

RESOLUTION NO. 61-2006

Offered by All of Council

A RESOLUTION AUTHORIZING THE MAYOR AND THE FINANCE DIRECTOR TO ENTER INTO AN AGREEMENT TO PURCHASE PROPERTY FROM THE PEDIGO FAMILY

WHEREAS, the Mayor has negotiated an agreement to purchase various real property from the Pedigo family located on the east side of Broadview Road, south of Village Hall, and designated as Permanent Parcel No. 5000992; and

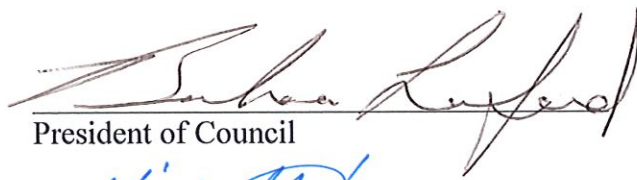
WHEREAS, this Council finds that it is in the best interests of the Village to enter into this agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Richfield, Summit County, State of Ohio:

SECTION 1. That the Mayor and the Finance Director be, and they hereby are, authorized and directed to enter into an agreement to purchase certain real property from the Pedigo family in accordance with an agreement attached hereto as Exhibit "A" and incorporated herein fully as if by reference.

SECTION 2. This Resolution shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 10/3/06

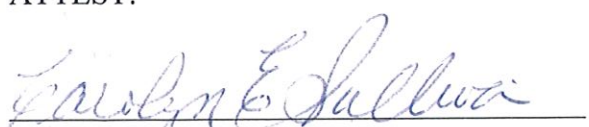


President of Council



Mayor

Dated: 10/3/06

ATTEST:


Clerk of Council

PROPERTY SALE AND PURCHASE AGREEMENT

This Property Sale and Purchase Agreement ("Agreement") is made by and between:

Myrtle Elaine Pedigo, Jessie C. Pedigo, Beverly A. Fortune and M. Van Pedigo, Successor Co-Trustees and Myrtle Elaine Pedigo, individually 4381 Streetsboro Rd. Richfield, OH 44286	and	Village of Richfield, Ohio 4410 W. Streetsboro Road Richfield, Ohio 44286
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(collectively, "Seller")

("Buyer")

Seller and Buyer are sometimes referred to individually as "Party" or together as "Parties".

RECITALS:

- A. Seller is the owner of Property (hereinafter defined) which Buyer desires to purchase and Seller is willing to sell to Buyer on the terms and conditions set forth herein.
- B. The Agreement shall be effective upon the date of the last of Seller and Buyer to execute this Agreement ("Effective Date").

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and other good and valuable consideration, the adequacy, sufficiency and receipt of which the Parties hereby acknowledge, and intending to be legally bound, the Parties agree as follows:

1. Sale and Purchase of Property.

- A. **Property.** Seller shall sell to Buyer and Buyer shall purchase from Seller, upon the terms and conditions hereof Seller's right, title and interest in certain unimproved real property consisting of approximately 31.66 acres of land located on Broadview Road, Richfield, Ohio, designated as Permanent Parcel No. 5000992, , and generally depicted on Exhibit A attached hereto together with all gas, oil and mineral rights and any and all other rights and appurtenances thereto ("Property"). The legal description set forth on Exhibit B attached hereto describes a 33.667 acre parcel of land within which the Property is situated. An approximate 2 acre parcel of land improved by a residence, barn and related out buildings with frontage on Broadview Road shall be excepted from such legal description in order to establish a proper legal description for the Property pursuant to a mutually acceptable legal description to be prepared at Buyer's cost, if necessary, by a registered Ohio surveyor. Any lot consolidation and/or lot split arrangements required by applicable governmental authorities to effect the foregoing shall be procured by Buyer at Buyer's cost.

B. **AS-IS.**

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, BUYER ACKNOWLEDGES THAT SELLER HAS MADE NO REPRESENTATION OR WARRANTY OF ANY KIND WITH RESPECT TO THE PROPERTY, INCLUDING WITHOUT LIMITATION, THE USES TO WHICH IT MAY BE PUT OR THE CONDITION OF THE PROPERTY. BUYER ACKNOWLEDGES THAT BUYER IS RELYING UPON BUYER'S OWN INVESTIGATIONS, TESTS, STUDIES, AND EVALUATIONS OF THE PROPERTY, AND THAT BUYER SHALL ACCEPT THE PROPERTY IN ITS "AS IS, WHERE IS, AND WITH ALL FAULTS" CONDITION ON THE CLOSING DATE, EXCEPT AS PROVIDED OTHERWISE IN THIS AGREEMENT.

