

## RESOLUTION NO. 2015-19

**SYNOPSIS:** *The proposed resolution, if adopted, would allow the transfer of certain surplus real property commonly referred to as the former County Courthouse Annex from Huntington County to the City of Huntington for the use and benefit of its Department of Redevelopment.*

### A RESOLUTION FOR THE TRANSFER OF REAL PROPERTY

The Board of Commissioners of the County of Huntington (Commissioners), in meeting duly assembled, finds and determines that:

WHEREAS, Huntington County (County) owns real property formerly used as the site of its Courthouse Annex consisting of approximately 0.528 acres located at 354 N. Jefferson Street, Huntington, listed in the records of Huntington County as Parcel Numbers 35-05-15-100-216.500-005; 35-05-15-100-215.800-005; 35-05-15-100-216.100-005; 35-05-15-100-216.000-005; 35-05-15-400-215.900-005; and 35-05-15-400-633.600-005 and described more particularly on the attached and incorporated Exhibit A (Real Property);

WHEREAS, the County has relocated all of the offices housed at the Real Property at the cost of rehabilitating the Real Property is prohibitive rendering the Real Property surplus and no longer needed;

WHEREAS, pursuant to I.C. § 36-1-11-8, the County may transfer the Real Property to another governmental entity upon terms and conditions agreed upon as evidenced by the adoption of a substantially identical resolutions; and

WHEREAS, the City of Huntington Redevelopment Commission (Commission) is interested in obtaining ownership of the Real Property.

NOW, THEREFORE, BE IT RESOLVED that the County shall transfer the Real Property upon the following terms and conditions:

- 1) Adoption by the Commission of a substantially identical resolution.
- 2) Execution of the Purchase Agreement attached hereto and incorporated herein as Exhibit B.

BE IT FINALLY RESOLVED that the Commission President is hereby authorized to do all things and sign all documents necessary to fully implement this resolution.

*[Signature Block Next Page]*

**The Board of Commissioners of the County of Huntington, Indiana**

SO RESOLVED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

By Tom Wall As  
(Tom Wall) President

By Larry Buzzard As  
(Larry Buzzard) Vice-President

By Rob Miller As  
(Rob Miller) Member

ATTEST:

By Cindy L. Yeiter As Auditor of  
(Cindy Yeiter) Huntington County

KAH

## EXHIBIT A

Lots Numbers One Hundred Three (103), One Hundred Four (104), One Hundred Five (105) and One Hundred Six (106), in the Original Plat of the Town, now City of Huntington, Indiana.

ALSO All that part of Lots numbered 123 and 124 in the Original Plat of the Town, now City, of Huntington, Indiana, more particularly described as follows: Commencing at the northeast corner of said lot 124; running thence southward along the west line of Jefferson Street in said City 42 feet; thence westward at right angles to said west line of Jefferson Street 132 feet to the west line of Lot 123; thence northwardly parallel with Jefferson Street along the west line of said lot 123 to the northwest corner thereof; thence eastwardly at right angles and along the north line of said lots 123 and 124, 132 feet to the place of beginning.

