

RESOLUTION NO. 52-23
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Duke Lunsford ON THE 5th
DAY OF June, 2023.

**RESOLUTION RATIFYING THE ACTIONS OF THE CITY
MANAGER IN EXECUTING A PURCHASE CONTRACT
WITH KATHY SUE WEAVER AND DEBRA K. MAJOROS
FOR THE PURCHASE OF PROPERTY LOCATED ON THE
CORNER OF MAIN STREET AND MARTHA AVENUE AND
RATIFYING THE ACTIONS OF THE CITY MANAGER IN
TAKING ALL STEPS NECESSARY TO EXECUTE
DOCUMENTS TO EFFECT THE PURCHASE OF SAID REAL
PROPERTY.**

WHEREAS, Council has determined that it would be in the best interest of its citizens to purchase property located at the corner of Main Street and Martha Avenue in the City of Centerville from Kathy Sue Weaver and Debra K. Majoros, for the purpose of future development or municipal services on the corner of Main Street and Martha Avenue, Centerville, OH (the "Property"); and

WHEREAS, the City of Centerville has negotiated for the purchase of the Property 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 Property for a total amount of up to \$64,000; 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, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1:

That the previous action of the City Manager in executing a purchase contract with Kathy Sue Weaver and Debra K. Majoros for the purchase of property located on the corner of Main Street and Martha Avenue for a total price of Sixty-Four Thousand and no/100 Dollars (\$64,000.00) is hereby ratified. Said Purchase Agreement is marked as Exhibit "A" and incorporated herein.

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

Section 3: That this resolutions shall go into effect at the earliest time allowed by law.

PASSED THIS 5th day of June, 2023.



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. 52-23, passed by the Council of the City of Centerville, Ohio on the 5th day of June, 2023.



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 FOR PURCHASE
AND SALE OF REAL ESTATE**

City of Centerville, an Ohio Municipal Corporation, (hereinafter called "Buyer"), hereby offers, subject to the terms and conditions herein contained, to purchase from KATHY SUE WEAVER, married, and DEBRA K. MAJOROS, married, (hereinafter called "Seller"), certain real estate located in the State of Ohio, County of Montgomery, and City of Centerville, at the corner of Main Street and Martha Avenue and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED.

1. **Purchase Price.** The purchase price to be paid for the Premises shall be Sixty Four Thousand and no/100 Dollars (\$64,000.00), (the "Purchase Price"). The Purchase Price shall be paid as follows:

- (a) The sum of Five Hundred and no/100 Dollars (\$500.00) (the "Deposit"), in immediately available funds shall be deposited with First American Title Insurance Co. ("Title Company") within five (5) business days following execution and delivery of this Agreement by the last of Seller and Buyer. The Title Company shall hold the Deposit in Escrow. At Closing, the Deposit shall be paid to the Seller and, to the extent so paid to Seller, credited against the Purchase Price.
- (b) At Closing, Buyer shall pay the balance of the Purchase Price after credit for the Deposit and the Closing Extension Payments, if any, if and to the extent paid to Seller in immediately available funds.

2. **Survey.** Buyer shall be responsible for obtaining, at Buyer's sole cost and expense, any surveys of the Property, including, without limitation, any ALTA/ACSM survey which Buyer desires to obtain. Seller shall cooperate in allowing access to the Property for purposes of obtaining a survey.

3. **Seller's Title.**

- (a). Within thirty (30) days after the Effective Date of this Agreement, Buyer shall procure a preliminary title report and commitment for an owner's title insurance policy issued by a title insurance company licensed to do business in the State of Ohio in the amount of the Purchase Price covering title to the Property. If the Commitment shows that title to all or part of the Property is unmarketable, as determined with reference to the Ohio State Bar Association Standards of Title Examination, or is subject to any defect, lien or encumbrance that would materially hinder Buyer's development of the Property for buyer's proposed use as described

obligations under this Agreement, and the Deposit and all Closing Extension Payments shall be returned to Buyer.

- (c) The cost of the Commitment and all costs of any title insurance policy issued pursuant to the Commitment shall be paid by Buyer.

4. **Taxes and Assessments.** At closing, Seller shall pay all delinquent taxes, special taxes, penalties and interest then a lien on the Premises and currently due, both current and reassessed. In the event the Premises has been taxed or is being taxed under a CAUV exemption, Buyer, as a municipal corporation shall be responsible for the recoupment of same. Seller shall credit on the purchase price all unpaid real estate taxes and assessments for the years prior to the closing and a portion of such taxes and assessments for the year of closing prorated through the date of closing. The tax proration shall be made in accordance with the Montgomery County "short proration" method, in which Seller's share is based upon the number of days from the date of the immediately preceding semi-annual installment to the date of closing. Any special assessments which are payable in a single annual installment shall be prorated on the long proration method. All prorations shall be based upon the most recent available tax rates, assessments and valuations. Seller and Buyer shall adjust and reprorate the tax prorations determined above upon the basis of the final and unappealable real estate tax bills for such years. Such adjustment shall be made no later than 10 days after demand by the party to whom a credit is due. Since the Buyer is a political subdivision of the State of Ohio, there will be no conveyance fee. Buyer shall pay all recording fees. All utilities, if any, shall be prorated to Buyer, as of the date of closing.

