

VILLAGE COUNCIL OF WAKEMAN, OHIO
RESOLUTION NO.: 2021-R-30

A RESOLUTION AUTHORIZING THE VILLAGE ADMINISTRATOR TO ENTER INTO A REAL ESTATE PURCHASE AND SALE AGREEMENT WITH THE BOARD OF PARK COMMISSIONERS OF THE LORAIN COUNTY METROPOLITAN PARK DISTRICT (“SELLER”) FOR THE PURCHASE OF REAL PROPERTY LOCATED ON SR 60 IN THE VILLAGE OF WAKEMAN CONTAINING A VACTED RAILROAD BRIDGE TO BE USED AS A RECREATIONAL TRAIL AND DECLARING AN EMERGENCY

WHEREAS, each municipal corporation may acquire property by purchase for any authorized municipal purpose. See ORC 715.01; and

WHEREAS, a municipal corporation may acquire by purchase, real estate or any interest therein, and other property for the use of the municipal corporation. See ORC 715.21.; and

WHEREAS, the Village has received a proposal from the Board of Park Commissioners of the Lorain County Metropolitan Park District (“Seller”) offering to sell a parcel of land on SR 60 which includes a vacated railroad bridge across the Vermilion River currently being used as a recreational trail by Firelands Rails-to-Trail; and

WHEREAS, the parcel is described in the proposed Real Estate Purchase and Sale Agreement is depicted on Exhibit A and described in Exhibit B and designated by the Huron County Auditor as Parcel 50-055B-02-015-0211 ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE; and

WHEREAS, the Board of Park Commissioners of the Lorain County Metropolitan Park District (Seller) asserts its right to grant to Firelands Rails-to-Trails, Inc. (“Firelands”) a perpetual, non-exclusive easement over the premises/parcel for recreational trail purposes and access to and from the premises/parcel and other properties owned, in whole or in part, leased or managed by Firelands; and

WHEREAS the Village Administrator reports that the two-span stone arch bridge was last visually inspected on March 16, 2015, by Engineering Associates who issued an opinion dated March 19, 2015, stating that the existing bridge is capable of supporting anticipated bicycle path traffic loading; and

WHEREAS, in those villages that have established the position of village administrator, the village administrator shall make contracts, purchase supplies and materials, and provide labor for any work under the administrator's supervision involving not more than fifty thousand dollars.
[Section 731.141 of the Ohio Revised Code; See also Section 133.02 of the Wakeman Codified Municipal Code]

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF WAKEMAN, STATE OF OHIO: (RC 731.18)

SECTION 1. That Village Council finds and determines that it is in the best interest of the

Village to enter into a Real Estate Purchase and Sale Agreement with the Board of Park Commissioners of the Lorain County Metropolitan Park District for the purchase of Parcel 50-055B-02-015-0211 on SR 60 which includes a vacated railroad bridge across the Vermilion River.

SECTION 2. That Village Council finds and determines that the real property will serve and be used for municipal purposes.

SECTION 3. That the VILLAGE ADMINISTRATOR is hereby authorized and directed to enter into Real Estate Purchase and Sale Agreement with the Board of Park Commissioners of the Lorain County Metropolitan Park District ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE

SECTION 4. That the contract shall be executed in the name of the village and signed on its behalf by the village administrator. [Section 731.141 of the Ohio Revised Code; See also Section 133.02 of the Wakeman Codified Municipal Code]

SECTION 5. DISPENSE WITH THREE READINGS. That the legislative authority, upon a vote of at least three-fourths of its members, hereby dispenses with the rule requiring each ordinance or resolution shall be read on three different days. [R.C. 731.17(A)(2)]

SECTION 6. DECLARATION OF EMERGENCY FOR IMMEDIATE EFFECT. That by two-thirds vote of all the members elected to the legislative authority, this Ordinance/Resolution is hereby declared to be an emergency measure pursuant to RC 731.30, being necessary for the immediate preservation of the public peace, health, or safety of the municipal corporation and shall go into immediate effect for the following reason(s): **The Administrator advises that time is of the essence.**

SECTION 7. PUBLIC MEETING. That it is found and determined that all formal action of this public body concerning or relating to the passage of this Resolution/Ordinance were adopted in a public meeting open to the public at all times, and that all deliberations of the public body and any of its committees that resulted in such formal action, were in public meetings open to the public, in compliance with all legal requirements including all lawful ordinances and any applicable provisions of section 121.22 of the Ohio Revised Code.