**PURCHASE AGREEMENT FOR COMMERCIAL REAL ESTATE  
(IMPROVED PROPERTY)**

**Date:** December 14, 2015

1. **PARTIES:** Huntington County, by and through its Board of Commissioners ("SELLER") agrees to sell and convey to the City of Huntington Redevelopment Commission ("BUYER"), and BUYER agrees to purchase from SELLER, the Property for the consideration and upon and subject to the terms, provisions, and conditions hereinafter set forth. As used herein, the "Effective Date" shall be the date on which the last party signed or initialed acceptance of the final offer.
2. **PROPERTY:** The Property being purchased shall include the improved property commonly known as the former Courthouse Annex located at 354 N. Jefferson Street, Huntington, Indiana (Parcel Nos. 35-05-15-100-216.500-005; 35-05-15-100-215.800-005; 35-05-15-100-216.100-005; 35-05-15-100-216.000-005; 35-05-15-400-215.900-005; and 35-05-15-400-633.600-005), referred to herein as the "Property", and more particularly described on Exhibit "A" attached hereto and incorporated herein.
3. **PURCHASE PRICE:** The total purchase price shall be Fifty Thousand Dollars (\$50,000.00), payable in cash or otherwise in immediately available funds to SELLER at closing.
4. **INSPECTION CONTINGENCY:** BUYER shall have fourteen (14) days from the date of this Agreement to have the Property inspected, and SELLER shall make Property available for that purpose. Such inspections shall be by persons of BUYER'S choosing, and at BUYER'S expense. The purpose of such inspections is to determine whether there is any condition of Property that probably would have a significant adverse effect on the value of Property, and/or BUYER'S intended use thereof. Within three (3) days after any such defect is identified by BUYER, BUYER shall furnish particulars to SELLER. Each such defect shall be cured by and at the expense of SELLER within a reasonable time and to BUYER'S reasonable satisfaction and before closing, or at another time agreed to by the parties, and in the event that SELLER is unable or unwilling to remedy all such defects, if any, either BUYER or SELLER may, upon written notice to the other, terminate this Agreement. This paragraph is not intended to supersede, cancel, or satisfy any other contingency that is a part of this Agreement, including but not limited to the environmental contingencies contained in paragraph 5 below.
5. **ENVIRONMENTAL CONDITIONS AGREEMENT FOR THE BUYER:** BUYER'S obligations under this Agreement are contingent upon its receipt of a satisfactory report regarding the environmental conditions directly and/or indirectly affecting the Property. The satisfactory nature of any such report shall be determined in the sole discretion of BUYER. SELLER shall provide BUYER access to the Property and BUYER shall have no less than thirty (30) days following the execution of this Agreement to obtain and review this report. In the event BUYER determines that the report is not satisfactory, BUYER may provide notice to SELLER within the thirty (30) day period and terminate this Agreement. The initial reports to be obtained include a records review and Phase I Environmental Assessment, but may also include a Phase II Environmental Assessment if BUYER deems appropriate. BUYER shall incur the cost of the records review and Phase I Environmental Assessment. If a Phase II Environmental Assessment is required, BUYER shall pay the associated costs.

6. **CLOSING**: The closing of the sale (the "Closing Date") shall take place at the office of DeLaney Hartburg Roth & Garrett LLP on or before July 1, 2016 unless such date is changed in writing by SELLER and BUYER, or otherwise extended as herein provided.
7. **POSSESSION**: Possession of the Property shall be delivered to BUYER at closing in its present condition, ordinary wear and tear excepted. SELLER shall maintain the Property in its present condition until possession is delivered to BUYER. SELLER shall pay for all municipal services and public utility charges through the day of possession.
8. **REAL ESTATE TAXES**: All taxes assessed for any prior time period and remaining unpaid, plus any penalties and fees, shall be paid by SELLER at or before Closing. All taxes due and payable on or prior to the Closing Date shall be paid at or before closing and charged at closing to the responsible party.
9. **INSURANCE AND RISK OF LOSS**: SELLER shall maintain replacement cost (if available) or actual cash value "all risk" insurance on the Property through the Closing Date. SELLER'S insurance shall be canceled as of the Closing Date and BUYER shall provide its own insurance thereafter. Risk of loss by damage or destruction to the Property prior to the closing shall be borne by SELLER. In the event any damage or destruction is not fully repaired prior to closing, BUYER at its option, may either terminate this Agreement or elect to close the transaction, in which event SELLER'S right to all insurance proceeds not yet applied to repair of the damage or destruction shall be assigned in writing by SELLER to BUYER at closing.
10. **TITLE**: BUYER'S obligations under this Agreement are conditioned upon satisfaction of each of the following items which are for the BUYER'S benefit and may be waived by BUYER at BUYER'S sole discretion:
  - A. **Title Commitment**: A commitment for title insurance (the "Commitment") issued by a reputable title insurance company selected or approved by BUYER (the "Title Company") showing marketable title in SELLER'S name shall be ordered by SELLER and shall be delivered to BUYER within fifteen (15) days of the date of this Agreement. At BUYER'S request, legible copies of all recorded instruments affecting the Property or recited as exceptions in the Commitment shall also be delivered.
  - B. **Title Approval**: If BUYER has an objection to items disclosed in the Commitment, BUYER shall make written objections to SELLER within twenty (20) days after receipt of the Commitment. Upon the expiration of such period, any item not objected to by BUYER or subsequently approved by BUYER in writing shall be deemed a permitted exception ("Permitted Exception"). If BUYER makes objections, SELLER shall have thirty (30) days from the date the objections are made to cure the same, and the Closing Date shall be extended, if necessary. SELLER agrees to utilize its best efforts and reasonable diligence to cure any objections, but only to the extent necessary to convey marketable title. If the objections are not satisfied within the time period, BUYER may either terminate this Agreement or waive the unsatisfied objections and close the transaction.
11. **PRORATIONS AND SPECIAL ASSESSMENTS**: Interest on any debt assumed or taken subject to, any rents, and all other income and ordinary operating expenses of the Property, including but not limited to, public utility charges, shall be prorated as of the day prior to the Closing Date. Any special assessments applicable to the Property for municipal improvements previously made to benefit the Property shall be paid by SELLER. SELLER warrants that SELLER has no knowledge of any planned improvements which may result in assessments and that no governmental or private agency has served notice requiring repairs, alterations or corrections of any existing conditions. Public or Municipal improvements which are not

