH MDGK2 PROPERTIES, LLC FOR PROPERTY LOCATED AT 6950 LOOP ROAD IN MONTGOMERY COUNTY.

WHEREAS, Council has determined that it would be in the best interest of its citizens to purchase property located in the City of Centerville from MDGK2 Properties, LLC, an Ohio limited liability company, ("MDGK2") for the purpose of road and signalization improvements along Alexandersville & Bellbrook Road aka State Highway 725 (the "Property"); and

WHEREAS, the City initiated negotiations with MDGK2 for the purchase of the required Property; and

WHEREAS, MDGK2 has agreed to accept the City's offer of compensation for the Property; and

WHEREAS, the City of Centerville has negotiated the purchase of this Property from MDGK2 upon terms acceptable to the City; and

WHEREAS, the City Manager in prior consultation with the Council at an open meeting work session called pursuant to §121.22, Ohio Revised Code, discussed the purchase of the property and was instructed by the Council to execute a contract for the purchase of property for the amount of \$1,100.00; and

WHEREAS, Council has the power to enter into such Real Property Purchase Agreement by virtue of its Charter and the provisions of Article VIII, Section 16 and Article XVIII, Section 3 of the Ohio Constitution;

NOW THEREFORE, BE IT RESOLVED:

Section 1: That the City Manager is hereby authorized to execute a contract with MDGK2 for the purchase of property for \$1,100.00 in a form substantially similar to the purchase Agreement marked Exhibit "A" and incorporated herein.

Section 2: That the City Manager is hereby authorized and directed to do any and everything necessary to carry out the terms of said Agreement.


Section 3: This Resolution shall take effect at the earliest date allowed by law.

PASSED THIS 19th day of March, 2018.



Mayor of the City of Centerville, Ohio

ATTEST:



Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 24-18, passed by the Council of the City of Centerville, Ohio on the 19th day of March, 2018.



Clerk of the Council

Approved as to form, consistency
with the Charter and Constitutional Provisions.

Department of Law
Scott A. Liberman, Municipal Attorney
Municipal Attorney

OFFER TO PURCHASE REAL ESTATE

Centerville, Ohio
March __, 2018

1. **OFFER.** The undersigned Purchaser offers to buy, on the terms and conditions set forth below, the real property (the "Property") located in the City of Centerville, County of Montgomery and State of Ohio and more particularly described as set forth in Exhibit "A" attached hereto and incorporated herein.

2. **INCLUDED IN THE SALE.** The Property shall include the land, all appurtenant rights, privileges and easements.

3. **PRICE.** The Purchaser agrees to pay for the Property the sum of ONE THOUSAND ONE HUNDRED AND no/DOLLARS (\$1,100.00) payable in full at closing.

4. **DEED.** At Purchaser's expense, Seller shall furnish a transferable and recordable Limited Warranty Deed conveying to Purchaser, or nominee, a marketable title to the Property (as determined with reference to the Ohio State Bar Association Standard of Title Examination) with dower rights, if any, released, free and clear of liens, rights to take liens, and encumbrances whatsoever except (a) legal highways; (b) all installments of taxes and assessments becoming due and payable after closing; (c) zoning and other laws; and (d) those noted of public record. Notwithstanding the foregoing, Purchaser shall be responsible for the costs and expenses of all survey/legal/engineering work, including legal description for the Property, and a survey and transferable legal description for the remaining property owned by Seller ("Remainder Parcel") to which the Property is currently attached. Seller's obligation to transfer the Property to Purchaser shall be contingent upon the County's acceptance of the legal description for the Remainder Parcel for transfer.

5. **TITLE EXAMINATION.** The securing of and costs for any title examination shall be Purchaser's sole obligation.

6. **GOVERNMENT NOTICES.** By acceptance of this Offer, Seller warrants that Seller has not received any notifications from any applicable Building, Safety or Health Department, or any other governmental or quasi-governmental authority or official requiring any work to be done on the Property. Seller warrants and agrees that Seller will promptly furnish Purchaser copies of any and all such notices received by Seller prior to the Closing. Upon learning of any work required by any such authority or official to the Property, Purchaser shall have ten (10) days to advise the Seller of any such work that is objectionable to Purchaser, and unless Seller performs such work prior to the Closing, Purchaser may elect to terminate this Agreement or to complete the purchase of the Property.