2. **Purchase Price/Method of Payment.**

- A. Buyer agrees to pay Seller as the Purchase Price for Property the sum of \$850,000.00 ("Purchase Price").
- B. The Purchase Price (less the sum of prorations, adjustments and other credits to which Buyer is entitled as herein provided), shall be paid as follows:
 - i. \$5,000.00 in immediately available funds (the "Earnest Money Deposit") to be deposited by Buyer with Escrow Agent within three (3) days of the last execution hereof;
 - ii. \$145,000 in immediately available funds to be deposited by Buyer with Escrow Agent on the Closing Date (hereinafter defined), and
 - iii. \$700,000.00 represented by a Purchase Money Note and Mortgage to be granted by Buyer to Seller payable in 4 annual installments of \$150,000.00 each commencing on the first anniversary of the Closing Date and continuing on 2nd, 3rd and 4th anniversaries of the Closing Date thereafter until the 5th anniversary of the Closing Date when a final payment of \$100,000.00 shall be made and shall be in form of Exhibits C and D attached hereto. Seller shall be responsible for any interest imputed by the IRS.

3. **Escrow Agent.**

"Escrow Agent" shall be the Title Company (as designated on the signature page of this Agreement). Immediately following the Effective Date, Parties shall open an escrow account with Escrow Agent. This Agreement shall serve as escrow instructions and shall be subject to the usual conditions of acceptance of Escrow Agent insofar as the same are not inconsistent with any of the terms hereof. The Escrow Agent is hereby authorized to close this transaction and to make all prorations and allocations which in accordance with this Agreement are to be made between the parties hereto.

4. Buyer's Due Diligence.

- A. **Title Commitment.** Buyer shall have the right to order and obtain, at Buyer's expense, an ALTA survey of the Property ("Survey") and a current title commitment ("Title Commitment") and special tax search issued by the Title Company setting forth the state of the title of the Property and all exceptions, including easements, restrictions, rights-of-way, covenants, reservations, and other conditions, if any, affecting the Property which would appear in an Owner's Policy of Title Insurance ("Title Policy"), if issued by the Title Company as provided herein.

Buyer shall have until the date which is 45 days after the Effective Date to review the Commitment and/or the Survey and to deliver in writing to Seller such objections as Buyer may have to anything contained therein. If Seller does not receive such written notice from Buyer within such 45 day period, then Buyer shall be conclusively deemed to have approved the Commitment and Survey, and if Buyer shall deliver such written notice to Seller within such forty-five (45) day period, then Buyer shall be conclusively deemed to have approved any and all other matters reflected in the Commitment and/or the Survey other than those matters to which Buyer has objected as set forth in Buyer's written notice to Seller.

If Buyer raises any such objections to the Commitment and/or the Survey within the time period set forth herein, Seller shall have 5 days after receipt of Buyer's objections to notify Buyer that either (i) Seller will remove or cause the Title Company to remove (or issue affirmative insurance and/or an endorsement in form reasonably satisfactory to Buyer for) any such objectionable exceptions and provide Buyer with evidence reasonably satisfactory to Buyer of such removal (and/or of such affirmative insurance or endorsement), or provide Buyer with evidence reasonably satisfactory to Buyer that said exceptions will be removed (and/or that such affirmative insurance or endorsement shall be issued) before Closing; or (ii) Seller elects not to cause such objections to be cured. If Seller gives Buyer notice under clause (ii) above, Buyer shall have 5 days in which to notify Seller that Buyer will proceed with the purchase and take title to the Property subject to such objectionable matters, or that Buyer will terminate this Agreement. If Seller does not receive such written notice from Buyer within such 5 day period, then Buyer shall be conclusively deemed to have elected to terminate this Agreement.

For purposes of this Agreement, "Permitted Encumbrances" shall mean (i) all real estate taxes which are a lien but not yet due and payable; and (ii) any and all reservations, restrictions, easements, conditions, encumbrances, and other matters of title and/or of survey, other than any objections to title required to be removed by Seller as of the Closing Date under this Section 4 A.

B. Inspections.

For a period of 60 days from the date of last execution of this Agreement ("Inspection Period") Buyer or Buyer's agents shall have the right and permission, at Buyer's expense, to enter upon Property, or any part thereof, after the Effective Date, at all reasonable times and from time to time prior to termination of this Agreement for the purpose of making all inspections, tests, surveys and studies (collectively, "Inspections") required to determine the suitability of Property for Buyer's purposes as Buyer shall solely determine (which shall include without limitation, surveys, physical inspections, environmental assessments, soil tests, evaluation of utilities, etc.). Seller shall give Buyer access to the Property during normal business hours and shall provide all information concerning the Property which Buyer may reasonably request. With respect to all investigations conducted by Buyer hereunder, (i) such investigations shall be conducted upon prior notice to Seller and, at Seller's election, in the presence of a representative of Seller, provided however, under no circumstances shall Seller delay Buyer from conducting its investigation, and (ii) all information obtained as a result of such investigations shall be maintained by Buyer on a confidential basis and shall not be disclosed to any third party (other than Buyer's assignee, attorneys, accountants, lender, funding sources and other Buyer consultants) without the prior written consent of Seller not to be unreasonably withheld.

