

**ORDINANCE NO. 175-17**

**AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT A CONTRACT FOR SALE AND PURCHASE OF REAL PROPERTY AND AN EASEMENT AGREEMENT FOR THE GUILFORD BOULEVARD BRIDGE REHABILITATION PROJECT (PARCELS #1WD and #1CH), AND DECLARING AN EMERGENCY.**

**WHEREAS:** Ordinance No. 162-17, passed November 13, 2017 authorized the Fair Market Value Estimates for the Guilford Boulevard Bridge Rehabilitation Project.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:**

**SEC. 1:** That the Mayor is hereby authorized to accept the Contract for Sale and Purchase of Real Property for Parcel #1WD and Easement Agreement for Parcel #1CH (MCL #3673 – PPN #028-19D-03-006) for the Guilford Boulevard Bridge Rehabilitation Project.

**SEC. 2:** That a copy of the Contract for Sale and Purchase of Real Property and Easement Agreement are marked Exhibit A, attached hereto, and incorporated herein.

**SEC. 3:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

**SEC. 4:** That this Ordinance shall be considered an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason to finalize and submit payment to the property owners; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and signature by the Mayor.

**PASSED:** November 27, 2017

**SIGNED:** John M. Coyne, III  
President of Council

**ATTEST:** Kathy Patton  
Clerk of Council

**APPROVED:** November 28, 2017

**SIGNED:** Dennis Hanwell  
Mayor

**CONTRACT FOR SALE AND PURCHASE OF REAL PROPERTY**  
WITHOUT BUILDING(S)

CRD. 175-17  
Exh. A

PARCEL(S): 001 WD, CH  
MED Guilford Blvd. PID 101819

This Agreement is by and between the City of Medina, Ohio ["Purchaser"] and Nancy D. McKee, unmarried ["Seller"]; "Seller" includes all of the foregoing named persons or entities]. Purchaser and Seller are referred to collectively in this Agreement as "Parties."

In consideration of the mutual promises, agreements and covenants herein contained the Parties contract as follows:

**1. Price and Consideration**

Purchaser shall pay to Seller the sum of \$1,635.00, which sum shall constitute the entire amount of compensation due Seller for: (a) the real property to be conveyed, including all fixtures; (b) any and all damages to any residual lands of Seller; (c) Seller's covenants set forth herein; (d) any and all supplemental instruments reasonably necessary to transfer the title of the subject property; and (e) None.

Seller shall be exclusively responsible for all delinquent taxes and assessments, including penalties and interest, and for all other real estate taxes and assessments that are a lien as of the date on which this Agreement closes. The taxes and assessments for the current calendar year shall be prorated on an estimated basis to the date of acquisition of title or date of possession, whichever is earlier in time. Seller shall be responsible for any and all future installments of any special assessments levied and assessed against the real property, whether or not any such special assessment has been certified to the county auditor for collection, provided that such installments of special assessments shall be a lien on the subject real property as of the date of transfer of title. Purchaser may withhold in escrow a sufficient amount of the purchase money to satisfy the foregoing items to be paid by Seller; any balance remaining after such taxes, assessments, etc., are discharged shall be paid to Seller and any deficiency shall be the responsibility of Seller.

**2. Estate Sold and Deed to Transfer**

Seller, upon fulfillment of all the obligations and terms of this Agreement, shall sell and convey to Purchaser, its successors and assigns, the property which is more particularly described in Exhibit A attached hereto and by this reference incorporated herein, together with all improvements now located thereon and all fixtures of every nature now attached to or used with said land and improvements including, but not limited to, driveways, signs, utility fixtures, shrubbery and trees.

If the rights, titles and estates described in Exhibit A constitute the fee simple in, to and of the real property, then such sale and conveyance by Seller shall be by a good and sufficient general warranty

deed with, if applicable, full release of dower. In the event the rights, titles, and estates described in Exhibit A constitute something less than the fee simple of the real property, then such sale and conveyance by Seller shall be by a good and sufficient deed or other instrument regularly and ordinarily used to transfer such lesser rights, titles and estates with, if applicable, full release of dower.