7. **DELIVERY OF THE PROPERTY.** Seller shall deliver vacant possession of the Property to Purchaser at closing and the Property shall be free and clear of all debris, trash and foreign material.

8. HAZARDOUS SUBSTANCES. In order to induce Purchaser to enter into this Agreement and to Purchase the Property, Seller warrants to Purchaser that Seller has no actual notice or knowledge of either (1) the existence of "Hazardous Materials" (as defined hereinafter) on or within the ground or groundwater of the Property, in contravention of any applicable laws; or (2) that Seller has used, stored, spilled, released or disposed of Hazardous Materials on or within the Property in contravention of any applicable laws. As used herein, the term "Hazardous Materials" means any "hazardous substances" or "hazardous waste," as defined in or with reference in the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. and/or the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., as amended; or any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials, or substances within the meaning of any other applicable federal, state or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders) relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, all as amended.

9. TAXES AND OTHER EXPENSES. There shall be no conveyance fee since Purchaser is a municipality. There will be no tax pro ration at the closing. Purchaser and Seller agree to cooperate in the tax installment coming due and payable in July 2018. Purchaser shall reimburse Seller for its share of the tax bill based on an apportionment prepared by the Montgomery County officials. Also, in the event that the parcel has not been split for tax purposes in 2018, Purchaser shall continue to pay to Seller its share of the real estate tax bill.

10. SELLER'S REPRESENTATIONS. In addition to the representations set forth above, Seller further represents to the best of its knowledge, that those signing this Contract constitute all of the owners of the Property, that no work has been performed or improvements constructed that may result in future assessments; that Seller has no actual knowledge that underground storage tanks are currently located on the Property nor have been previously removed from the Property nor that the Property consists of wetlands nor has it filled in any wetlands on the Property. All representations contained in this Contract shall survive the Closing for a period of one (1) year.

11. CLOSING. The parties shall use their best efforts to complete the closing for the Property, including delivery of the Deed and payment of the Purchase Price, on or before April 16, 2018, at a location in Montgomery County, Ohio, that is mutually acceptable to both parties. Closing costs shall be borne solely by the Purchaser.

12. GENERAL PROVISIONS. Upon acceptance, this Offer shall become a complete agreement binding upon and inuring to the benefit of Purchaser and Seller and their respective heirs, personal representatives, successors, and assigns, and shall be deemed to contain all of the terms and conditions agreed upon, there being no oral conditions, representations, warranties or agreements. Any subsequent conditions, representations, warranties or agreements shall not be valid and binding upon the parties unless in writing signed by both parties. Time is of the essence of all provisions of this Contract.

13. BROKER'S COMMISSIONS. There is no real estate commission due to any real estate broker.

14. PURCHASER'S REPRESENTATIONS. Purchaser warrants and represents that its purchase of the Property shall not cause Seller to relocate or disturb the land and building improvements, including without limitation landscaping, irrigation, signage and vegetation, that are currently situated on the Remainder Parcel.

City of Centerville, Ohio, an Ohio municipal corporation

By: _____
Wayne S. Davis, City Manager

PURCHASER

Approved as to form:

Scott A. Liberman, Municipal Attorney

Make Deed To: City of Centerville, Ohio

ACCEPTANCE

Date: _____, 2018

The undersigned Seller accepts the foregoing Offer.

MDGK2 PROPERTIES, LLC, an Ohio limited liability company

By: _____
Its: _____

SELLER

RIGHT-OF-WAY PARCEL I
Legal Description of a 0.003 Acres Highway Easement

Situate in the City of Centerville, County of Montgomery, State of Ohio and known as being part of Sections 20 and 26, Township 2, Range 6 M.R.S, City of Centerville, Montgomery County Ohio and being an easement across part of a parcel of land conveyed to MDGK2 Properties, LLC by deed recorded in I.R. Deed # 16-062861 of the Montgomery County Deed Records; said easement being more particularly described as follows:

Beginning at a road centerline monument found on southwest corner of Section 20, also being the southeast corner of Section 26; Thence along the south line of said Section 20, said line also being the centerline of Alexanderville & Bellbrook Road, also known as State Highway 725, S 86° 55' 58" E for a distance of 13.26 feet to a point;