If Buyer determines, in Buyer's sole discretion, that the Property is not suitable for Buyer's needs or that Buyer is not satisfied in all respects with the results of Buyer's Inspections, then Buyer may give written notice to Seller on or before the last day of the Inspection Period that Buyer will not purchase the Property and this Agreement shall thereupon be cancelled, Buyer and Seller shall be released from all obligations hereunder, and Escrow Agent shall immediately return the Earnest Money Deposit to Buyer. If Seller does not receive such written notice from Buyer on or before the last day of the Inspection Period, or if Buyer shall deliver written notice to Seller within the Inspection Period that Buyer has approved its inspection of the Property (and/or that Buyer has waived the condition set forth in this Section 4), the condition set forth in this Section 4 shall terminate and be of no further force or effect and the parties shall proceed to Closing.

C. Indemnity.

Buyer shall indemnify and hold Seller harmless of, from and against any and all obligations, liabilities, suits, claims, losses, costs and expenses, including, without limitation, court costs and reasonable attorneys' fees, costs and damages sustained by or asserted against Seller or the Property, including, but not limited to, physical damage, physical injury to Buyer's employees, agents or contractors and any mechanics, and materialmen liens, caused as a result or arising out of or in connection with any Inspections conducted by Buyer or Buyer's agents after the Effective Date and Buyer shall restore any damage to the Property arising out of

Buyer's Inspections. The provisions of this Paragraph shall survive the termination of this Agreement or the Closing Date.

5. Buyer's Condition Precedent.

Buyer's obligation to perform under this Agreement and to close escrow is expressly subject to Buyer obtaining approval of this transaction on or before the expiration of the Inspection Period from the Richfield Village Council pursuant to a duly enacted ordinance to such effect. Buyer hereby covenants and agrees that from and after the Effective Date, Buyer shall use its best efforts to obtain such Council approval as set forth above.

6. Condemnation.

If prior to the Closing Date any condemnation or eminent domain proceedings shall be commenced, then at the option of Buyer, Buyer shall have the right either (a) to terminate this Agreement by delivering written notice thereof to Seller or (b) proceed to close the transaction and receive the proceeds of any condemnation award payable to Seller. If this Agreement is terminated under clause (a) of this Section 6, the Earnest Money Deposit shall be immediately returned by the Escrow Agent to Buyer and the parties, thereafter, shall be relieved of any further liability or obligation under this Agreement. In the event Buyer elects to proceed to close the transaction this Agreement shall remain in full force and effect, and on the date of Closing, the condemnation award payable to Seller under shall be assigned and belong to Buyer.

7. Closing Arrangements.

Time is of the essence to this transaction. All documents and funds pertaining to the purchase of the Property shall be deposited in escrow with the Escrow Agent, on or before the Closing. Provided all of the terms and conditions of this Agreement have been satisfied or waived as provided herein, the Closing shall take place within 30 days of the expiration of the Inspection Period, through an escrow closing by which the documents are recorded and the funds are disbursed simultaneously. The term "Closing" or "Closing Date" means the date upon which the funds shall be transferred to Seller and the Deed is recorded.

A. Seller's Closing Obligations.

- i. Seller shall deliver to Escrow Agent a limited warranty deed ("Deed"), duly executed and in proper form for recording in the form reasonably acceptable to Buyer conveying to Buyer fee simple, marketable and insurable title to the Property, free and clear of all liens and encumbrances except for Permitted Encumbrances and zoning ordinances, and
- ii. Cause to be delivered to Buyer the Title Policy in the full amount of the Purchase Price issued in accordance with the form of Title Commitment approved by Buyer during the Contingency Period without any

intervening liens, encumbrances or exceptions and with the deletion of the standard printed exceptions,

- iii. Seller shall execute, acknowledge and deliver such affidavits, resolutions and other documents which the Title Company shall reasonably require in order to issue the Title Policy and to delete the standard printed exceptions from the Title Policy.

B. **Buyer's Closing Obligations.** Buyer shall, on or before the Closing Date through escrow, deliver to Seller the Purchase Price, and any other documents reasonably required to close this transaction.

C. **Escrow Agent's Closing Obligations.** On the Closing Date, if and when the Escrow Agent has received all funds and documents required to be deposited hereunder and all of the terms and conditions of this Agreement have been satisfied or waived as provided herein, then the Escrow Agent shall cause the Deed to be filed for record and the funds disbursed in accordance with this Agreement.

i. Escrow Agent shall charge Seller with :

- a. 50% of the cost of the Title Policy;
- b. 50% of Escrow Agent's fee;
- c. the transfer tax and/or conveyance fee; and
- d. all other fees and charges which are required to be paid by Seller pursuant to this Agreement.

ii. Escrow Agent shall charge Buyer with:

- a. the cost of title examination, special tax search, Title Commitment and 100% of any Survey costs;
- b. 50% of the cost of the Title Policy and the entire cost of endorsements to the Title Policy and/or additional title insurance desired by Buyer;
- c. 50% of Escrow Agent's fee;
- d. the cost of recording the Deed and any documents associated with Buyer financing; and
- e. all other fees and charges which are required to be paid by Buyer pursuant to this Agreement.

- iii. Credit Buyer and charge Seller with real estate taxes and assessments, both general and special, prorated to the Closing Date based upon the latest available tax rate and valuation,
- iv. Immediately following the Closing Date, Escrow Agent shall deliver the funds and documents as follows:
 - a. to Seller (or Seller's attorney, if Seller is represented by legal counsel), the funds and documents due Seller together with duplicate copies of the escrow statement, and
 - b. to Buyer (or Buyer's attorney, if Buyer is represented by legal counsel), the funds and documents due Buyer together with duplicate copies of the escrow statement.