**3. Limited Access Parcels - Waiver of Abutters' Rights**

If the property described in Exhibit A is designated by Purchaser as a limited access parcel, then Seller further agrees to release to Purchaser, its successors and assigns, any and all abutters' rights, including access rights, appurtenant to any remaining lands of Seller (from which the property described in Exhibit A is being severed) in, over, on, from and to the property described in Exhibit A.

**4. Supplemental Instruments**

Seller agrees to execute any and all supplemental instruments or documents necessary to vest Purchaser with the rights, titles and interests described in Exhibit A.

**5. Warranty of Title**

Seller shall, and hereby does, warrant that the property described in Exhibit A is free and clear from all liens and encumbrances whatsoever, except: (a) easements, restrictions, conditions and covenants of record; (b) all legal highways; (c) zoning and building laws, ordinances, rules and regulations; and (d) any and all taxes and assessments not yet due and payable.

**6. Elimination of Others' Interests**

Seller shall assist, in whatever manner reasonably possible under the circumstances, to procure and deliver to Purchaser releases and cancellations of any and all other rights, titles and interests in the property described in Exhibit A, such as, but not limited to, those belonging to tenants, lessees, mortgagees or others now in possession or otherwise occupying the subject premises, and all assessment claims against said property.

Seller and Purchaser agree that if a mortgagee of Seller or of a predecessor in title fails to cooperate with the efforts to obtain a release of that mortgagee's mortgage lien secured by the property described in Exhibit A, then and in that event this Agreement shall become null and void and the parties to this Agreement shall be discharged and released from any and all obligations created by this Agreement; for the purposes of this provision, the term "fails to cooperate" shall include a demand or request by any such mortgagee for a fee to process such a release of that mortgagee's mortgage lien that Purchaser, in its sole discretion, deems to be excessive.

**7. No Change in Character of Property**

Seller shall not change the existing character of the land or alter, remove, destroy or change any improvement located on the property described in Exhibit A. If, prior to the date on which possession of

the subject property is surrendered to Purchaser, the subject property suffers any damage, change, alteration or destruction then, and without regard to the cause thereof, Seller shall restore the subject property to the condition it was in at the time Seller executed this Agreement; in the alternative, Seller may agree to accept the abovementioned purchase price less the costs associated with such restoration. If the Seller refuses to either restore the premises or accept the decreased consideration as aforementioned, then Purchaser, at its option after discovery or notification of such damage, change, alteration or destruction, may terminate and cancel this Agreement upon written notice to Seller.

**8. Offer to Sell**

If Seller executes this Agreement prior to Purchaser, then this Agreement shall constitute and be an Offer to Sell by Seller that shall remain open for acceptance by Purchaser for a period of 20 days immediately subsequent to the date on which Seller delivers such executed Agreement to Purchaser. Upon Purchaser's acceptance and execution of this Agreement within said period of 20 days, this Agreement shall constitute and be a valid Contract for Sale and Purchase of Real Property that is binding upon the Parties.

**9. Designation of Escrow Agent**

Seller agrees that Purchaser may designate an escrow agent to act on behalf of the Parties in connection with the consummation and closing of this Agreement.

**10. Closing Date**

The consummation and closing of this Agreement shall occur at such time and place as the Parties may agree, but no later than 10 days after Purchaser notifies Seller in writing that Purchaser is ready to consummate and close this Agreement. Provided, however, in no event shall such consummation and closing occur more than 120 days after the last date on which one of the Parties executes this Agreement.

**11. Physical Possession of Structures Occupied by Seller**

Seller shall surrender physical possession of the land and improvements to Purchaser not later than the date on which Purchaser tenders the purchase price to Seller.

**12. Control of Property Occupied by Seller's Tenant(s)**

Control of property occupied by Seller's tenant(s) shall be assumed by Purchaser on the date Purchaser tenders the purchase price to Seller. From that date forward, Purchaser shall be entitled to collect and retain as its own funds any and all rental payments thereafter made by such tenant(s). If any rents due under the lease(s) with Seller have been prepaid by Seller's tenant(s), then said prepaid rents shall be prorated to the date on which the purchase price is tendered by Purchaser, and said prepaid rents shall be paid to Seller and Purchaser in accordance with such proration.

