

RESOLUTION NO. 30-43
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER James Singer ON THE
21st DAY OF June, 1993.

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THOMAS A. TOPP AND THERESA M. TOPP FOR THE PURCHASE OF REAL PROPERTY FOR ROAD RIGHT OF WAY PURPOSES AND AUTHORIZING THE PAYMENT THEREFORE.

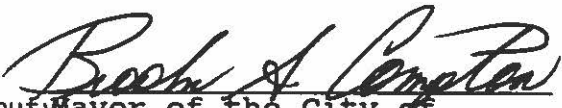
THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

SECTION 1. That the City Manager is hereby authorized and directed to enter into a contract for the purchase of real property for road right of way purposes with Thomas A. Topp and Theresa M. Topp, a copy of said contract is attached hereto as Exhibit "A" and incorporated herein.

SECTION 2. That the amount of money specified in the Contract is hereby authorized to be expended by the City of Centerville for the purpose of the road right of way described in Exhibit "A".

SECTION 3. As a resolution, this measure shall become effective immediately upon passage.

PASSED this 21st day of June,
1993.


Deputy Mayor of the City of
Centerville, Ohio

ATTEST:


Clerk of the Council of the
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true and correct copy of Resolution Number 30-93, passed by the Council of the City of Centerville, Ohio, on the 21st day of June, 1993.

Maureen M. Saugli
Clerk of Council

Approved as to form, consistency
with the Charter and Constitutional Provisions.
Department of Law
Robert N. Farquhar
Municipal Attorney

County MONTGOMERY District _____

Route WILMINGTON Section _____

Parcel No. 21 WD

CITY OF CENTERVILLE
STATE OF OHIO
DEPARTMENT OF TRANSPORTATION
REAL ESTATE ADMINISTRATION

**CONTRACT OF SALE AND PURCHASE
VACANT LAND/IMPROVEMENTS FOR WILMINGTON PIKE
(LPA)**

This Agreement, entered into on the below date by and between THOMAS E. TOPP AND THERESA M. TOPP, Husband and wife

hereinafter (if more than one, collectively) called the OWNER (and, if applicable, the undersigned spouse(s) of the seller(s), which hereby agree(s) to relinquish and release to the purchaser herein all right, interest and expectancy of dower in the hereinafter described real property); and the STATE OF OHIO, Department of Transportation, hereinafter called the PURCHASER.

WITNESSETH: In consideration of the mutual promises, agreements and covenants herein contained:

1. Purchaser promises and agrees to pay to said Owner the total sum of SEVEN THOUSAND 00/100-----

Dollars (\$ 7,000.00) which total sum to be paid the Owner pursuant to this contract shall constitute the entire compensation for:

- (A) The real property to be conveyed.
- (B) For damages to any residual lands of the owner;
- (C) For owner's covenants herein;
- (D) ---
- (E) And for any supplemental instruments necessary for transfer of title.

It is understood and agreed that the Owner is responsible for all delinquent taxes and assessments, including penalties and interest; and all other real estate taxes and assessments which are a lien on the closing date. The current calendar year's taxes are to be prorated on an estimated basis to the date of acquisition of title or date of possession, whichever is the earlier date. Owner is also responsible for all future installments of special assessments levied and assessed against said real property, whether these special assessments have or have not been certified to the county auditor for collection provided those installments are a lien on said real property at the date of transfer. The Purchaser may hold in escrow a sufficient amount of the purchase money to satisfy the above items. Any balance remaining after taxes, assessments, etc. are discharged, shall be refunded to the Owner and any deficiency shall be the responsibility of the Owner.

- 2. Owner agrees to sell and convey, upon the fulfillment of all the obligations and terms of this AGREEMENT, by a good and sufficient deed of general warranty of title, with full release of dower, to said PURCHASER, its successors and assigns, the real property in fee simple, or if otherwise specified, the rights or estate in the real property, as described in Exhibit A, attached hereto which is incorporated herein and made a part hereof as if fully rewritten herein, together with all the appurtenances and hereditaments thereunto belonging and improvements now located thereon and all fixtures of every nature now attached or used with said land and improvements.
- 3. Owner further agrees to release to said Purchaser, its successors and assigns, any and all abutters rights, including access rights, appurtenant to any remaining lands of the Owner of which the above described real property now forms a part, in, over, from and to the real property described in Exhibit A hereof. (This paragraph applies to limited access parcels only.)
- 4. Owner further agrees to execute supplemental instruments necessary for the construction and maintenance of said highway project, over, across, and upon the real property described in Exhibit A.
- 5. Owner further agrees to convey said real property as herein set forth, with release of dower, warranting the same free and clear from all liens and encumbrances whatsoever, except zoning restrictions and public utility easements of record.
- 6. Owner further agrees to assist wherever possible to procure, record and deliver to the Purchaser releases and cancellations of all interest in such title, including, but not limited to tenants, lessees or others now in possession, or in any manner occupying said premises, and all assessment claims against said real property.
- 7. Owner also agrees that he will not change the existing character of the land. In the event of any damage, change, alteration or destruction occurs to said real property thereon, resulting from any cause whatsoever, prior to the date the possession is surrendered to the Purchaser, the Owner agrees to restore it to the condition it was in at the time of the execution of this agreement by the Owner, or to accept the purchase price consideration, hereinabove stated, less the cost of such restoration. In case the Owner refuses to restore it to the condition it was in at the time of the execution of this Agreement by the Owner, or to accept the money consideration less the cost of such restoration as hereinabove stated, the Purchaser may, at its option after discovery or notification of such destruction, removal or injury, terminate this agreement by written notice to said Owner.

- 8. Prior to acceptance by the Purchaser, the execution of this Agreement by the Owner shall constitute an offer to sell which shall continue for a period of twenty (20) days from the date of such execution. Upon acceptance of this Agreement by the Purchaser within said period, it shall constitute a valid and binding Agreement of Sale and Purchase.
- 9. Owner agrees that the Purchaser may designate an escrow agent who shall act in behalf of both parties in connection with the consummation and closing of this Agreement which shall be made at a time and place agreed upon between the parties, but no later than ten days after notification of the Owner by the Purchaser that Purchaser is ready to close.
- 10. Physical possession of vacant land shall be surrendered no later than the date payment is tendered.
- 11. This contract shall be binding upon Owner and Owner's heirs, executors, administrators, successors and assigns, and shall inure to the benefit of the Purchaser, its successors and assigns.

IN WITNESS WHEREOF the parties hereunto have set their hands, the Owner on the 1st day of June, 1993; and the Purchaser, by the Director of Transportation or his duly authorized representative, its agent, on the _____ day of _____, 19____

*WITNESSES:

James J. Berubart
(Signature)

5281 Silbury Ln., Dayton Ohio
(Address)

James J. Berubart
(Signature)

(Address)

CITY OF CENTERVILLE, OHIO
STATE OF OHIO
Director of Transportation

By: _____

OWNER:

Thomas J. Zapp
(Signature)

2165 W. Main Road, Kettering, OH. 45409
(Mailing Address)

Thomas M. Zapp
(Signature)

(Signature)

(Signature)

ATTESTED: _____

(Type or print name and state marital status below each signature.)