Thence departing said section line, N 03° 04' 02" W for a distance of 56.58 feet to an iron pin set on the existing north right-of-way line of Alexanderville & Bellbrook Road, said iron pin also being at the true place of beginning for the herein described easement;

Thence from said true place of beginning along the existing right-of-way of Alexanderville & Bellbrook Road and the east right-of-way line of Loop Road for the following three (3) courses;

Thence along a curve to the right, said curve having a radius of 25.00 feet, an arc distance of 25.24 feet, I = 57° 50' 39", chord bears N 24° 37' 24" W, chord length 24.18 feet to a point;

Thence N 85° 42' 28" W for a distance of 4.59 feet to a point;

Thence N 03° 53' 20" E for a distance of 27.11 feet to a point;

Thence departing the existing right-of-way of Loop Road along a new easement line, along a curve to the left, said curve having a radius of 135.50 feet, an arc distance of 51.31 feet, I = 21° 41' 51", chord bears S 14° 32' 58" E, chord length 51.01 feet to the true place of beginning, containing 0.003 acres, more or less, subject however to all highways, easements, and restrictions of record.

The above legal description is the result of a field survey, September 2017, by Michael A. Novean, Professional Land Surveyor No. 8101. All iron pins set are 5/8" x 30" rebar capped "Burkhardt Engineering".

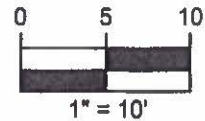
Basis of Bearing: South line of Section 20, Township 2, Range 6, M.R.S. taken from State Plane Coordinate System, NAD83 (2011) Adjustment, Ohio South Zone, O.D.O.T. VRS/CORS (bearing S 86° 55' 58" E)

Prior Deed Reference: I.R. Deed # 16-062861

Michael A. Novean, PLS No. 8101

Burkhardt Engineering Company 937-388-0060





MDGK2 PROPERTIES LLC.
 I.R. DEEDA 16-062861
 0.927 ACRES

AREA OF PROPOSED
 RIGHT-OF-WAY
 ACQUISITION
 0.003 ACRES

R=135.50'
 A=51.31'
 $\Delta=21^{\circ}41'51''$
 CHB=S14 $^{\circ}$ 32'58"E
 CHL=51.01'

N 85 $^{\circ}$ 42'28" W
 4.59'

R=25.00'
 A=25.24'
 $\Delta=57^{\circ}50'39''$
 CHB=N24 $^{\circ}$ 37'24"W
 CHL=24.18'

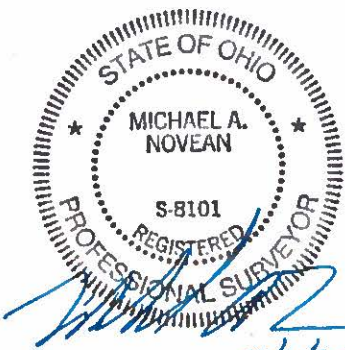
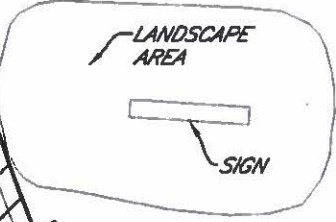
PROP. R/W
 T.P.O.B.

N 03 $^{\circ}$ 04'02" W
 56.58'

S 86 $^{\circ}$ 55'58" E
 13.26'

P.O.B.
 CENTERLINE
 MONUMENT FOUND
 (1" ROD)

ALEX-BELL ROAD



EXIST. R/W

ASPHALT
 WALKWAY

UG-FIBER OPTIC

FO

LEGEND

- SCRIBE SET
- 5/8" IRON PIN SET

SCALE: 1" = 10'
 DATE: 2017.12.07
 BY: RGK

R/W EXHIBIT
 MDGK2 PROPERTIES LLC.
 SECTION 20 & 26, TOWN 2, RANGE 6.E.
 CITY OF CENTERVILLE, MONTGOMERY COUNTY, OHIO

BURKHARDT
 ENGINEERS & SURVEYORS

22 Ohio County Road | Centerville, Ohio 45327 | Phone 513-884-0800 | 800-648-0722
 CIVIL ENGINEERING | LAND SURVEYING | NATIONAL RETAIL SITE DEVELOPMENT