**13. Binding Agreement**

Any and all of the terms, conditions and provisions of this Agreement shall be binding upon and shall inure to the benefit of Seller and Purchaser and their respective heirs, executors, administrators, successors and assigns.

**14. Multiple Originals**

This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute but one and the same instrument.

**15. Entire Agreement**

This instrument contains the entire agreement between the Parties, and it is expressly understood and agreed that no promises, provisions, terms, warranties, conditions or obligations whatsoever, either express or implied, other than herein set forth, shall be binding upon Seller or Purchaser.

**16. Amendments and Modifications**

No amendment or modification of this Agreement shall be valid or binding upon the Parties unless it is made in writing, cites this Agreement and is signed by Seller and Purchaser.

IN WITNESS WHEREOF, the parties hereto, namely the City of Medina, Ohio and Nancy D. McKee have executed this Agreement on the date(s) indicated immediately below their respective signatures.

Nancy McKee  
NANCY D. MCKEE

Date 11-17-17

STATE OF OHIO, COUNTY OF MEDINA ss:

BE IT REMEMBERED that on the 17 day of November, 2017, before me the subscriber, a Notary Public in and for said state and county, personally came the above named Nancy D. McKee, who acknowledged the foregoing instrument to be her voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Matthew Drayton  
Matthew Drayton  
NOTARY PUBLIC

My Commission expires: 8/11/2021

City of Medina, Ohio

Dennis Hanwell

Dennis Hanwell  
City of Medina, Mayor

Date: 11-28-2017

STATE OF OHIO, COUNTY OF MEDINA ss:

BE IT REMEMBERED, that on the 28th day of November, 2017,  
before me the subscriber, a Notary Public in and for said state and county, personally came the above  
named Dennis Hanwell, the City of Medina, Mayor and duly authorized representative of City of  
Medina, Ohio, who acknowledged the signing of the foregoing instrument to be the voluntary act and  
deed of City of Medina, Ohio.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on  
the day and year last aforesaid.

Sherry A. Crow

NOTARY PUBLIC  
My Commission expires: 5-27-19

EXHIBIT A

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LPA RX 851 WD

Legal Approved

Rev. 06/09

Ver. Date 09/12/17

Date 9-20-2017

PID 101819

By *Scott Miller*

PARCEL 1-WD  
MED-GUILFORD BLVD  
ALL RIGHT, TITLE AND INTEREST IN FEE SIMPLE  
IN THE FOLLOWING DESCRIBED PROPERTY  
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS  
IN THE NAME AND FOR THE USE OF THE  
CITY OF MEDINA, MEDINA COUNTY, OHIO

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter).

[Surveyor's description of the premises follows]

Being a parcel of land lying on the right side of the centerline of right-of-way and construction of Guilford Boulevard as shown on a centerline survey plat made in 2017 for the City of Medina, Medina County, Ohio, titled "MED-GUILFORD BLVD" as recorded in Plat Document Number \_\_\_\_\_ of Medina County Recorder's Records:

Situated in the State of Ohio, County of Medina, City of Medina, located in Township 2, Range 14 of The Connecticut Western Reserve, being a part of City Lot 3673, being a 10.2808 acre parcel conveyed to James W. McKee and Nancy D. McKee (herein called the Grantor) recorded in Deed Book 474, Page 952, dated 2-25-1976, and being described as follows:

Beginning, for reference, at the intersection of the centerline of right-of-way and construction for Guilford Boulevard with the centerline of right-of-way of East Smith Road, located on centerline of right-of-way and construction station 29+00.67 for Guilford Boulevard;

thence South 62 Degrees 16 Minutes 49 Seconds East, with the centerline of East Smith Road, a distance of 31.38 feet to the northeasterly corner of said City Lot 3673, located 30.00 feet right of centerline of right-of-way and construction station 29+09.88 for Guilford Boulevard;

thence across East Smith Road and with the easterly line of said City Lot 3673 and with the westerly existing right-of-way line of Guilford Boulevard, the following courses:

South 44 Degrees 47 Minutes 30 Seconds West, a distance of 355.12 feet, to an iron pin set on the westerly right-of-way line of Guilford Boulevard, located 30.00 feet right of centerline

