

REAL ESTATE PURCHASE AGREEMENT

This "Agreement" is made and entered into as of _____, 2019 (the "Effective Date") by and between the **City of Gahanna**, an Ohio municipal corporation (the "Buyer"), and The Martha June LePera Trust, Ellen L. LePera, Trustee (the "Seller"), and in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **PROPERTY:**

- 1.1 Seller desires to sell and Buyer desires to purchase the "Property," as more fully defined below, on the terms and conditions as set forth in this Agreement.
- 1.2 Seller represents that Seller owns real property (the "Property"), as more particularly described on **Exhibit A**.

2. **PURCHASE PRICE:**

- 2.1 The purchase price for the Property is \$150,000. Buyer is purchasing the Property "AS IS", except to the extent of the representations, warranties and additional covenants contained herein.

3. **CLOSING DOCUMENTS:**

- 3.1 At Closing, Seller shall deliver the following to Buyer:
 - 3.1.1 A fiduciary's deed, in recordable form conveying good and marketable fee simple title to the Property, free and clear of all deeds of trust, mortgages, liens, encumbrances, restrictions and conditions, except any permitted exceptions, as accepted by Buyer in writing.
 - 3.1.2 Any other documents required by this Agreement to be delivered by Seller, including such other documents or instruments as may be reasonably requested by Buyer or Closing Agent to effectuate this transaction.
 - 3.1.3 Possession of the Property free and clear of any tenancies or occupancies.
- 3.2 At Closing, Buyer shall deliver the following to Seller:
 - 3.2.1 Other documents required by this Agreement to be delivered by Buyer, including such other documents or instruments as may be reasonably requested by Seller or Closing Agent to effectuate this transaction.
 - 3.2.2 The Purchase Price payable as described in Section 2.1 above.

4. **TAXES AND ASSESSMENTS:** At the Closing, the Seller and Buyer shall prorate taxes and assessments and make appropriate credits and adjustments so that (a) Seller pays all real estate taxes and assessments charged or to be charged for the time period before and through the date of Closing and receives a credit for any prepaid amounts, and (b) Buyer receives credit for any expenses that will be due after Closing but that are allocable to the time period prior to and through the date of Closing. Seller shall pay all delinquent taxes and assessment, if any. Current taxes and assessment shall be prorated and adjusted as of Closing using the latest information available.

5. **REPRESENTATIONS, WARRANTIES, AND ADDITIONAL COVENANTS:**

Seller represents and warrants to Buyer and covenants with Buyer as follows:

- 5.1 That Seller has good and marketable fee simple title to the Property, and the same is or will be unencumbered at Closing, except for matters of record, which shall be subject to Buyer's approval, or otherwise will be addressed in accordance with the terms and conditions of this Agreement, and the matters to be created as contemplated by this Agreement. There are no encroachments of buildings or improvements on the Property from adjacent property and there are no encroachments of improvements from the Property onto adjacent property; and there are no boundary disputes or other matters affecting title to or the description of the Property.
- 5.2 There is no litigation, condemnation or similar proceeding, administrative proceeding or investigation, claim, dispute or any matter pending or threatened against the Property.
- 5.3 No work has been performed or is in progress at, and no materials have been furnished to, the Property which might give rise to, mechanics', materialmen's or other liens against all or any part of the Property.
- 5.4 No parties will be in possession of the Property on the date of Closing, except in accordance with easements of record, which are subject to Buyer's approval in accordance with the terms of this Agreement.
- 5.5 Subject to the approval of City Council, Buyer has authority to enter into this Agreement and there is no agreement, covenant, indenture or other prohibition against Buyer's conclusion of the transactions covered by this Agreement and/or Buyer's proposed use of the Property.
- 5.6 Seller shall not alter, remove, or make additions to, any portion of the Property, except as contemplated by this Agreement.
- 5.7 The Property is in material compliance with all applicable local, state and federal building code, zoning, land use and other laws.
- 5.8 The truth and accuracy of the foregoing representations and warranties shall be a condition precedent to the Closing. Seller hereby indemnifies and agrees to defend and hold harmless Buyer and its officers, directors, employees and agents from and against all claims, actions, obligations, losses, liabilities, damages and expenses, including, but not limited to, interest, attorneys' fees and court costs, directly or indirectly resulting from or arising out of or in connection with a breach of Seller's representations and warranties set forth in this Agreement. This indemnification and agreement shall survive the Closing. Buyer shall have two (2) years from the date of closing to bring any action in relation to any claims for indemnification.
- 5.9 Buyer shall have the right to make an environmental assessment or other inspections of the Property during the period beginning on the date of execution of this Agreement and ending on the Closing Date ("Examination Period"). If during the Examination Period, Buyer determines that the Property is not satisfactory, without regard to whether Seller has been previously notified of such matter by an applicable authority, then Buyer shall give Seller notice thereof together with an explanation of the problem. Seller shall have five (5) days

following such notice to notify Buyer whether Seller elects to remediate, dispose of, restore, or otherwise resolve such problem or lack of compliance in accordance with all applicable laws, rules, and regulations, and to Buyer's reasonable satisfaction. If Seller chooses not to remediate or resolve the problem, either Party may cancel this Agreement with reasonable notice to the other. Buyer and Seller agree to cooperate with each other in connection with all activities to be conducted hereunder.