completed as of the date above but which will result in a lien or charge shall be paid by BUYER. BUYER will assume and agree to pay all special assessments for municipal improvements which are completed after the date of closing.

12. **SALES EXPENSE:** SELLER and BUYER agree that all sales expenses are to be paid in cash prior to or at the closing. SELLER agrees to pay all costs of releasing any liens and encumbrances of any kind not agreed to by BUYER, including those for existing loans and mechanic's liens, and recording the releases; Owner's Title Policy; any closing fee; preparation of Deed and Vendor's Affidavit; Indiana Gross Income Tax (if applicable); and other expenses stipulated to be paid by SELLER under other provisions of this Agreement.

13. **DEFAULT:** If this Agreement becomes effective and Buyer, having no right or option to terminate this Agreement, fails to complete the purchase as provided in this Agreement, Buyer shall pay to Seller, as liquidated damages and not as a penalty, an amount equal to the greater of five percent (5%) of the Purchase Price ("Damages"). If Buyer breaches this Agreement, Seller shall be entitled to recover in addition to any remedies available under this Agreement, all reasonable costs and expenses, including attorney's fees, incurred by Seller due to Buyer's breach. Seller shall have no other remedy against Buyer at law or in equity.

If Seller breaches this Agreement and is in default, Buyer may seek specific performance and any other remedy provided by law or equity against the Seller, including all reasonable costs and expenses, including attorney's fees, incurred by Buyer due to Seller's breach.

14. **ATTORNEY'S FEES:** Any signatory to this Agreement who is the prevailing party in any legal or equitable proceeding against any other signatory brought under or with relation to the Agreement or transaction shall be additionally entitled to recover court costs and reasonable attorney's fees from the non-prevailing party subject to the limitations contained herein.

15. **DUTIES OF BUYER AND SELLER AT CLOSING:**

A. At the closing, SELLER shall deliver to BUYER, at SELLER'S sole cost and expense, the following:

- (1) A duly executed and acknowledged Warranty Deed conveying good and indefeasible title in fee simple to all of the Property, free and clear of any and all liens, encumbrances, conditions, easements, assessments, reservations and restrictions, except as permitted herein and/or approved by BUYER in writing and an executed Vendor's Affidavit;
- (2) An Owner's Policy of Title Insurance (the "Title Policy") issued by a reputable title insurance company chosen by the SELLER (the "Title Company") in the full amount of the purchase price, dated as of closing, insuring BUYER'S fee simple title to the property to be good and indefeasible, subject only to those title exceptions permitted herein, or as may be approved by BUYER in writing, and the standard printed exceptions contained in the usual form of the Title Policy, shall be deleted.
- (3) A Bill of Sale containing warranties of title, conveying title, free and clear of all liens, to any personal property specified herein; and
- (4) Execute all other necessary documents to close this transaction.

B. At the closing, BUYER shall perform the following:

- (1) Pay the cash portion of the purchase price in the form of a certified check, cashier's check, or wire transfer;
- (2) Furnish evidence of its capacity and authority for the closing of this transaction; and
- (3) Execute all other necessary documents to close this transaction.

16. **CASUALTY LOSS:** Risk of loss by damage or destruction to the Property prior to the closing shall be borne by SELLER. In the event any such damage or destruction is not fully repaired prior to closing, BUYER, at its option, may either (a) terminate this Agreement, or (b) elect to close the transaction, in which event SELLER'S right to all insurance proceeds resulting from such damage or destruction shall be assigned in writing by SELLER to BUYER.

