

DATE: DECEMBER 20, 2010

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 152 - 2010

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an offer to purchase agreement between the City of Massillon and the State of Ohio for the purchase of real estate located adjacent to the Indian River Juvenile Correction Facility, upon approval of the Board of Control, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby finds that it is necessary to enter into an offer to purchase agreement between the City of Massillon and the State of Ohio for the purchase of an 8.622 acre parcel of real estate located near the Indian River Juvenile Correction Facility, the same being more fully described on exhibit "a" attached hereto, upon approval of the Board of Control.

Section 2:

The Mayor of the City of Massillon, Ohio, is hereby authorized and directed to enter into the purchase agreement between the City of Massillon and the State of Ohio, the terms of which are contained in exhibit "a" attached hereto.

Section 3:

The purchase price for said real estate shall be \$15,000 (Fifteen Thousand Dollars). The city will be receiving the \$15,000 (Fifteen Thousand Dollars) through the Massillon Community Improvement Corporation and said funds will be used to pay for the purchase of this parcel of real estate. Separate legislation will ultimately be presented permitting the city to convey said real estate to the Massillon Community Improvement Corporation.

Section 4:

This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary for such agreement to be in place before the end of the calendar year so that the state legislature can pass state legislation authorizing the sale of the property to the City of Massillon. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS 20th DAY OF December, 2010

ATTEST:

Mary Beth Bailey
MARY BETH BAILEY, CLERK OF COUNCIL

Glenn E. Gamber
GLENN E. GAMBER, PRESIDENT

APPROVED:

December 21, 2010

Francis H. Cicchinelli, Jr.
FRANCIS H. CICCHINELLI, JR., MAYOR

I hereby certify that the foregoing ordinance
is a true copy of the original, as passed by
the Council of the City of Massillon, Ohio,
and approved as noted thereon:

Mary Beth Bailey
Clerk of Council

Date 12/20/10

OFFER TO PURCHASE REAL ESTATE

The undersigned, City of Massillon, Ohio, a body politic, having an office within the Municipal Government Annex, Administration Building, 151 Lincoln Way East, Massillon, Ohio 44646 (hereinafter referred to as "Purchaser"), hereby offers to purchase from the State of Ohio, acting through its Department of Administrative Services, 4200 Surface Road, Columbus, Ohio 43228-1395 (hereinafter referred to as "State"), acting on behalf of the Ohio Department of Youth Services, (hereinafter referred to as "Agency"), an 8.622 acre tract of land, located near the Indian River Juvenile Correctional Facility, which correctional facility is located at 2775 Indian River Road, S.W., Massillon, Ohio 44646, and more fully described within "Exhibit A" and "Exhibit B", attached hereto and made a part hereof, subject to the legal description and survey prepared pursuant to Section 5 herein (hereinafter referred to as "Premises").

The foregoing offer is subject to the following terms and conditions:

1. The purchase price for the Premises shall be Fifteen Thousand and 00/100 Dollars (\$15,000.00) and shall be paid at closing payable to the Treasurer, State of Ohio.
2. The State shall convey title to the aforescribed Premises to Purchaser by Governor's Deed (hereinafter referred to as "Deed").
3. Any title evidence desired by Purchaser shall be at Purchaser's cost.
4. The risk of loss or damage to the Premises shall remain with and is expressly assumed by the State until title passes at the time of the delivery of the Deed, at which time the risk of loss or damage to the Premises shall be expressly assumed by Purchaser.
5. For purposes of facilitating legislation regarding the transfer of subject property, Purchaser shall provide at Purchaser's cost, a boundary survey (including legal description and corresponding drawing) for the Premises approved by the City of Massillon Engineer for deed transfer, or shall have the existing legal description of the Premises approved by the City of Massillon Engineer for deed transfer. The State shall approve the division of property necessary to facilitate the deed transfer.
6. Purchaser shall pay all costs associated with the purchase and conveyance of the subject premises, including recordation costs of the Deed.
7. Purchaser has examined the Premises and agrees to accept the Premises, and all improvements and chattels thereon, in its present condition, as is. Purchaser and State agree that the condition of the Premises will not be changed, altered or modified between the time of executing this agreement and the date of closing.

8. Purchaser and seller acknowledge certain analysis and determinations relating to the Premises found in that certain Memo dated June 1, 2009 by Hammontree & Associates, and that certain Erosion Study dated April 2010, by Sands Decker, CPS. Purchaser agrees that after taking title to the Premises, Purchaser shall construct a detention basin (the "Basin") as depicted within Exhibit "C", attached hereto and made a part hereof. All costs of constructing and maintaining the Basin shall be paid by Purchaser. Construction of the Basin shall be completed by Purchaser no later than one hundred eighty (180) days following transfer of title of the Premises. The Basin shall:
- a. Repair the eroded gully;
 - b. Prevent future gully erosion;
 - c. Prevent damage and/or debris from disrupting the Ohio & Erie Canal Towpath Bike Trail;
 - d. Allow Agency to discharge current water flow rates/volumes into the Basin;
and
 - e. Maintain and/or relocate Agency's storm sewer connection(s).