WHEREFORE, this legislation shall be in full force and effect from and after the earliest period allowed by law.

PASSED AND ADOPTED on this 8 day of November, 2021.

AUTHENTICATION and ATTESTATION
(RC 731.20)

We hereby attest and affirm that the foregoing Ordinance/Resolution received the necessary affirmative roll call votes required for passage by R.C. 731.17.



MAYOR



FISCAL OFFICER

Vote on the passage was taken by yeas and nays and entered upon the journal as follows R.C. 731.17(A)(3):

YEAS: 6 NAYS: 0 ABSTAIN: 0

First Reading: November 8, 2021
Second Reading: dispensed (may be dispensed by a vote of at least three-fourths of members. R.C. 731.17(A)(2))
Third Reading: dispensed (may be dispensed by a vote of at least three-fourths of members. R.C. 731.17(A)(2))

PREPARED BY AND APPROVED AS TO FORM [See also 731.21(B)]:

VILLAGE SOLICITOR, Steve Palmer

CERTIFICATE OF POSTING
(RC 731.25)

I hereby certify that pursuant to R.C. 731.25, a succinct summary of the above legislation was posted in not less than five of the most public places in the municipal corporation as determined by the legislative authority [see Wakeman Code 123.01] for a period of not less than fifteen days prior to the effective date at the following locations:

- 1) Wakeman Public Library, 18 East Abbott Street; and
- 2) Electronically online at official Village website; and
- 3) Wakeman Post Office, 17 West Main Street; and
- 4) Village of Wakeman Municipal Building, 59 Hyde Street; and
- 5) Mickey Mart, 52 West Main Street.



FISCAL OFFICER

ATTACHEMENT

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Huron County GIS



Notes

EXHIBIT A

January 19, 2010

Huron County Auditor
12 East Main Street
Norwalk, OH 44857

Dear Mr. Tkach,

This is to certify changes to the following property. Please change your records accordingly.

Owner Name: Board of Park Commissioners Lorain City Metro Parks District

Location: Wakeman Village, sec 3 pt of gl 44

Parcel Numbers/Change: COMBINE TO 2.2160A.T.

COMBINE: 50-055B-02-015-0200

DELETE: 50-055B-02-009-0100

0.0802 R/W

Map: 279A

Record: SURVEY PLAT VOLUME 28 PAGE 4

Huron County Map Dept.

Mary Hickel

Janet J. Meyer 1-20-10

REA Approval/Date

Owner Notified/Date

EXHIBIT B



ENGINEERING
ASSOCIATES

— INC —

1935 Eagle Pass, Wooster, OH 44691 | 330.345.6556 | 330.345.8077 fax | eaohio.com

March 19, 2015

K.E. McCartney & Associates, Inc.
52 North Diamond Street
Mansfield, Ohio 44902

Attn.: Mr. James Mawhorr, P.E., P.S.

**Re: Lorain County Park District Bridge Inspection
Abandoned Railroad Bridge over Vermillion River / Wakeman, Ohio**

Dear Mr. Mawhorr:

This letter contains the results of the inspection of the two span stone arch bridge located on the abandoned railroad over the Vermillion River in the Village of Wakeman. The bridge was inspected on March 16, 2015. The purpose of the inspection according to the Scope of Services was to establish an opinion regarding whether the existing structure would be adequate to carry the proposed bicycle path traffic across the river. The structural adequacy of the existing structure is based upon 1) the visual condition of the structure, 2) the fact that the structure at one time carried much heavier loads when it functioned as a railroad bridge, and 3) the structure recently safely supported construction equipment used to remove ballast and ties. The inspection was visual and did not include a survey of the structure, a scour inspection, a foundation inspection, or inspection of the mortar/grout joints. Photos were taken of the bridge as part of the inspection.

The inspection results indicate that the stone masonry of the structure appears to be in very good condition considering the likely age of the structure. There were very few joints exhibiting leakage. Some staining of the masonry was noted on the underside of the arches in both spans, although not from leakage that would indicate any problems or concerns. The deck of the structure was also in very good condition. All of the stone masonry and joints appeared to be in solid condition, with no loose units or major problems at the joints. The masonry at the edge of the deck appeared to be solid for the purpose of mounting proposed railing for the bicycle path.