6. **CLOSING:** This contract shall be performed, and this transaction closed, on or before July 31, 2019 unless the parties agree in writing to an extension. The Buyer and Seller agree the closing will occur after the Examination Period in Section 5.9 which is expected to be concluded prior to July 31, 2019.

The parties hereby expressly authorize any lender and/or closing agent to provide the parties' brokers, agents, and attorneys with the closing settlement statement (ALTA-1 or equivalent) for review in advance of closing.

7. **RISK OF LOSS:** Seller agrees that it will deliver the Property to Buyer at Closing in the same condition and repair as of the date of this Agreement, except for reasonable wear and tear. Seller will give immediate written notice to Buyer of any damage to or destruction of the Property and/or any condemnation proceedings pending or threatened against the Property. All risk of loss to the Property from fire, wind, hail, theft, water, or any other peril causing damage to the Property, as well as all risk of loss by reason of condemnation or threat thereof, shall be borne by Seller until Closing. In the event that any property damage or destruction occurs to the Property, other than normal wear and tear, and/or any condemnation affects the Property, then Buyer shall be entitled to terminate this Agreement or to perform its obligations and enforce its rights under this Agreement. If Buyer elects to terminate the Agreement pursuant to this Section, Buyer will so notify Seller in writing within ten (10) business days after Seller's written notice and whereupon this Agreement shall be of no further force or effect and Buyer shall be released from all liability hereunder.

8. **DEFAULT:**

8.1 If Buyer fails to close when required to do so under this Agreement, Seller shall, as its sole and exclusive remedy, terminate this Agreement by giving written notice to Buyer, whereupon Buyer and Seller shall be relieved from all further liability, responsibility or obligation under this Agreement.

8.2 In the event a dispute arises under this Agreement, all reasonable attorneys' fees and court costs incurred by the prevailing party in such litigation shall be promptly reimbursed by the other party hereto.

9. **CONSULTANTS:** Buyer represents that it has not contacted, contracted with or entered into any agreement with any real estate broker, agent or consultant in connection with the sale of the Property. Buyer and Seller each agree to indemnify, defend and hold the other harmless from and against all claims, losses, liabilities and expenses, including reasonable attorneys' fees, arising out of any claim by any real estate broker, agent or consultant with whom such party has dealt or negotiated.

10. **NOTICES:** Any notices under this Agreement shall be personally delivered, delivered by the deposit thereof in the U.S. Postal Service, postage prepaid, registered, or certified, return receipt requested, or by nationally recognized overnight courier service to the party at the address listed below or at another address hereafter designated by notice from the parties to this Agreement. Any such notice shall be deemed to have been delivered and given upon personal delivery or delivery by overnight courier service, or deposit with the U. S. Postal Service:

TO BUYER:

City of Gahanna
200 South Hamilton Road
Gahanna, Ohio 43230
Attn: Anthony Jones, Director of Planning & Development Department

TO SELLER:

3219 Shepard Ave
Millersport, Ohio 43046
Attn: Ellen LePera

11. **ASSIGNMENT:** This Agreement may only be assigned by the written consent of the both Parties hereto.

12. **MISCELLANEOUS:**

12.1 This Agreement shall inure to the benefit of and bind the Parties hereto and their successors, heirs, and assigns.

12.2 This Agreement shall constitute the entire Agreement between the Parties and shall supersede all prior contracts and agreements.

12.3 This Agreement may be amended or supplemented only by a written instrument signed by both parties hereto.

12.4 This Agreement may be executed in any number of identical counterparts each of which shall be considered an original but which together shall constitute one and the same Agreement.

12.5 The captions or paragraph headings are for convenience and ease of reference only and shall not be construed to limit or alter the terms of this Agreement.

12.6 This Agreement shall be governed by the laws of the State of Ohio.

12.7 Time is of the essence for all terms and conditions of this Agreement. If a date specified for performance by either party falls on a weekend or legal holiday, the date for such performance shall be extended to the next business day.

13. **Deadline.** This offer will remain open for acceptance by Buyer until 5:00 PM Gahanna, Ohio time on _____, 2019. If this offer is not accepted on or before such time, it will be considered revoked. Seller will accept this offer, if at all, by signing below and returning to Buyer a fully executed copy of this Agreement. When and if this offer is accepted, it will constitute a contract for the Purchase of the Property under the terms and conditions herein provided.

Seller:

By: _____
Print Name: _____
Title: _____

Buyer:

By: _____
Print Name: _____
Title: _____

Approved as to form:

City Attorney

Exhibit A

Property Description



May 7, 2019