Purchaser shall be responsible for maintenance of the Basin, and the slopes of the Basin, to prevent erosion of Agency's property. In consideration of the purchase price, Purchaser shall hold State and Agency harmless for any and all past, present, or future damages discovered or unknown caused by or relating to the Premises. This specifically includes storm water runoff. The provisions of this Paragraph 8 shall survive the conveyance of the Premises.

9. Said sale is subject to and governed by the passage of legislation by the Ohio General Assembly authorizing the sale of the Premises in accordance with the terms and conditions herein.
10. This agreement sets forth the entire understanding of the parties with respect to this transaction. It may not be modified, rescinded, changed or amended without the specific written consent of both of the parties hereto until such time as legislation is passed, at which time the legislation shall supplement the terms and conditions of this agreement. This agreement shall be binding upon the parties hereto and their respective administrators, successors and assigns.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of
_____, 20_____.

PURCHASER:
City of Massillon, Ohio

By: _____
Francis H. Cicchinelli, Jr., Mayor

Per Massillon City Council Resolution #: _____

APPROVED AS TO FORM:
City of Massillon, Law Department

By: _____
Pericles G. Stergios, Director of Law

ACCEPTANCE

The undersigned, Hugh Quill, being the Director of Administrative Services for the State of Ohio as authorized by Ohio Revised Code §123.01(A)(12) and being the person referred to as State above, hereby accepts the foregoing offer of Purchaser for the subject property and agrees to the terms and conditions relating thereto and set forth above.

Executed this _____ day of _____, 20_____.

State of Ohio, by:

By: _____
Hugh Quill, Director of Administrative
Services

CONCURRENCE

The undersigned, Christine Money, being the Interim Director of the Ohio Department of Youth Services has reviewed the foregoing document and is in agreement with the terms and conditions contained herein.

Approved this _____ day of _____, 20_____.

AGENCY:
Ohio Department of Youth Services

By: _____
Christine Money, Interim Director

Exhibit "A"

Legal Description of Premises
(DESCRIPTION OF AN 8.622 ACRE TRACT)

Situated in the City of Massillon, County of Stark, State of Ohio and being part of Massillon City Out Lot 538. Also being part of a 40.00 acre tract conveyed to State of Ohio Youth Commission.

Beginning at a 1/2-inch iron bar with an H&A cap set at the southeast corner of said Out Lot 538 and the true place of beginning;

1. Thence N 60°13'44" W along the north line of a tract now or formerly owned by Massillon Materials, Inc. (O.R. Vol. 1167, Pg. 223) a distance of 1411.25 feet to a 1/2-inch iron bar with an H&A cap set;
2. Thence N 39°37'36" E along the east line a tract of land now or formerly owned by the City of Massillon (21.46 ac.) a distance of 34.07 feet to a 1/2-inch iron bar with an H&A cap set;
3. Thence N 48°54'16" E continuing along the east line of said City of Massillon tract (21.46 ac.) a distance of 100.03 feet to a 1/2-inch iron bar with an H&A cap set;
4. Thence N 56°10'56" E continuing along the east line of said City of Massillon tract (21.46 ac.) a distance of 101.15 feet to a 1/2-inch iron bar with an H&A cap set;
5. Thence N 55°38'06" E continuing along the east line of said City of Massillon tract (21.46 ac.) a distance of 89.92 feet to a 1/2-inch iron bar with an H&A cap set;
6. Thence N 55°25'36" E continuing along the east line of said City of Massillon tract (21.46 ac.) a distance of 100.03 feet to a 1/2-inch iron bar with an H&A cap set;
7. Thence N 54°13'26" E continuing along the east line of said City of Massillon tract (21.46 ac.) a distance of 100.00 feet to a 1/2-inch iron bar with an H&A cap set;
8. Thence N 44°40'56" E continuing along the east line of said City of Massillon tract (21.46 ac.) a distance of 101.37 feet to a 1/2-inch iron bar with an H&A cap set;
9. Thence S 06°28'18" E along a new division line a distance of 469.59 feet to a 1/2-inch iron bar with an H&A cap set;
10. Thence S 60°13'44" E continuing along a new division line a distance of 700.00 feet to a 1/2-inch iron bar with an H&A cap set;
11. Thence N 74°46'16" E continuing along a new division line a distance of 282.84 feet to a 1/2-inch iron bar with an H&A cap set;
12. Thence S 29°46'16" W along the west line of said Massillon Materials, Inc. tract (O.R. Vol. 1167, Pg. 223) a distance of 400.00 feet to a 1/2-inch iron bar with an H&A cap set and the true place of beginning.

The above described tract contains 8.622 acres of which no acres lie within the public right-of-way as surveyed under the supervision of Gary L. Toussant, P.S. #6332 of Hammontree and Associates, Limited, Engineers, Planners and Surveyors of North Canton, Ohio on November 2, 2006.

The basis of bearings is the Ohio State Plane Coordinate System, North Zone, NAD83 from the City of Massillon Control Survey.

Exhibit "C"

Basin Map
(Indicates size/location of the Basin)