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of right-of-way and construction station 32+65.00 for Guilford Boulevard and being the TRUE POINT OF BEGINNING;

continuing South 44 Degrees 47 Minutes 30 Seconds West, a distance of 145.00 feet, to an iron pin set on the westerly right-of-way line Guilford Boulevard, located 30.00 feet right of centerline of right-of-way and construction station 34+10.00 for Guilford Boulevard;

thence across said City Lot 3673 the following courses:

North 45 Degrees 12 Minutes 30 Seconds West, a distance of 40.00 feet, to an iron pin set, located 70.00 feet right of centerline of right-of-way and construction station 34+10.00 for Guilford Boulevard;

North 44 Degrees 47 Minutes 30 Seconds East, a distance of 145.00 feet, to an iron pin set, located 70.00 feet right of centerline of right-of-way and construction station 32+65.00 Guilford Boulevard;

South 45 Degrees 12 Minutes 30 Seconds East, a distance of 40.00 feet, to the TRUE POINT OF BEGINNING, containing 0.133 acre, more or less, of which 0.000 acre is within the present road occupied and is contained within Auditor's Parcel Number 028-19D-03-006.

All references are to the records of the Recorder's Office, Medina County, Ohio, unless otherwise noted.

Iron pins set, as shown on said Right-of-Way plans, in the above description are 3/4 inch steel rod, thirty (30) inches long with a 2" diameter aluminum cap stamped "EMHT INC."

The bearings shown hereon are based on the Ohio State Plane Coordinate System, North Zone, NAD83 (2011). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations and observations of selected stations in the Ohio Department of Transportation Virtual Reference Station network. The portion of the centerline of Guilford Boulevard, having a bearing of South 44° 47' 30" West, is designated the "basis of bearing" for this survey.

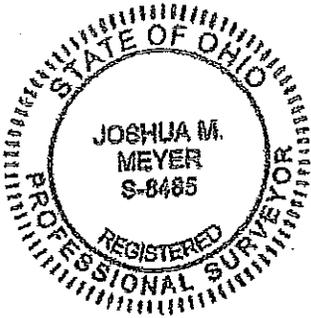
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This description was prepared by, or under the supervision of Joshua M. Meyer, Registered Surveyor No. 8485, and is based upon record documents and an actual field survey conducted by Evans, Mechwart, Hambleton & Tilton, Inc. in 2017.



EVANS, MECHWART, HAMBLETON & TILTON, INC.

A handwritten signature in black ink, appearing to read "J. M. Meyer".

9-20-2017

Joshua M. Meyer  
Professional Surveyor No. 8485

EXHIBIT A

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Ver. Date 09/12/17

PID 101819

PARCEL 1-CH  
MED-GUILFORD BLVD  
PERPETUAL EASEMENT TO CONSTRUCT AND MAINTAIN A CHANNEL  
IN THE NAME AND FOR THE USE OF THE  
CITY OF MEDINA, MEDINA COUNTY, OHIO

A perpetual easement for the construction and maintenance of a perpetual watercourse, ditch, channel or other drainage facility upon the within described real estate. Grantor/Owner herein retains the right to use said real estate for any and all other purposes provided that such use does not interfere with nor impair the exercise of the easement herein granted (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter).

[Surveyor's description of the premises follows]

Being a parcel of land lying on the right side of the centerline of right-of-way and construction of Guilford Boulevard as shown on a centerline survey plat made in 2017 for the City of Medina, Medina County, Ohio, titled "MED-GUILFORD BLVD" as recorded in Plat Document Number \_\_\_\_\_ of Medina County Recorder's Records:

Situated in the State of Ohio, County of Medina, City of Medina, located in Township 2, Range 14 of The Connecticut Western Reserve, being a part of City Lot 3673, being on, over, and across the 10.2808 acre parcel conveyed to James W. McKee and Nancy D. McKee by deed of record in Deed Book 474, Page 952, dated 2-25-1976, and being described as follows:

Beginning at a point on the westerly proposed right-of-way line of Guilford Boulevard, as shown on right-of-way plans made in 2017 for the City of Medina titled "MED-GUILFORD BLVD", located 70.00 feet right of centerline of right-of-way and construction station 32+89.00 for Guilford Boulevard;

thence South 44 Degrees 47 Minutes 30 Seconds West, with said westerly proposed right-of-way line and across said City Lot 3673, a distance of 72.00 feet, to a point, located 70.00 feet right of centerline of right-of-way and construction station 33+61.00 for Guilford Boulevard;

thence on, over, and across said City Lot 3673, the following courses:

North 15 Degrees 11 Minutes 24 Seconds West, a distance of 51.97 feet, to a point, located 115.00 feet right of centerline of right-of-way and construction station 33+35.00 for Guilford Boulevard;

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North 44 Degrees 47 Minutes 30 Seconds East, a distance of 46.00 feet, to a point, located 115.00 feet right of centerline of right-of-way and construction station 32+89.00 for Guilford Boulevard;

South 45 Degrees 12 Minutes 30 Seconds East, a distance of 45.00 feet, to the POINT OF BEGINNING, containing 0.061 acre, more or less, of which 0.000 acre is within the present road occupied and is contained within Auditor's Parcel Number 028-19D-03-006.

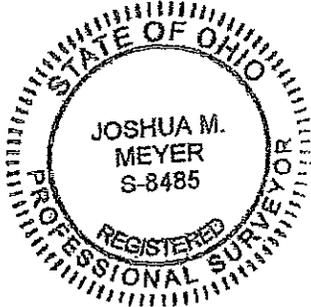
All references are to the records of the Recorder's Office, Medina County, Ohio, unless otherwise noted.

Iron pins set, as shown on said Right-of-Way plans, in the above description are 3/4 inch steel rod, thirty (30) inches long with a 2" diameter aluminum cap stamped "EMHT INC."

The bearings shown hereon are based on the Ohio State Plane Coordinate System, North Zone, NAD83 (2011). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations and observations of selected stations in the Ohio Department of Transportation Virtual Reference Station network. The portion of the centerline of Guilford Boulevard, having a bearing of South 44° 47' 30" West, is designated the "basis of bearing" for this survey.

This description was prepared by, or under the supervision of Joshua M. Meyer, Registered Surveyor No. 8485, and is based upon record documents and an actual field survey conducted by Evans, Mechwart, Hambleton & Tilton, Inc. in 2017.

EVANS, MECHWART, HAMBLETON & TILTON, INC.



10-19-2017

Joshua M. Meyer  
Professional Surveyor No. 8485

ORDINANCE NO. 162-17

AN ORDINANCE AUTHORIZING AN APPRAISAL (FAIR MARKET VALUE ESTIMATE) FOR THE GUILFORD BOULEVARD BRIDGE REHABILITATION PROJECT, AND DECLARING AN EMERGENCY.

WHEREAS: In order to complete reconstruction of the Guilford Boulevard Bridge, the City must acquire an easement from an abutting property; and

WHEREAS: In accordance with ODOT guidelines, the City has engaged O.R. Colan to acquire the right-of-way and Fair Market Value Estimate; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That the City of Medina hereby authorizes the appraisal of O.R. Colan and accepts the Fair Market Value (FMVE) for the following parcel:

<u>Property #</u>	<u>Description</u>	<u>Acquisition</u>	<u>FMVE</u>
1	MCL# 3673/PPN 028-19D-03-006	1-permanent easement	\$1,635.00
		TOTAL	\$1,635.00

SEC. 2: That a copy of the appraisal is marked Exhibit A, attached hereto, and incorporated herein.

SEC. 3: That the funds to cover this appraisal are available in Account 108-0610-54114.

SEC. 4: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 5: That this Ordinance shall be considered an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason to expedite the sometimes lengthy process; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and signature by the Mayor.

PASSED: November 13, 2017

SIGNED: John M. Coyne, III  
President of Council

ATTEST: Kathy Patton  
Clerk of Council

APPROVED: November 14, 2017

SIGNED: Dennis Hanwell  
Mayor

THIS AP  
PROV  
MAY  
COUN  
ADVIS  
162-17  
11-13-17