8. Possession.

Sole and exclusive possession of Property shall be delivered by Seller to Buyer on the Closing Date.

9. Default.

If Buyer shall default under this Agreement, then Seller shall have the right receive payment of the Earnest Money Deposit and reimbursement of all of Seller's reasonable out-of-pocket expenses associated with this transaction as liquidated damages. If Seller shall default hereunder, Buyer shall have the right to pursue all rights and remedies available at law and/or in equity.

10. General Provisions

A. Notices.

- i. All notices, elections, consents, demands and communications shall be in writing and delivered personally or by registered or certified mail, return receipt requested, postage prepaid or by any nationally recognized overnight courier service addressed to the other Party at their address first stated in this Agreement. Copies of notices shall be sent to the Attorneys for the respective Parties, if identified on the signature page. Either Party may, by written notice to the other, change the address to which notices are to be sent.
- ii. Unless otherwise provided herein, all notices shall be deemed given when personal delivery is effected or when deposited in any branch, station or depository maintained by the U.S. Postal Service or the overnight courier service within the United States of America, except that a notice of a change of address shall be deemed given when actually received. Seller's affidavit of the date and time of deposit in a mailbox or with the overnight

courier service or the postmark, whichever is earlier shall constitute evidence of the Effective Date when the notice has been given.

B. Entire Agreement.

This Agreement, together with the attached Exhibits, contains all of the terms and conditions of the Agreement between the Parties, and any and all prior and contemporaneous oral and written Agreements are merged herein. The Exhibits attached to this Agreement are hereby incorporated by reference in their entirety with the same force and effect as if they were set forth at length in this Agreement.

C. Modifications and Waivers.

This Agreement cannot be changed nor can any provision of this Agreement, or any right or remedy of any Party, be waived orally. Changes and waivers can only be made in writing and the change or waiver must be signed by the Party against whom the change or waiver is sought to be enforced. Any waiver of any provision of this Agreement, or any right or remedy, given on any one or more occasions shall not be deemed a waiver with respect to any other occasion.

D. Benefit of Agreement.

This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their respective successors and assigns.

E. Broker.

Seller and Buyer each warrant to the other that neither Party has dealt with any real estate broker in effecting this Agreement. Each Party shall hold the other harmless from any and all claims, demands, and attorney's fees resulting from any real estate broker's claims for real estate commission based upon dealings with such Party.

F. Severability.

If any provision of this Agreement is held to be illegal, invalid or unenforceable, said provision shall be fully severable; the Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of the Agreement; and the remaining provisions of the Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from the Agreement.

G. Counterparts.

This Agreement may be executed in multiple counterparts and shall be effective when such counterparts are executed by and delivered to all signatory Parties.

Such counterparts shall be taken to be one and the same original document with the same effect as if all Parties hereto had signed the same document. Any executed signature page of this Agreement may be detached from any counterpart and attached to another counterpart containing the signature pages with the signatures of all other signatory Parties to this Agreement.

Remainder of Page Intentionally Blank

IN WITNESS WHEREOF, Seller, Buyer and Escrow Agent/Title Company have hereunto set their hands as of the date set forth beneath their signatures.

Seller:

Buyer:

By: _____
Myrtle Elaine Pedigo, Successor Co-Trustee

Village of Richfield, Ohio
By: _____
Mayor Michael K. Lyons

(date)

By: _____
Finance Director Eleanor Lukovics

(date)

By: _____
Jessie C. Pedigo, Successor Co-Trustee

Charles T. Riehl, Law Director
Walter and Haverfield LLP
1301 East 9th Street, Suite 3500
Cleveland, Ohio 44114
Telephone: 216-928-2895

(date)

By: _____
Beverly A. Fortune, Successor Co-Trustee

Approved as to form:

By: _____
Charles T. Riehl, Law Director

(date)

(date)

By: _____
M. Van Pedigo, Successor Co-Trustee

Escrow Agent/Title Company:
LandAmerica/Lawyer's Title Insurance Corporation
195 S. Main Street, Suite 200
Akron, Ohio 44308
Telephone: 330-762-3029
Fax: 330-873-9529

(date)

By: _____
Myrtle Elaine Pedigo, individually

By: _____

(date)