It is our opinion that based on the assumptions and findings mentioned above, that the existing bridge is capable of supporting the anticipated bicycle path traffic loading. Enclosed are the photos from the inspection. Also enclosed is a disc containing digital files of the photos from the inspection. Please feel free to contact me if you have any questions or need additional information.

ENGINEERING ASSOCIATES, INC.

Benjamin D. Hootman, P.E.
Bridge Engineer

Enclosures
Cc.: File

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REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT ("Agreement") is made and entered into as of the ____ day of _____, 2021, by and between **BOARD OF PARK COMMISSIONERS, LORAIN COUNTY METROPOLITAN PARK DISTRICT**, a political subdivision of the State of Ohio ("Seller"), and the **VILLAGE OF WAKEMAN, OHIO**, an Ohio municipal corporation ("Buyer").

WHEREAS, Seller is the owner of a parcel of land on State Route 60 in the Village of Wakeman, Huron County, Ohio, depicted on Exhibit A attached hereto and made a part hereof, described in Exhibit B attached hereto and made a part hereof and designated by the Huron County Auditor as Parcel 50-055B-02-015-0200 (the "Premises");

WHEREAS, Seller has found that the Premises are not necessary for the purposes for which they were acquired by Seller; and

WHEREAS, Buyer desires to purchase the Premises from Seller, and Seller is willing to sell the Premises to Buyer upon and subject to the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

1. **Premises.** Upon and subject to the terms and conditions hereinafter set forth, Seller agrees to sell and Buyer agrees to buy all of Seller's right title and interest in the Premises, including all improvements thereon and all appurtenances belonging or affixed thereto, together with all right, title and interest of Seller, in and to any land lying in the right of way of any street in front of or adjoining the Premises to the center line thereof.

2. **Purchase Price.** The purchase price for the Premises (the "Purchase Price") shall be _____ Dollars (\$ _____), payable in cash at closing.

3. **Condition of Premises.** Buyer acknowledges that: (i) Buyer has had ample unimpeded opportunity to inspect the Premises; (ii) Buyer has inspected the Premises to Buyer's satisfaction; (iii) Buyer has approved the condition of the Premises; (iv) Buyer is accepting the Premises in "AS IS, WHERE IS" condition, subject to all defects, both patent and latent; and (v) neither Seller nor anyone acting or claiming to act on Seller's behalf has made any warranty or representation as to the condition of the Premises.

4. **Closing.** Closing of this transaction shall take place at the offices of Seller, 12882 Diagonal Road, LaGrange, Ohio 44050, not later than thirty (30) days after Seller notifies Buyer that the conditions of Section 7 have been satisfied. At the closing, Seller shall deliver to Buyer the executed Deed (hereinafter defined), and Buyer shall deliver to Seller the Purchase Price.

5. **Deed.** Seller shall execute and at closing deliver to Buyer a quit-claim deed (the "Deed") for Seller's interest in the Premises. Seller's legal counsel shall prepare the Deed. At

Seller's option, the Deed may contain the following provisions in form and substance acceptable to Seller:

- (a) reservation of a perpetual, non-exclusive easement for recreational trail purposes and access to and from the Premises and other properties owned, in whole or in part, leased or managed by Seller;
- (b) a provision requiring the Premises to be used, maintained and operated as part of the North Coast Inland Trail and, when officially designated, future United States Bike Route 30 (USBR 30);
- (c) a requirement that the Premises be used as a bicycle and pedestrian trail;
- (d) a provision prohibiting motorized vehicles (other than vehicles used to maintain or repair the Premises) from using the Premises;
- (e) a requirement that the bridge on the Premises or any replacement thereof be named, identified and designated as the "Bruce L. Chapin Bridge"; and
- (f) a provision requiring the owner to maintain the Premises, including the trail and bridge thereon, in good condition.

6. **Easement to Firelands Rails-to-Trails.** Prior to closing, Seller shall have the right to grant to Firelands Rails-to-Trails, Inc. ("Firelands") a perpetual, non-exclusive easement over the Premises for recreational trail purposes and access to and from the Premises and other properties owned, in whole or in part, leased or managed by Firelands.