5. **Deed and Other Documents.** Seller agrees at closing to deliver a recordable general warranty deed, with release of dower, if applicable, conveying and warranting good and marketable title in fee simple to the Premises free and clear of all liens, encumbrances, restrictions, conditions, easements and encroachments, except as otherwise herein noted. Unless provided herein to the contrary, all documents required by this Contract shall be in the customary form with the customary terms and provisions for the jurisdiction in which the Premises are located; provided, however, that all such documents shall be submitted for approval of Buyer's counsel at least 10 days before the date of closing, which approval shall not be unreasonably withheld. Seller shall execute and deliver to Buyer, at closing, the Title Company's standard form of affidavit with respect to off-record title matters.

6. **Closing.** Closing shall take place on or after thirty (30) days after the end of the Inspection Period, or at a time satisfactory to the Buyer and after the waiver or satisfaction of the conditions set forth in Section 6 below, or at such other time as the parties may mutually agree. Notwithstanding any of the other conditions contained in this Contract, Buyer may, at its option, elect to proceed with the purchase of the Premises whether or not any of said conditions remain unsatisfied. This transaction shall be closed through an escrow with the Title Company in accordance with the general provisions of any usual form of escrow agreement then furnished and in use by the Title Company,

- (i) Buyer being satisfied that the property is free and clear of any liens or encumbrances including, but not limited to, any oral or written leases or tenant rights to the Premises.
- (j) Approval of this Contract by the Centerville City Council following Seller's acceptance of this offer.

8. **Seller's Representations, Warranties and Covenants.** Seller represents, warrants and covenants to Buyer as to the following matters, and shall be deemed to remake all of the following representations, warranties and covenants as of the date of the closing

- (a) The execution and delivery of this Contract by Seller, the execution and delivery of every other document and instrument delivered pursuant to this Contract by or on behalf of Seller, and the consummation of the transactions contemplated by this Contract have been duly authorized and validly executed and delivered by Seller, and will not (i) constitute or result in the breach of or default under any oral or written contract to which Seller is a party or which affects the Premises; (ii) constitute or result in a violation of any order, decree or injunction with respect to which Seller and or the Premises is bound; (iii) cause or entitle any party to have a right to accelerate or declare a default under any oral or written contract which affects the Premises; and/or (iv) to the best of Seller's knowledge, violate any provision of any municipal, state or federal law, statutory or otherwise, to which Seller or the Premises may be subject;
- (b) To the best of Seller's knowledge, the Premises is in material compliance with all applicable federal, state and local statutes, laws, ordinances, orders, requirements, rules and regulations (including, but not limited to, building, zoning and environmental laws).
- (c) No notice of violation of any applicable federal, state or local statute, law, ordinance, order, requirement rule or regulation, or of any covenants, condition, restriction or easement affecting the Premises, or with respect to the maintenance, use or occupancy of the Premises, has been given by any governmental authority having jurisdiction over the Premises or by any other person entitled to enforce the same.

examination, claim, or demand whatsoever relating to the Premises. No attachments, execution proceedings, liens, assignments or insolvency proceedings are pending or, to the best of Seller's knowledge, threatened against Seller or the Premises or contemplated by Seller. Seller is not contemplating the institution of insolvency proceedings.

- (i) Seller has no knowledge of any pending or contemplated eminent domain, condemnation, or other governmental or quasi-governmental taking of any part or all of the Premises.
- (j) To the best of Seller's knowledge, there are no public improvements that have been ordered to be made and/or that have not been previously assessed, and there are no special, general or other assessments pending, threatened against, or affecting the Premises.
- (k) Seller has paid or will pay in full all bills and invoices for labor and material of any kind arising from the ownership, operation, management, repair, maintenance or leasing of the Premises, and there are no actual or potential mechanic's liens or other claims outstanding or available to any party in connection with the ownership, operation, management, repair, maintenance or leasing of the Premises.
- (l) Between the date of this Contract and the date of closing, no part of the Premises will be sold, encumbered or transferred in favor of or to any party whatsoever. There are no purchase contracts, options or any other contracts of any kind, oral or written, by which any person or entity other than Seller will have acquired or will have any basis to assert any right, title or interest in, or right to possession, use, enjoyment or proceeds of, any part or all of the Premises.
- (m) No party has any claim against the Premises or against any successor in title to the Premises related to the repair, construction, improvement, operation, use, rental or enjoyment of the Premises, and neither Seller nor its agents or employees have received any notices of any claim requesting or demanding such performance or payment relative to the foregoing.