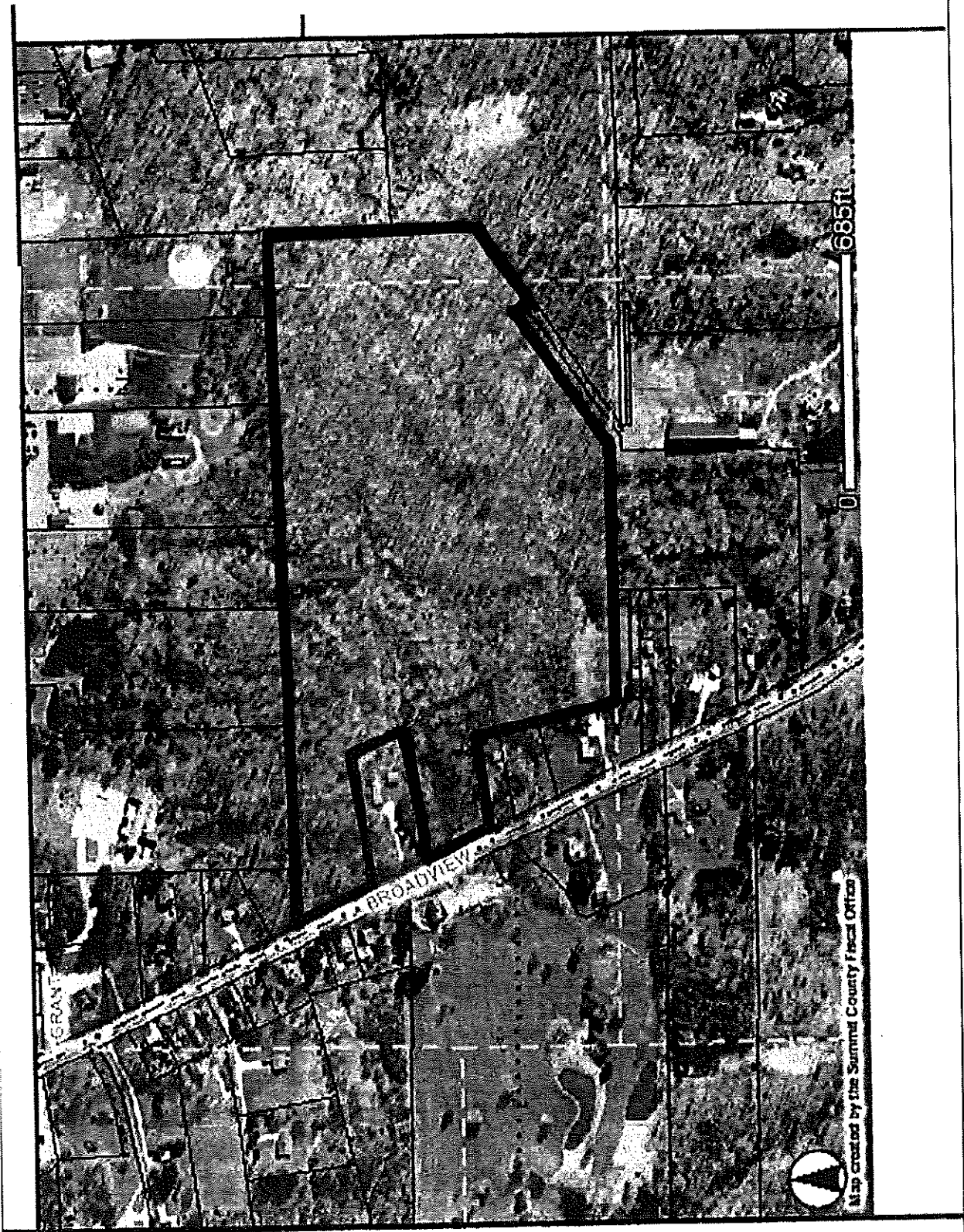
Seller's attorney:

Buyer's attorney:

Calfee, Halter & Griswold LLP
Heather Corrigan/Elizabeth Golish
800 Superior Avenue
Cleveland, Ohio 44114
Telephone: (216) 622-8219
Fax: (216) 241-0816
Email: hcorrigan@calfee.com / egolish@calfee.com

Ziegler, Metzger & Miller LLP
Christopher E. Soukup
925 Euclid Avenue, Suite 2020
Cleveland, Ohio 44115
Telephone: (216) 781-5470
Fax: (216) 781-0714
Email: ces@zieglermetzger.com

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DESCRIPTION OF LAND

Situated in the County of Summit in the State of Ohio and in the township of Richfield, known as being parts of Lots Nos. 9 and 10, Tract No. 2 in said township and more fully described as follows, to wit:

Beginning at an iron pipe on the south line of said Lot No. 9, said beginning point being S 86° 04' E, 219.86 feet as measured along said lot line from its intersection with the centerline of West Richfield Road (S.R. 176) and thence North 8° 53' West, 353.13 feet to an osage orange stump (iron pipes are 5.0 feet southerly and westerly on line from said stump); thence south 82° 48' West, 285.61 feet to the center line of said West Richfield Road (an iron pipe is in 82° 48' E, 30.95 feet from this point); thence along said road center line, North 21° 42' West, 669.30 feet (an iron pipe is S 87° 19' East, about 30.65 feet from this point); thence South 87° 19' East, about 2037.63 feet to an iron pipe; thence along a marked line, South 4° 03' West; 561.55 feet to an iron pipe ; thence along a marked line, South 58° 12' West, 264.05 feet to an iron pipe; thence at right angles, North 31° 48' West, 59.66 feet to an iron pipe; thence along a marked line, South 58° 12' West 462.10 feet to an iron pipe on the south line of said Lot No. 9; thence along said Lot line, North 86° 04' West, 763.58 feet to the place of beginning and containing 33.667 acres of land of which amount 30.630 acres are in said Lot No. 9 and 3.037 acres are in said Lot No. 10 as surveyed in November, 1965 by Gehres & Kingsley, Surveyors, Akron, Ohio, but subject to all legal highways.