17. **MISCELLANEOUS:**

A. Any notice to a party shall be sufficient if it is in writing and personally delivered or sent by certified mail, postage prepaid, and properly addressed to BUYER at City of Huntington Redevelopment Commission, Attn: Bryn Keplinger, Director, 300 Cherry Street, Huntington, IN 46750, and to SELLER at Board of Commissioners of Huntington County, 201 N. Jefferson Street, Huntington, IN 46750, or at such other address as BUYER or SELLER may notify the other of in writing. Any notice to BUYER shall be sufficient only if a copy is served by the same method upon Michael Hartburg, DeLaney Hartburg Roth & Garrett LLP, 533 Warren Street, Huntington, IN 46750.

B. This Agreement shall be construed under and in accordance with the laws of the State of Indiana.

C. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

D. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

E. This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the transaction and cannot be changed except by their written consent.

F. Time is of the essence in this Agreement.

G. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

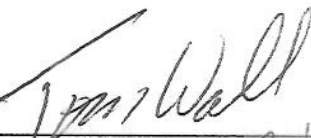
H. By signing below, the parties to this transaction acknowledge receipt of a copy of this agreement.

18. **DISPUTE RESOLUTION:** This Agreement shall be governed by, construed, and enforced in accordance with the laws and regulations of the United States, the State of Indiana, and the ordinances of Huntington County. The venue of any action arising out of or in any way relating to this Agreement shall be in the Circuit Court of Huntington County, Indiana. In any proceeding in which one party either seeks to enforce its rights under this Agreement or seeks a declaration of any rights or obligations under this Agreement, the prevailing party shall have the right to collect its reasonable costs and attorneys' fees from the non-prevailing party.

This Agreement may be executed simultaneously or in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of this document may be accomplished by electronic facsimile reproduction (FAX); if FAX delivery is utilized, the original document shall be promptly executed and/or delivered, if requested.

HUNTINGTON COUNTY by and through  
Its Board of Commissioners

CITY OF HUNTINGTON by and through  
Redevelopment Commission

By:  as its duly  
Commissioner President authorized  
representative

By: \_\_\_\_\_ as its duly  
( ) authorized  
representative

"SELLER"

"BUYER"

STATE OF INDIANA

SS:

COUNTY OF HUNTINGTON

Before me, the undersigned, a Notary Public in and for the State of Indiana, this \_\_\_\_ day of \_\_\_\_\_, 2015 appeared **Huntington County**, by \_\_\_\_\_, its duly authorized representative, who acknowledged the execution of the foregoing instrument on behalf of Huntington County and who, having been duly sworn, stated that the representations contained therein are true.

IN WITNESS WHEREOF, I have subscribed my name and affixed my official seal.

My Commission Expires: \_\_\_\_\_  
My County of Residence is: \_\_\_\_\_ ( ) Notary Public

STATE OF INDIANA

SS:

COUNTY OF HUNTINGTON

Before me, the undersigned, a Notary Public in and for the State of Indiana, this \_\_\_\_ day of \_\_\_\_\_, 2015 appeared the **City of Huntington Redevelopment Commission** by \_\_\_\_\_, its duly authorized representative, who acknowledged the execution of the foregoing instrument on behalf of the City of Huntington Redevelopment Commission and who, having been duly sworn, stated that the representations contained therein are true.

IN WITNESS WHEREOF, I have subscribed my name and affixed my official seal.

My Commission Expires: \_\_\_\_\_  
My County of Residence is: \_\_\_\_\_ ( ) Notary Public

This instrument prepared by Michael Hartburg, Attorney at Law, DeLANEY HARTBURG ROTH & GARROTT LLP, 533 Warren Street, Huntington, IN 46750-0269, Telephone: (260) 356-4100

I, Michael Hartburg, affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

## EXHIBIT A

Lots Numbers One Hundred Three (103), One Hundred Four (104), One Hundred Five (105) and One Hundred Six (106), in the Original Plat of the Town, now City of Huntington, Indiana. ·  
ALSO All that part of Lots numbered 123 and 124 in the Original Plat of the Town, now City, of Huntington, Indiana, more particularly described as follows: Commencing at the northeast corner of said lot 124; running thence southward along the west line of Jefferson Street in said City 42 feet; thence westward at right angles to said west line of Jefferson Street 132 feet to the west line of Lot 123; thence northwardly parallel with Jefferson Street along the west line of said lot 123 to the northwest corner thereof; thence eastwardly at right angles and along the north line of said lots 123 and 124, 132 feet to the place of beginning.