

RESOLUTION NO. 20-08
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Doug Cline ON THE 16th
DAY OF June, 2008.

RESOLUTION RATIFYING THE ACTION OF THE CITY MANAGER IN EXECUTING A PURCHASE CONTRACT WITH HEB INVESTMENTS, LLC FOR THE PURCHASE OF THREE (3) TRACTS OF PROPERTY LOCATED AT THE CORNER OF FAR HILLS AVENUE AND ALEX BELL ROAD AND RATIFYING THE ACTIONS OF THE CITY MANAGER TO TAKE ALL STEPS NECESSARY TO EXECUTE DOCUMENTS TO EFFECT THE PURCHASE OF SAID REAL PROPERTIES.

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 HEB Investments, LLC for the purpose of a potential park or open space along Far Hills Avenue and Alex Bell Road; and

WHEREAS, the City of Centerville has negotiated for the purchase of the real property from HEB Investments, LLC upon terms acceptable to the City; and

WHEREAS, the City Manager, in prior consultation with the City Council at open meeting work sessions called pursuant to Section 121.22 of the Ohio Revised Code, discussed the purchase of the property and was instructed by Council to execute a contract for the purchase of the three (3) properties for a total amount of \$210,000.00; 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 previous action of the City Manager in executing a purchase contract with HEB Investments, LLC for the purchase of three (3) tracts of property for a total price of Two Hundred Ten Thousand and no/100 Dollars (\$210,000.00) is hereby ratified. Said Purchase Agreement is marked as Exhibit "A" and incorporated herein.

Section 2: That the previous action of the City Manager in exercising all necessary documents to facilitate a closing for said properties be hereby ratified.

Section 3: That the City Manager is hereby authorized and directed to do any and every thing further necessary to carry out the terms of the Purchase Agreement and/or the closing on said Properties.

PASSED THIS 16th day of June, 2008.

C. Mark Kengrad
Mayor of the City of
Centerville, Ohio

ATTEST:

Debra A. James
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. 20-08, passed by the Council of the City of Centerville, Ohio on the 16th day of June, 2008.

Debra A. James
Clerk of the Council

Approved as to form, consistency
with existing ordinances, the
charter & constitutional provisions
Department of Law
Scott A. Liberman
Municipal Attorney



CONTRACT TO PURCHASE REAL ESTATE
(Form approved by the Dayton Area Board of REALTORS®. This is a legally binding contract.
If the provisions are not understood, legal advice should be obtained.)