Excepting:

Beginning at the intersection of the south line of Lot 9 and the centerline of S.R. 176 (West Richfield Road); thence N21° 42' W along the centerline of S.R. 176 a distance of 529.64 feet to the true place of beginnings;

Thence, continuing North 21 deg. 42' West along the centerline of S.R. 176, a distance of 200.80 feet to a point;

Thence N 81 degrees 48' E, passing thru and iron pin set 30.85 ft from the centerline of S.R. 176, a distance of 440.00 feet to an iron pin;

Thence S 21 degrees 11' 30" E a distance of 208.18 ft to an iron pin;

Thence South 82° 48' W a distance of 440.00 ft., passing thru an iron pin set 30.99 feet from the centerline of S.R. 176, to the true place of beginning and containing 2.0018 acres more or less and being subject to all legal highways as surveyed by John A. Bambeck, Registered Surveyor No. 5141, in September, 1971.

PPN: 5000992

PROMISSORY NOTE

\$700,000.00

Richfield Village, Ohio

_____, 2006
("Commencement Date")

_____, 20____
("Maturity Date")

FOR VALUE RECEIVED, the undersigned, Village of Richfield, Ohio ("Maker"), promises to pay to Myrtle Elaine Pedigo, Jessie C. Pedigo, Beverly A. Fortune and M. Van Pedigo, Successor Co-Trustees and Myrtle Elaine Pedigo, Individually (collectively, "Payee") at 4381 Streetsboro Road, Richfield, OH 44286 or at such other place as Payee may designate in writing from time to time, in legal tender of the United States, the principal sum of \$700,000.00 payable in the manner hereinafter provided. The entire unpaid principal balance of this Promissory Note ("Note") if not sooner paid, shall be due and payable on the Maturity Date.

Principal Payments and Member of Payment

Payments by Maker to Payee hereunder of the principal sum of \$700,000.00 shall be due and payable in 4 annual installments of \$150,000.00 each with a final installment payment of \$100,000.00. The first installment should be payable on the first anniversary of the Commencement Date with the remaining installments payable on 2nd, 3rd and 4th anniversaries of the Commencement Date thereafter until the 5th anniversary of the Commencement Date when a final payment of \$100,000.00 shall be made.

Interest During Default and After Maturity

When and if the Maker shall be in default (after passage of any applicable grace period) in the timely payment of any payment of principal or interest due hereunder, in the payment of the principal and interest at maturity, and during any period after the Maturity Date for which any part of the indebtedness evidenced by this Note is unpaid, interest on all sums outstanding hereunder shall automatically accrue interest at an annual percentage rate equal to 6% ("Default Rate").

Prepayment

This Note may be prepaid in whole or in part at any time without payment of any prepayment premium.

Default

The entire unpaid principal balance of this Note and all accrued and unpaid interest thereon, shall become immediately due and payable by maker to Payee without notice, at the option of Payee, upon any default in the payment of any amount when due under this Note and such default in payment continues for a period of 10 calendar days after Maker's receipt of written notice thereof from Payee. Upon any such event, Maker shall pay, during such period of default, interest on the

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unpaid balance of the loan at the Default Rate. Any failure of Payee to exercise such option to accelerate the maturity hereof shall not constitute a waiver of the right to exercise such option to accelerate at any future time.

Acceptance by Payee of any payment in an amount less than the amount due shall be deemed an acceptance on account only and the failure to pay the entire amount then due shall be and continue to be an event of default. At any time thereafter and until the entire amount then due has been paid, Payee shall be entitled to exercise all rights conferred upon Payee in this Note upon the occurrence of a default.

Waiver

Maker expressly waives presentment, demand, protest, notice of dishonor, notice of nonpayment, notice of acceleration, notice of maturity, notice of protest, presentment for the purpose of accelerating maturity and diligence in collection.

Governing Law, Successors and Assigns and Miscellaneous

This Note is made in the State of Ohio and shall be governed by and construed in accordance with its laws. If any provision(s) of this Note are in conflict with any statute or applicable rule of law, or are otherwise unenforceable for any reason whatsoever, such provision(s) shall be deemed null and void to the extent of such conflict or unenforceability but shall be deemed separate from and shall not invalidate any other provision of this Note. The rights and remedies provided to Payee in this Note are cumulative and the use of any one right or remedy shall not preclude or waive Payee's ability to use any or all other rights and remedies Payee may have at law or in equity. In this Note, the singular and plural are interchangeable and words of any gender shall include all genders. This Note shall, in accordance with its terms, be binding upon Maker, Maker's heirs and personal representatives and shall inure to the benefit of Payee and Payee's successors. The paragraph headings provided in this Note are for convenience only.

IN WITNESS WHEREOF, Maker has executed and delivered this Note to Payee as of _____, 2006.