7. **Conditions to Closing.** The obligation of Seller to consummate this transaction is subject to the satisfaction of the following conditions:

- (a) Seller has offered the Premises for sale to each of the public agencies specified in Subsection 1545.12(B)(2) of the Ohio Revised Code that is entitled to purchase the Premises and none of such agencies has timely submitted an offer to purchase the Premises; and
- (b) The Huron County Probate Court has approved the sale, as required by Subsection 1545.12(C) of the Ohio Revised Code.

8. **Title Insurance.** If Buyer desires title insurance, Buyer may obtain same at Buyer's sole cost and expense.

9. **Real Estate Taxes.** There shall be no proration of real estate taxes. Buyer shall be responsible for the payment of real estate taxes and assessments, if any, levied on the Premises that are due or payable after the closing.

10. **Closing Expenses.** Buyer shall pay the transfer tax, if any, and fees for recording the Deed.

11. **Possession.** Possession of the Premises, subject to the easement reserved by Seller, shall be tendered by Seller to Buyer at closing.

12. **Brokers.** Buyer hereby represents and warrants that no real estate broker or salesman has shown the Premises to Buyer or initiated the sale of the Premises.

13. **Representative Capacity.** Any person signing below as an official of a party warrants his or her authority to do so. Any person signing below warrants that, unless a representative capacity is set forth in connection with his or her signature, he or she is acting for himself or herself alone.

14. **Force Majeure.** Neither party shall be liable in damages nor shall the other party have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond the delaying or defaulting party's reasonable control, including but not limited to acts of God, government restrictions, government declared states of emergency, wars, medical emergencies, pandemic events, insurrections, and mechanical, electronic, or communications failures.

15. **Notices.** Any notice, request, demand, instruction or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be delivered personally or sent by United States registered or certified mail, return receipt requested, postage prepaid, by prepaid overnight express courier, or by facsimile or other confirmed electronic transmission and addressed as follows:

To Seller: Board of Park Commissioners,
Lorain County Metropolitan Park District
Attention: James E. Ziemnik, Director/Secretary
12882 Diagonal Road
LaGrange, Ohio 44050
Email: jziemnik@loraincountymetroparks.com

With a copy to: Abraham Lieberman, Esq.
O'Toole, McLaughlin, Dooley
& Pecora Co., LPA
5455 Detroit Road
Sheffield Village, Ohio 44054-2904
Email: alieberman@omdplaw.com

To Buyer: Village of Wakeman
Attention: Christopher J. Hipp, Mayor
59 Hyde Street
PO Box 107
Wakeman, Ohio 44889
Email: wakemanvillage@yahoo.com

Notices shall be effective upon receipt, if delivered personally, electronically or by overnight courier, or three (3) business days after deposit in the mails if mailed. A party may change its address for receipt of notices by service of a notice of such change in accordance herewith. Notices may be given on behalf of a party by such party's legal counsel.

16. **Terms.** The terms "Buyer" and "Seller" shall include all parties designated and their respective heirs, executors, administrators, successors, nominees, and assigns, and wherever the singular is used, it shall include the plural, and wherever the masculine gender is used, it shall include the neuter and feminine, and vice versa, as the context requires.

17. **Binding Effect.** The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective assigns, heirs, personal representatives, or nominees.

18. **Entire Agreement.** This Agreement contains the entire agreement between Seller and Buyer with respect to the subject matter hereof, and the parties hereto are not bound by any agreements, understandings or conditions except those stipulated herein.

19. **Counterparts.** This Agreement may be executed in multiple counterparts by Seller and Buyer, each acting at different times and at separate locations, whether or not in the presence of each other, and any copy of this Agreement to which the signatures of Seller and Buyer have been appended shall constitute an original hereof for all purposes, all such copies constituting one and the same original, and one of which shall constitute proof of the terms of this Agreement without the necessity of producing any other original copy.

20. **Facsimile Signatures.** A facsimile or electronic signature shall be deemed an original signature for all purposes.

EXECUTED by the parties hereto as of the date first set forth above.

SELLER:

**BOARD OF PARK COMMISSIONERS,
LORAIN COUNTY METROPOLITAN
PARK DISTRICT**

By: _____

James E. Ziemnik, Director/Secretary

BUYER:

VILLAGE OF WAKEMAN, OHIO

By: _____

Christopher J. Hipp, Mayor