

RESOLUTION NO. 11-90
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Brooks Compton

ON THE 21st DAY OF MAY, 1990.

A RESOLUTION RATIFYING THE ACTION OF THE CITY MANAGER IN ENTERING INTO AN AGREEMENT WITH VICTOR A. GREEN APPOINTING HIM AS THE AGENT FOR THE CITY IN ACQUIRING CERTAIN PARCELS OF REAL ESTATE FOR THE CITY AND AUTHORIZING TOTAL PAYMENT FOR HIS SERVICES IN THE AMOUNT OF EIGHTY-FOUR THOUSAND FIVE HUNDRED DOLLARS (\$84,500.00).

WHEREAS, the City of Centerville desires to purchase certain parcels of real estate; and

WHEREAS, Victor A. Green is a knowledgeable real estate expert authorized by the State of Ohio to act as an agent for the purchase or sale of real estate and is willing to act as agent for the City of Centerville; and


WHEREAS, the services to be rendered by Victor A. Green to the City of Centerville are of a professional nature requiring unique talents and are not such that are readily obtainable through competitive bidding.

NOW THEREFORE,


THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. That the actions of the City Manager in entering into an Agreement dated November 21, 1989 on behalf of the City of Centerville with Victor A. Green to provide for Victor A. Green to act as agent for the City of Centerville in the purchase of certain parcels of real estate and authorizing payment in the amount of Eighty-four Thousand Five Hundred Dollars (\$84,500.00) is hereby ratified as the duly authorized action of the City Manager acting on behalf of this City Council to the same degree as had said action been authorized prior to the execution of said Agreement and the payment of Eighty-four Thousand Five Hundred Dollars (\$84,500.00) in accordance with the terms of said Agreement is hereby authorized. A copy of said Agreement is attached hereto as Exhibit A and incorporated herein.

PASSED THIS 21st day of May, 1990.


Mayor of the City of
Centerville, Ohio

ATTEST:


Clerk of Council (Acting)
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. 11-90, passed by the Council of the City of Centerville, Ohio on the 21st day of May, 1990.


Clerk of the Council (Acting)

Approved as to form, consistency with existing ordinances, the charter & constitutional provisions.

Department of Law
Robert N. Farquhar
Municipal Attorney

AGREEMENT

THIS AGREEMENT made this 21st day of November, 1989, by and between the CITY OF CENTERVILLE, OHIO, a municipal corporation (hereinafter "Centerville") and VICTOR A. GREEN (hereinafter "Agent").

WHEREAS, the City of Centerville is desirous of purchasing certain parcels of real estate; and

WHEREAS, Agent is a knowledgeable real estate expert authorized by the State of Ohio to act as an Agent for the purchase or sale of real estate and is willing to act as Agent for Centerville; and

WHEREAS, the services to be rendered by Agent to Centerville are of a professional nature requiring unique talents and are not such that are readily obtainable through competitive bidding;

NOW, THEREFORE, in consideration of the above recitations and the benefits to them mutually accruing, the parties hereto agree as follows:

1. Centerville hereby hires Agent to act as its sole and exclusive Agent in securing options to purchase various parcels of real estate which Centerville is desirous of purchasing to be used for municipal purposes. The parties recognize and agree that Agent, though an independent contractor, is nevertheless engaged to be the Agent of Centerville and is not acting for any other person, firm or corporation.

2. It shall be the duty of Agent to secure options to purchase various parcels of real estate as selected by Centerville. The terms and conditions of purchase and sale shall be solely subject to the control of Centerville and shall not be binding upon Centerville unless Centerville has given prior written consent or approval to said terms and conditions. Agent shall secure said options in the name of a nominee designated by Centerville and said options and the rights thereunder shall be freely assignable by said nominee.

3. The Agent shall not be reimbursed for any expenses incurred unless such expenditure shall have received prior written approval from the City Manager of Centerville.

4. This Agreement shall commence on the date of execution by the parties and shall continue in effect unless terminated by either party upon ten (10) days' prior written notice to the other party.

5. In consideration for his services rendered hereunder, Agent shall receive in full payment the total sum of \$ 84,500 payable as follows: One-fifth (1/5th) of the amount due upon the closing of the purchase of the first parcel for which options have been secured; one-fifth (1/5th) of the amount due upon the closing of the fifth parcel for which options have been secured; and the entire remaining balance due at the closing of the last parcel for which an option was secured. The number of parcels to be purchased and the determination of when the last purchase has been closed shall be solely that of Centerville.

6. In the event either party terminates this Agreement for any reason prior to the closing of the last parcel to be purchased, Agent shall not be entitled to any compensation beyond that already received by him at the time of termination. Except that the City shall compensate the Agent a pro-rata amount for that portion of the closings for which Agent has not been compensated. The City shall have the sole right to determine the fairness of the amount of compensation due.

7. Agent may not assign any or all of his rights or obligations hereunder without the prior written consent of Centerville.

8. This Agreement shall constitute the entire agreement between the parties hereto and no oral or implied agreement of understanding shall cancel or vary the terms hereof. No amendment or modification shall be effective unless in writing signed by both parties.

IN WITNESS WHEREOF, Centerville and Agent have hereunto subscribed their names on the date first above written.

Witness:

Linda L. Schmitt
Sharon D. Bortz

CITY OF CENTERVILLE

By

Darryl K. Kenning
Darryl K. Kenning
Its City Manager
CENTERVILLE

Victor A. Green
Victor A. Green
AGENT