Maker: Village of Richfield, Ohio

By: _____
Michael K. Lyons, Mayor

MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, that the Village of Richfield, Ohio, ("Borrower"), in consideration of a loan in the amount of Seven Hundred Thousand Dollars (\$700,000.00) ("Obligation") from Myrtle Elaine Pedigo, Jessie C. Pedigo, Beverly A. Fortune and M. Van Pedigo, Successor Co-Trustees and Myrtle Elaine Pedigo, individually (collectively, "Lender"), whose address is c/o Myrtle Elaine Pedigo, 4381 Streetsboro Road, Richfield, Ohio 44286, and other good and valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell and convey to Lender, Lender's successors and assigns forever, the real estate described in Exhibit A attached hereto and incorporated herein by this reference, together with all buildings and improvements which may hereafter be erected thereon, the rents, issues and profits thereof, and all easements, privileges, tenements, hereditaments and appurtenances thereunto belonging, and all fixtures of every kind and nature that may be placed in or on any building or improvement, all of which shall be referred to as the "Property".

TO HAVE AND TO HOLD the above granted and bargained Property with the appurtenances thereof unto Lender forever. And Borrower does covenant with Lender that at and until the ensembling of these presents, Borrower is well seized of the Property as a good and indefeasible estate in fee simple, and has good right to bargain and sell the same in manner and form as above written, and that the same are free and clear of all liens, encumbrances, and adverse interests whatsoever (or the possibility thereof), except for real estate taxes and assessments which are a lien on the date this instrument is executed, easements, reservations, and restrictions of record, if any, and zoning ordinances, if any. And Borrower further covenants with Lender that Borrower will warrant and defend said Property, with the appurtenances thereunto belonging, unto Lender forever, against all lawful claims and demands whatsoever except as aforesaid.

WHEREAS, Borrower has executed and delivered to Lender a certain Promissory Note ("Note") payable to the order of Lender of even date in the principal amount of Seven Hundred Thousand Dollars (\$700,000.00), due and payable as therein provided.

AND WHEREAS, Borrower does hereby further covenant with Lender as follows:

1. Borrower shall pay and discharge as the same become payable, all taxes, assessments, re-assessments and other governmental charges whatsoever now or hereafter imposed by any public authority upon the Property or any part thereof, or Lender's interest therein, without regard to any law heretofore or hereafter enacted imposing payment of the whole or any part thereof upon the Lender and to promptly, when requested, provide Lender with proof of all such payments. Borrower further covenants to promptly reimburse Lender for any and all penalties and interest incurred as the result of any failure of Borrower to timely pay Borrowers obligations under this Paragraph 1.

2. Borrower shall pay all water rents, sewer service charges and other governmental or municipal charges and rates levied, imposed or charged against said Property as the same become due and payable.

3. Borrower will keep the Property free and clear from all mechanic's liens and any other statutory liens during the continuance of this Mortgage.

4. Borrower will not suffer any lien superior to this Mortgage to exist against the Property during the continuance of this Mortgage without obtaining the prior written consent of Lender, which shall not unreasonably be withheld. In the event that title to the Property, or any part thereof or interest therein, becomes vested in a person or persons not approved by Lender or otherwise permitted herein, the indebtedness secured hereby will become due and payable at Lender's option. In the event that ownership of the Property, or any part thereof or interest therein, becomes vested in such person or persons other than Borrower, Lender may, without prior notice to the Borrower, deal with such successor or successors in interest with reference to this Mortgage, in the same manner as with Borrower, without in any way releasing, discharging or otherwise affecting Borrower's liability hereunder or for the indebtedness hereby secured.

5. Borrower will keep and maintain all buildings and improvements (including fixtures), and all apparatus and personal property owned by Borrower, now or hereafter situated on the Property at all times in good order, condition and repair, ordinary wear and tear excepted, and in compliance with all applicable laws, ordinances and regulations (including without limitation those relating to environmental protection). Further, Borrower covenants for itself and its successors and assigns, that Borrower shall not cause or permit the disposal on or contamination of said real estate in violation of any applicable federal, state, local or administrative law, rule, regulation or order (hereinafter "Environmental Laws"), to be disposed of on, under or at the real property upon the Property., and Borrower, its successors and assigns shall indemnify and save harmless Lender, its successors and assigns from all losses, costs, expenses, claims, actions and damages arising out of any violations of said Environmental Laws whether now existing or hereinafter enacted.

6. Borrower will keep the buildings on the Property insured to the full replacement cost thereof in such forms and with such companies and for such length of time as required by Lender, for the benefit of Lender, as Lender's interest may appear, and will place and keep a certificate of such insurance with Lender upon Lender's request.