- 1. Dayton, Ohio 2/14/2008 (Date)
2. OFFER. The undersigned Purchaser offers to buy through Coldwell Banker Heritage Realtors Broker(s), on
3. the terms and conditions set forth below, the real property (the Property) located in City of Centerville
(City or Township)
4. County of Montgomery State of Ohio, described as follows: 7012 Far Hills Avenue, 16 East Alex Bell Road,
5. Vacant Lot 3376 HC Huber Section 25
(Street and Number, Zip Code, Legal Description)
6. The Property shall include the land, all appurtenant rights, privileges and easements, and all buildings, improvements and fixtures, including, but
7. not limited to, such of the following as are now on the Property: all electrical, heating, plumbing and bathroom fixtures; all window and door shades,
8. blinds, awnings and screens; storm windows and doors; television antennae; curtain rods; garage door opener and control(s); all landscaping, and
9. This contract is subject to seller obtaining title prior to closing date. Seller to hold 2,000 earnest money
10.
11. Any personal property items listed above are owned by Seller and will be free and clear of liens and security interests at closing
12. 2. PRICE. Purchaser agrees to pay for the Property the sum of \$ 200,000 210,000 9x200
13. payable in cash at closing. Purchaser's obligations under this Contract are conditioned upon Purchaser's ability to obtain prior to closing a
14. mortgage loan of \$ None - Cash (Conventional) (FHA) (VA) at rates and terms generally prevailing in the Dayton,
15. Ohio area.
16. Mortgage discount points/origination fees/prepaid items permitted by lender/Purchaser's closing costs not to exceed N/A are
17. to be paid by Seller. Seller shall have the option to cancel this Contract if Purchaser fails to either (a) make a complete mortgage loan application,
18. including ordering an appraisal, within N/A days after the date of acceptance of this offer, or (b) obtain mortgage loan approval within N/A days
19. after the date of acceptance of this offer.
20. 3. DEED. Seller shall furnish a transferable and recordable general warranty deed conveying to Purchaser, or nominee, a marketable title to the
21. Property (as determined with reference to the Ohio State Bar Association Standards of Title Examination) with dower rights, if any, released, free
22. and clear of all liens, rights to take liens, and encumbrances whatsoever, except (a) legal highways, (b) any mortgage assumed by Purchaser, (c)
23. all installments of taxes and assessments becoming due and payable after closing, (d) rights of tenants in possession, (e) zoning and other laws
24. and (f) easements and restrictions of record which would not prevent Purchaser from using the Property for the following purpose:
25. Investment If title to all or part
26. of the Property is unmarketable or is subject to matters not excepted as provided above, Seller at Seller's sole cost shall cure any title defects
27. and/or remove such matters within 10 days after receipt of written notice from Purchaser, and if necessary the closing date may be extended to
28. permit Seller the full 10 days to clear title. TITLE INSURANCE. Purchasers are encouraged to inquire about the benefits of title insurance from the
29. closing agent or other title insurance provider. A lender's policy of title insurance does not provide protection to the purchaser. It is recommended
30. that purchasers obtain an owner's policy of title insurance to insure their own interests.
31. 4. TAXES. At closing, Seller shall pay or credit on the purchase price (a) all real estate taxes and assessments, including penalties and interest,
32. which became due and payable prior to the closing, (b) a pro rata share, calculated as of the closing date in the manner set forth below, of the
33. taxes and assessments becoming due and payable after the closing, and (c) the amount of any agricultural tax savings accrued as of the closing
34. date which would be subject to recoupment if the Property were converted to a non-agricultural use (whether or not such conversion actually
35. occurs), unless Purchaser has indicated in paragraph 3 that Purchaser is acquiring the Property for agricultural purposes. If the Property is located
36. in Montgomery County, the tax proration shall be made in accordance with the Montgomery County "short proration" method, in which Seller's
37. share is based upon the number of days from the date of the immediately preceding semiannual installment to the date of closing. If the Property is
38. located outside of Montgomery County, the tax proration shall be made in accordance with (check one): X the Montgomery County "short
39. proration" method or the "long proration" method, in which Seller's share is based upon the taxes and assessments which are a lien for the
40. year of the closing. (If neither method is checked, the short proration shall apply.) If the short proration method is used, any special assessments
41. which are payable in a single annual installment shall nevertheless be prorated on the long proration method. All proration shall be based upon the
42. most recent available tax rates, assessments and valuations.
43. 5. SELLER'S REPRESENTATIONS. Seller represents that those signing this Contract constitute all of the owners of the title to the Property,
44. together with their respective spouses. Seller further represents that with respect to the Property (a) no orders of any public authority are pending,
45. (b) No work has been performed or improvements constructed that may result in future assessments, (c) no notices have been received from any
46. public agency with respect to condemnation or appropriation, change in zoning, proposed future assessments, correction of conditions, or other
47. similar matters, and (d) to the best of Seller's knowledge, no toxic, explosive or other hazardous substances having been stored, disposed of,
48. concealed within or released on or from the Property and no other adverse environmental conditions affect the Property. These representations
49. shall survive the closing.
50. 6. POSSESSION. Rentals, interest on any assumed mortgages, water and other utility bills, and any current operating expenses shall be prorated
51. as of the date of closing. If the Property is owner-occupied, possession is to be given At 0 days after closing at At closing A.M./P.M. and
52. utilities shall not be prorated as above but paid for by Seller until delivery of possession. Seller shall be responsible to Purchaser for any damages
53. caused by Seller's failure to deliver possession on the stated date.
54. 7. DAMAGE TO BUILDINGS. If any buildings or other improvements are substantially damaged or destroyed prior to the closing, Purchaser shall
55. have the option (a) to proceed with the closing and receive the proceeds of any insurance payable in connection therewith, or (b) to terminate this
56. Contract. Seller shall keep the Property adequately insured against fire and extended coverage perils prior to closing. Seller agrees to maintain the
57. Property in its present condition until delivery of possession, subject to ordinary wear and tear and the provisions of this paragraph. Purchaser shall
58. have the right to conduct a walk-through inspection to verify the condition of the property prior to the closing.

