

REAL ESTATE PURCHASE AGREEMENT

This "Agreement" is made and entered into as of May __, 2016 (the "Effective Date") by and between **Pizzuti Builders LLC**, an Ohio limited liability company (the "Buyer"), and the **City of Gahanna**, an Ohio municipal corporation (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 identified on **Exhibit A**, the Legal Description, and as depicted in **Exhibit B**, the Survey, attached hereto.

2. **PURCHASE PRICE:**

- 2.1 The purchase price for the Property is \$15,000, which will be paid to Seller at closing.

3. **SURVEY:**

- 3.1 Buyer shall obtain a survey and legal description of the Property sufficient for conveyance purposes.

4. **CLOSING DOCUMENTS:**

- 4.1 At Closing, Seller shall deliver the following to Buyer:

- 4.1.1 A general warranty 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. Seller shall obtain all tax parcel or lot split approvals required so that the Property is recognized by the County Auditor as its own tax parcel (or as part of a larger tax parcel to be created by Buyer).
- 4.1.2 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.
- 4.1.3 Possession of the Property free and clear of any tenancies or occupancies.

- 4.2 At Closing, Buyer shall deliver the following to Seller:

- 4.2.1 The Purchase Price payable at Closing as described in Section 2.1 above.
- 4.2.2 Any easement agreement granted to the Seller of the Property for any utilities.
- 4.2.3 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.

5. **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. If the Property is taxed as part of a larger tax parcel, then, at Closing, the ad valorem property taxes shall be prorated based on the amount of ad valorem property taxes per acre multiplied by the number of acres located with the Property. The foregoing provision shall expressly survive the Closing and the execution and delivery of the deed and shall not be merged therein.

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

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

- 6.1 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.
- 6.2 There is no litigation, condemnation or similar proceeding, administrative proceeding or investigation, claim, dispute or any matter pending or threatened against the Property.
- 6.3 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.
- 6.4 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.
- 6.5 Subject to the approval of City Council, Seller has authority to enter into this Agreement and there is no agreement, covenant, indenture or other prohibition against Seller's conclusion of the transactions covered by this Agreement and/or Buyer's proposed use of the Property.
- 6.6 Seller shall not alter, remove, or make additions to, any portion of the Property, except as contemplated by this Agreement.
- 6.7 The Property is in material compliance with all applicable local, state and federal building code, zoning, land use and other laws.
- 6.8 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.

7. **CLOSING:** After Buyer has notified Seller, in writing, that the Contingencies have been satisfied or waived or mutually agreed by the parties, the Closing shall take at a time and place agreed by Seller and Buyer. In the absence of such agreement the closing shall take place at a time and place designated by Buyer.

Seller acknowledges that Buyer is purchasing the Property as well as 3 adjacent parcels ("Adjacent Parcels") in order to assemble sufficient acreage for a new project Buyer intends to develop for a client of Buyer. Consequently,

- (a) the Closing needs to occur at the same time as Buyer's purchase of the Adjacent Parcels; and
- (b) Buyer's obligations under this Agreement are contingent upon the simultaneous closings of the purchases of the Property and the Adjacent Parcels

8. **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.

9. **DEFAULT:**

- 9.1 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.
- 9.2 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.

10. **CONSULTANTS:** Buyer and Seller each represents to the other 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.

11. **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 SELLER:

Pizzuti Builders LLC
629 N. High Street, Suite 500
Columbus, OH 43215
Attn: General Counsel

TO BUYER:

City of Gahanna

12. **ASSIGNMENT:** This Agreement may only be assigned by the written consent of the both parties hereto except that Buyer may, without Seller's consent, assign this Agreement to an affiliate of Buyer.

13. **MISCELLANEOUS:**

- 13.1 This Agreement shall inure to the benefit of and bind the parties hereto and their successors, heirs, and assigns.
- 13.2 This Agreement shall constitute the entire Agreement between the parties and shall supersede all prior contracts and agreements.
- 13.3 This Agreement may be amended or supplemented only by a written instrument signed by both parties hereto.
- 13.4 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.
- 13.5 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.
- 13.6 This Agreement shall be governed by the laws of the State of Ohio.
- 13.7 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.

14. **Deadline.** This offer will remain open for acceptance by Buyer until 5:00 PM Gahanna, Ohio time on _____, 2016. 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.

Approved as to form:

City Attorney

Seller:

CITY OF GAHANNA

By: _____
Print Name: _____
Title: _____

Buyer:

PIZZUTI BUILDERS LLC

By: _____
Print Name: _____
Title: _____

DRAFT

Exhibit A

Legal Description

**RIGHT-OF-WAY VACATION
0.656 ACRE**

Situated in the State of Ohio, County of Franklin, City of Gahanna, lying in Quarter Township 3, Township 1, Range 16, United State Military Lands, and being part Blatt Boulevard (60 feet wide as established in Plat Book 50, Page 54) (all references are to the records of the Recorder's Office, Franklin County, Ohio) and being more particularly described as follows:

BEGINNING at an iron pin set at the northwest terminus of the said Blatt Boulevard, being the southeasterly corner of that 5.776 acre tract conveyed to David E Johnson by deed of record in Instrument Number 200907060097900, the southwesterly corner of that 29.514 acre tract conveyed to Value Recovery Group II, LLC by deed of record in Instrument Number 200712200217547 and the northeasterly corner of that 2.478 acre tract conveyed to CQCB, Inc. by deed of record in Instrument Number 201102160023626;

Thence South 85° 30' 11" East, with said terminus, the southerly line of said 29.514 acre tract, a distance of 60.01 feet to a 3/4 inch iron pin found at the northeasterly terminus of said Blatt Boulevard and the northwesterly corner of that 9.199 acre tract conveyed to Franklin Steel Company by deed of record in Official Record 4623G15;

Thence South 03° 43' 49" West, with the easterly right-of-way line of said Blatt Boulevard, the westerly line of said 9.199 acre tract, a distance of 475.93 feet to an iron pin set;

Thence North 86° 16' 11" West, across the right-of-way of said Blatt Boulevard, a distance of 60.00 feet to a 3/4 inch iron pin found with cap "PS 6579" in the westerly right-of-way line of said Blatt Boulevard and the easterly line of that 7.628 acre tract conveyed to 1410 Blatt Blvd L.L.C. by deed of record in Instrument Number 201012290177628;

Thence North 03° 43' 49" East, with said westerly right-of-way line, said easterly line, and the easterly line of said 2.478 acre tract, (passing a 3/4 inch iron pin found with cap "PS 6579" at a distance of 217.73 feet and a 3/4 inch iron pin found at a distance of 219.01 feet) a total distance of 476.73 feet to the POINT OF BEGINNING, containing 0.656 acre, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

The bearings herein are based on the Ohio State Plane Coordinate System South Zone as per NAD83 (NSRS2007). Control for bearings was from coordinates of monuments FCGS 5517 RESET and FCGS 5518, having a bearing of South 85° 51' 29" East, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment.

This description is based on an actual field survey performed by or under the direct supervision of Joshua M. Meyer, Registered Surveyor Number 8485 in March 2016



EVANS, MECHWART, HAMBLETON & TILTON, INC.

Joshua M. Meyer
Professional Surveyor No. 8485

4-19-2016

Date

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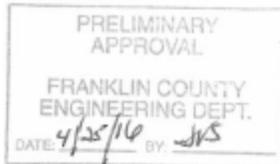


Exhibit B

Survey