7. Borrower hereby agrees that in the event of Borrower's failure to comply with any or all of the covenants, agreements, conditions and stipulations herein set forth, then Lender will be and hereby is authorized and empowered at its option, but without legal obligation so to do, (i) to pay any unpaid obligation secured by any lien on the Property, water rents, sewer rental charges and other governmental charges and rents and all or any part of the unpaid taxes, assessments and re-assessments; (ii) to effect insurance on said buildings to the amount above named; and (iii) to enter or have Lender's agents enter upon the Property whenever necessary for the purpose of inspecting the Property and curing any default of Borrower hereunder. Borrower agrees that Lender will thereupon have a claim against Borrower for all sums paid by Lender for such water rents, sewer rental charges and other governmental or municipal charges and rates, taxes, assessments and re-assessments, insurance and defaults cured plus interest at the default rate of interest as set forth in the Note. Any such sum and the interest thereon will be immediately due and payable and be secured hereby, having the benefit of the lien hereby created, as a part hereof and its priority.

8. In the event an action is instituted to foreclose Borrower's equity of redemption, the court will at once, on application of Lender or Lender's attorney in such action, ex parte and without notice, appoint a receiver to take immediate possession of, manage and control the Property, for the benefit of the holder or holders of the Indebtedness and of any other parties in interest, with power to collect the rents and profits of the Property during the pendency of such action, and to apply the same toward the payment of the several obligations herein mentioned and described, notwithstanding that the same or any part thereof is occupied by Borrower or any other person.

9. No sale of the Property, no forbearance on the part of Lender, no extension of the time for the payment of the Indebtedness or any change in the terms thereof consented to by Lender will in any way whatsoever operate to release, discharge, modify, change or affect the original liability of Borrower herein, either in whole or in part. No waiver by Lender of any breach of any covenant of Borrower herein contained will be construed as a waiver of any subsequent breach of the same or any other covenant herein contained. Lender may pursue Lender's rights under the Note without first exhausting Lender's rights hereunder and all rights, powers and remedies conferred upon Lender herein are in addition to each and every right which Lender may have hereunder at law or equity, and may be enforced concurrently therewith.

10. If any action or proceeding be commenced, to which action or proceeding Lender is made a party by reason of the execution of this Mortgage or the indebtedness, or in which it becomes necessary to defend or uphold the lien of this Mortgage or the priority thereof or possession of the Property, or otherwise to perfect the security hereunder, all sums paid by Lender for the expense of any litigation to prosecute and defend the rights and liens created hereby will be paid by Borrower together with interest thereon from the date of payment at the lesser of the Default Rate, as set forth in the Note, or the highest lawful rate of interest then permitted under applicable law. Any such sum and the interest thereon will be immediately due and payable and be secured hereby, having the benefit of the lien hereby created, as a part hereof and its priority.

11. The occurrence of any of the following events will constitute a default under this Mortgage: (i) the occurrence of any default in the performance or observance of any of the terms, covenants or agreements contained herein, in the Note or arising out of the Indebtedness (other than a default relating to the payment of money), which shall not be cured within thirty (30) days after Borrower's receipt of notice of such default from Lender; (ii) the institution of any foreclosure proceeding by the holder of any mortgage or lien upon the Property; (iii) Borrower's insolvency or application to any Bankruptcy Court to be adjudicated a voluntary bankrupt; (iv) the institution of any proceeding against Borrower to put it in involuntary bankruptcy, which is not dismissed within sixty (60) days; (v) the commencement of any proceeding against Borrower for the appointment of a receiver, which is not dismissed within sixty (60) days; (vi) the seizure of the Property under any writ or process of court, or by any trustee acting under any mortgage; or (vii) a default in relating to the payment of money under the terms of the Note which remains uncured for a period of ten (10) days. Upon the occurrence of any of the foregoing events, the whole of the indebtedness will, at the election of Lender, become immediately due and payable without notice and Lender, its successors and assigns are hereby

authorized and empowered to foreclose this Mortgage or otherwise to pursue any other rights or remedies permitted hereunder or by law.

12. Upon request of Borrower from time to time, Lender shall execute and deliver to Borrower a Partial Release of Mortgage in recordable form that shall release that portion of the Property designated by Borrower for release which shall correspond to the proportion of the Obligation which has been paid to that date by Borrower. (For example, if Borrower shall have made two installment payments totaling \$300,000, Lender shall release 3/7's (\$300,000 ÷ \$700,000) of acreage of the Property from the encumbrance of the Mortgage.

NOW THEREFORE, the condition of this Mortgage is that if Borrower shall punctually pay all indebtedness hereby secured according to the tenor of said Note or during any period of grace allowed therein and shall punctually perform the Borrower's covenants herein contained, then the grant, conveyance, assignment and transfer hereby evidenced shall become null and void; otherwise the same shall remain in full force and effect.

IN TESTIMONY WHEREOF, the said Borrower has caused these presents to be subscribed this _____, 2006.

BORROWER:

Village of Richfield, Ohio

By: _____
Mayor Michael K. Lyons

STATE OF OHIO)
) SS
COUNTY OF CUYAHOGA)

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, Mayor Michael K. Lyons, on behalf of the Village of Richfield, Ohio who acknowledged that he did sign the foregoing instrument and that the same was his free act and deed and that of the Village.

In testimony whereof, I have hereunto set my hand and official seal at Richfield, Ohio, this _____, 2006.

Notary Public

This Instrument Prepared By:
Christopher E. Soukup, Esq.

{PURCHASE AGMT - JULY 26 FROM SOUKUP
(EZG0025).DOC;1}

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