2-14-08

DAYTON AREA BOARD OF REALTORS®
CONTRACT TO PURCHASE REAL ESTATE

Property 7012 Far Hills Avenue; 16 East Alex Bell Road, Vacant Lot 3376 HC Huber Section 25

69. 8. ACCEPTANCE; CLOSING. This offer shall remain open for acceptance until 2/18 2008 (Date), at 11:59 p.m. The closing
69. for delivery of the deed and payment of the balance of the purchase price shall be held on or before 4/15/08 7/31/08 2008 (Date), at a
61. time and place mutually agreed upon by Seller and Purchaser. In the event of a failure of both parties to agree, the closing shall be held on the last
62. day designated in this paragraph and the Selling Broker shall designate the time and place of closing.

63. 9. EARNEST MONEY; DEFAULT. Upon presentation of this offer, Purchaser has delivered to seller
64. Broker, the sum of \$ 2,000.00 as earnest money, to be (1) deposited in the Broker's trust account promptly after acceptance of this
65. offer or (2) returned to Purchaser upon request if this offer is not accepted. The earnest money shall be paid to Purchaser or applied on the
66. purchase price at closing. If the closing does not occur because of Seller's default or because any condition of this Contract is not satisfied or
67. waived, Purchaser shall be entitled to the earnest money. The parties acknowledge, however, that the Broker will not make a determination as to
68. which party is entitled to the earnest money. Instead, the Broker shall release the earnest money from the trust account only (a) in accordance with
69. the joint written instructions of Seller and Purchaser, or (b) in accordance with the following procedure: if the closing does not occur for any reason
70. (including the default of either party), the Broker holding the earnest money may notify Seller in writing that the earnest money will be returned to
71. Purchaser unless Seller makes a written demand for the earnest money within 20 days after the date of the Broker's notice. If the Broker does not
72. receive a written demand from the Seller within the 20-day period, the Broker shall return the earnest money to Purchaser. If a written demand from
73. Seller is received by the Broker within the 20-day period, the Broker shall retain the earnest money until (i) Seller and Purchaser have settled the
74. dispute, (ii) disposition has been ordered by a final court order, or (iii) the Broker deposits the earnest money with the court pursuant to applicable
75. court procedures. Payment or refund of the earnest money shall not prejudice the rights of the Broker(s) or the non-defaulting party in an action for
76. damages or specific performance against the defaulting party.

77. 10. GENERAL PROVISIONS. Upon acceptance, this offer shall become a complete agreement binding upon and inuring to the benefit of
78. Purchaser and Seller and their respective heirs, personal representatives, successors, and assigns, and shall be deemed to contain all the terms
79. and conditions agreed upon, there being no oral conditions, representations, warranties or agreements. Any subsequent conditions,
80. representations, warranties or agreements shall not be valid and binding upon the parties unless in writing signed by both parties. Purchaser has
81. examined the Property and, except as otherwise provided in this Contract, is purchasing it "as is" in its present condition, relying upon such
82. examination as to the condition, character, size, utility and zoning of the Property. Time is of the essence of all provisions of this Contract. Any word
83. used in this Contract shall be construed to mean either singular or plural as indicated by the number of signatures below.

84. 11. INSPECTIONS AND OTHER ADDENDA. The following Addenda and attachments are attached to and shall be considered an integral part of
85. this Contract:

86. Inspection Addendum Land Contract Addendum Other (Describe) No Inspections

87. WITNESS: Kenneth Parsons Purchaser CITY OF CENTREVILLE
88. MAKE DEED TO (Print): _____ Purchaser Greg & Dawn CITY 448
89. _____ Address 100 WEST SPRING VALLEY ROAD
90. _____ ACCEPTANCE CENTREVILLE OHIO 45458 Date: 2-14-08
91. The undersigned Seller () accepts the foregoing offer: or (_____) counteroffers according to the initialed changes set forth above or in
92. the attached addenda, which counteroffer shall remain open for acceptance until _____ (Date), at 11:59 P.M.