11. **Casualty.** In the event of substantial loss or damage to the Premises prior to the closing by fire or other casualty (not resulting from the negligence of Buyer), Buyer at its option may, at any time after receipt of notice or knowledge of that event, cancel this Contract, in which event the Earnest Money (as hereinafter defined) shall be immediately refunded, this Contract shall terminate and neither party shall have any further rights or obligations under this Contract other than those rights and or obligations which are expressly stated to survive expiration or termination of this Contract. In the event that Buyer shall not elect to terminate, or if the loss or damage is not substantial, then this Contract shall remain in full force and effect and Buyer shall proceed to close and take the Premises as damaged, in which event Buyer shall be entitled to receive the insurance proceeds plus the amount of any deductible, co-insurance or self-insurance carried by Seller, so that Buyer shall receive, in effect, the full replacement cost of the loss or damage, as the cost is determined in the settlement with the insurer. Seller and Buyer shall each be entitled to participate in the settlement. As used in this paragraph, the term "substantial loss or damage" means any loss or damage resulting to the Premises which the parties reasonably estimate will cost \$10,000.00 or more to repair or restore.

12. **Earnest Money/Deposit.** Buyer shall deliver, within five days after Seller's acceptance hereof, to the Title Company, the sum of Five Hundred and no/100 Dollars (\$500.00) (herein referred to as "Earnest Money"), which Earnest Money shall be later applied against the purchase price. Buyer shall have the right to specific performance of this Contract. In the event Buyer defaults hereunder and such default is not cured within 30 days after written notice, the Earnest Money shall be retained by Seller without prejudice to any rights of Seller to damages or specific performance. If the Contract is terminated for any reason other than Buyer's default, the Earnest Money shall be returned to Buyer.

13. **Brokerage Commissions.** Buyer and Seller agree that each shall bear their own expense of a real estate broker or agent, if any, in the event that contact or a contract has been made.

14. **Notices.** Any notices required or permitted under this Contract may be delivered personally or may be sent by certified or registered mail, return receipt requested, or prepaid courier service addressed to the addressee at the address, as hereinafter set forth, or at such other address as a party may hereafter furnish in writing to the other parties to this Contract. If notices are sent by mail, the date such notices are postmarked shall be deemed the date upon which such notice was given. If a matter is sent by prepaid courier service, the delivery date thereof shall be deemed the date upon which such notice was given.

15. **Nonforeign Affidavit.** Seller represents and warrants to Buyer that it is not a foreign person (as defined in Section 1445(f)€ of the Internal Revenue Code of 1954, as amended) and agrees to execute and deliver to Buyer at closing an Affidavit stating, under penalty of perjury, Seller's United States taxpayer identification number and that Seller is not a foreign person as so defined.

Buyer has caused this Contract to be executed this 26 day of July, 2021.

CITY OF CENTERVILLE

Wayne Davis
By: Wayne S. Davis
Title: City Manager

Approved as to Form:

Scott A. Liberman
Scott A. Liberman
Municipal Attorney

ACCEPTANCE

The undersigned represents that he/she has authority as the co-owner of the owner of the property and hereby accepts this Contract and agrees to be bound by its terms and conditions this 15th day of July, 2021.

Kathy Sue Weaver
By: Kathy Sue Waver

Debra Kay Majoros
By: Debra K. Majoros

EXHIBIT A

1103-2708922

LEGAL DESCRIPTION

Real property in the City of Centerville, County of Montgomery, State of Ohio, and is described as follows:

And being a part of the Northeast quarter of Section 30, Town 3, Range 5, MRs, bounded and described as follows:

Beginning at an iron pin in the North line of Martha Avenue, said iron pin also being in the Northwest corner of Martha Avenue and 30 feet East of the center line of South Main Street, Thence Eastwardly with the North line of Martha Avenue and parallel with the South line of said quarter section, for a distance of 81.4 feet to an iron pin being the Southwest corner of a tract of land heretofore conveyed to Richard Elliott, Thence, Northwardly with the West line of said tract of land conveyed to Richard Elliott and parallel with the West line of said quarter section for a distance of 150 feet to an iron pin; Thence Westwardly parallel to the North line of Martha Avenue and parallel with the North line of said quarter section for a distance of 81.4 feet in the East line of South Main Street to an iron pin, Thence Southwardly parallel with the West line of the tract of land heretofore conveyed to Richard Elliott for a distance of 150 feet to an iron pin and the place of beginning, containing 0.280 acres more or less.

O68-00107-0076

KARL KEITH	
COUNTY AUDITOR	
MONTGOMERY COUNTY DAY	
DESCRIPTION APPROVED	
STRAIGHT TRANSFER CLOSURE	
NOT CHECKED.	
BY <u>CJ</u>	DATE <u>9/22/21</u>
MAP DEPARTMENT	