83. WITNESS Kenneth Parsons Seller _____
94. Not accepted at this time. Thank you for your offer. Print _____
95. Seller _____ Seller _____
96. Seller _____ Print _____

97. DEPOSIT RECEIPT Date: 4/14/08
98. Receipt is acknowledged of \$ 2,000.00 earnest money, to be deposited in the undersigned Broker's trust account upon
99. acceptance of this offer and to be applied as provided in paragraph 9 above.
100. ROD WELBANKER HERITAGE By Kenneth Parsons REALTOR®
(Firm Name) (Agent Signature)
Phone 937-612-



AGENCY DISCLOSURE STATEMENT



The real estate agent who is providing you with this form is required to do so by Ohio law. You will not be bound to pay the agent or the agent's brokerage by merely signing this form. Instead, the purpose of this form is to confirm that you have been advised of the role of the agent(s) in the transaction proposed below. (For purposes of this form, the term "seller" includes a landlord and the term "buyer" includes a tenant.)

Property Address: 7012 FAR HILLS AVE, 16 EAST ALEX BELL ROAD, VINCENNES LOT 3376 HC
Buyer(s): CITY OF CENTERVILLE NUMBER 500 25
Seller(s): HEB INVESTMENTS

I. TRANSACTION INVOLVING TWO AGENTS IN TWO DIFFERENT BROKERAGES

The buyer will be represented by _____, and _____
AGENT(S) BROKERAGE
The seller will be represented by _____, and _____
AGENT(S) BROKERAGE

II. TRANSACTION INVOLVING TWO AGENTS IN THE SAME BROKERAGE

If two agents in the real estate brokerage _____ represent both the buyer and the seller, check the following relationship that will apply:

- Agent(s) _____ work(s) for the buyer and Agent(s) _____ work(s) for the seller. Unless personally involved in the transaction, the broker and managers will be "dual agents", which is further explained on the back of this form. As dual agents they will maintain a neutral position in the transaction and they will protect all parties' confidential information
- Every agent in the brokerage represents every "client" of the brokerage. Therefore, agents _____ and _____ will be working for both the buyer and seller as "dual agents". Dual agency is explained on the back of this form. As dual agents they will maintain a neutral position in the transaction and they will protect all parties' confidential information. Unless indicated below, neither the agent(s) nor the brokerage acting as a dual agent in this transaction has a personal, family or business relationship with either the buyer or seller. *If such a relationship does exist, explain:* _____

III. TRANSACTION INVOLVING ONLY ONE REAL ESTATE AGENT

Agent(s) KEN PARRISH and real estate brokerage COLDWELL BANKER HERITAGE will
 be "dual agents" representing both parties in this transaction in a neutral capacity. Dual agency is further explained on the back of this form. As dual agents they will maintain a neutral position in the transaction and they will protect all parties' confidential information. Unless indicated below, neither the agent(s) nor the brokerage acting as a dual agent in this transaction has a personal, family or business relationship with either the buyer or seller. *If such a relationship does exist, explain:* _____
 represent only the (check one) seller or buyer in this transaction as a client. The other party is not represented and agrees to represent his/her own best interest. Any information provided the agent may be disclosed to the agent's client.

CONSENT

I (we) consent to the above relationships as we enter into this real estate transaction. If there is a dual agency in this transaction, I (we) acknowledge reading the information regarding dual agency explained on the back of this form.

<u>CITY OF CENTERVILLE</u> BUYER/TENANT	<u>2-14-05</u> DATE	<u>[Signature]</u> SELLER/LANDLORD	<u> </u> DATE
<u>[Signature]</u> BUYER/TENANT	<u> </u> DATE	<u> </u> SELLER/LANDLORD	<u> </u> DATE