

RESOLUTION NO. 2014-01-CD

AUTHORIZING THE MUNICIPAL MANAGER TO ENTER INTO A CONTRACT FOR PURCHASE AND SALE WITH BREEN FISHER, LLC, REGARDING PROPERTY LOCATED AT 14, 16, 18, AND 20 CHALMERS

WHEREAS, the Municipal Manager and Breen Fisher, LLC, have negotiated the terms of the purchase of property located at 14, 16, 18 and 20 Chalmers; and

WHEREAS, Council for the Village of Greenhills desires to authorize said sale and purchase.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Greenhills, Ohio, five members elected thereto concurring:

SECTION 1.

That the Municipal Manager is hereby authorized to enter into a contract for purchase and sale substantially in the form of the contract attached hereto as Exhibit "A," incorporated herein by reference, and pursuant to the terms outlined in the term sheet attached hereto as Exhibit "B," incorporated herein by reference.

SECTION 2.

That the Municipal Manager is further authorized to execute any and all necessary documents to fulfill the sale of said property.

SECTION 3.

That the Finance Director is hereby directed to deposit the sale proceeds into the Non-Voted Debt Fund.

SECTION 4.

That this Resolution shall take effect and be in force from and after the earliest period allowed by law.

Passed this 18th day of February, 2014.

David Moore, MAYOR /s/

Kathryn L. Lives, CLERK OF COUNCIL /s/

CONTRACT TO PURCHASE

1. **Parties and Property.** This Contract to Purchase ("Contract") effective this 21 day of February, 2014, by Breen-Fisher LLC ("Purchaser") who hereby offers to purchase from the Village of Greenhills, Ohio ("Seller") the following described real property, together with all improvements thereon and with all appurtenant rights, privileges and easements, but subject to easements and restrictions of record: located in Hamilton County, Ohio, known as 4 Units (Units) located at 14-16-18-20 Chalmers Lane, Greenhills, Ohio 45218 (the "Property").

The Property is being sold "AS IS/WHERE IS, WITH ALL FAULTS" and Seller makes no representation or warranty, either express or implied, regarding the condition of the Property or its suitability for Purchaser's intended use. Purchaser is relying upon Purchaser's own knowledge, inspections and investigation of the Property to determine the condition and suitability of the Property. Seller is not required to complete an Ohio Real Property Disclosure Form pursuant to Ohio Revised Code Section 5302.30 (B)(2)(k). Further, Seller shall not make any repairs to the Property, nor shall Seller contribute any funds toward expenses for repairs to the Property.

2. **Purchase Price, Terms, and Earnest Money.** The Purchase Price shall be Sixty Eight Thousand and 00/100 Dollars (\$68,000.00) for the dwellings known as 14-16-18-20 Chalmers Lane. The Deposit, as described below, shall be paid by Purchaser in the form of a cashier's check or wire transfer from the escrow account of the title company and shall be payable upon delivery of deed (the "Closing") on the date (the "Closing Date") set forth herein, or at such sooner time as is mutually agreeable to the parties. Purchaser shall pay the sum of One Thousand Dollars (\$1,000.00) to Seller as the Earnest Money Deposit to be deducted from the Purchase Price at Closing. Purchaser shall also pay Twenty Four Thousand Dollars (\$24,000.00) to Seller as Down Payment ("Deposit") to apply toward the Purchase Price at Closing. Seller shall finance the balance of the Purchase Price as follows:

a) The amount of Twenty One Thousand Five Hundred Dollars (\$21,500.00) shall be due and payable by Purchaser to Seller by December 14, 2014, (insert date), which date is 9 months after the Closing Date.

b) The amount of Twenty One Thousand Five Hundred Dollars (\$21,500.00) shall be due and payable by Purchaser to Seller by September 14, 2015, (insert date), which date is 18 months after the Closing Date, as hereafter defined.

c) In the event that Purchaser sells any Unit located on the Property prior to the end of the 18 month period referenced above, the entire balance due to Seller shall be due and payable at the time of the sale.

d) On the Closing Date, Purchaser shall execute a Promissory Note and Mortgage to Seller securing the balance due of Forty Three Thousand Dollars (\$43,000.00).

3. **Personal Property.** The Property shall include the land, together with all improvements thereon, all appurtenant rights, privileges, easements, fixtures and all of the following items of personal property, if they are now located on the Property and used in connection therewith:

kitchen appliances, washer/dryer, electrical; plumbing; heating and air conditioning equipment, including window units; bathroom fixtures; shades, venetian blinds; awnings; curtain/drapery/traverse rods; window/door screens; storm windows/doors; shrubbery/landscaping; except for that located within the green space easement described in Section 6, floor covering; wall-to-wall/stair carpeting; television aerials; garage door openers/operating devices; humidifier; all affixed/built-in fixtures, and utility/storage buildings or sheds.

The following items are specifically excluded from the Property: NONE.

4. **Seller Certifications.** Seller certifies that Seller owns all of the above items included in the sale and that they will be free and clear of any debt, lien or encumbrances at Closing. Subject to the terms and conditions of Section 6, Seller has full power and authority to execute, deliver and carry out the terms and provisions of this Contract and has taken all necessary action to authorize the execution, delivery and performance of this Contract. The individuals executing this Contract on behalf of Seller have the authority to bind Seller to the terms and conditions of this Contract.

5. **Purchaser Certifications.** Purchaser certifies to Seller that it is lawfully organized, active and in good standing according to the Office of the Secretary of State of Ohio prior to and at Closing and that it has taken all necessary steps required by law or any governing agreement to authorize the execution of this Contract, and that an officer, agent, or member having appropriate authority has executed this Contract on its behalf. Purchaser also certifies that it has the financial capability to purchase the Property and to pay the Purchase Price as more fully set forth in Section 2.

6. **Contingencies.** This Contract is contingent upon:

a) Purchaser's inspections of the roof, structure in crawlspace, boilers, plumbing, electric, tenant leases and applications, and title examination of the Property to Purchaser's satisfaction. All inspections shall be completed by Purchaser within 10 days of Seller's acceptance of this contract, with a 15 day additional extension in the event that inclement weather causes a delay in the inspections.

b) Adoption of a Resolution by the Council of the Village of Greenhills, Ohio authorizing and ratifying the execution of this Contract and the sale of the Property on or before the Closing Date.

c) If the Purchaser has not given the Seller written notice of the failure of any of the contingencies within the applicable time period as set forth in each contingency, the contingencies shall be deemed to have been waived and the Purchaser shall not have the right to terminate this Contract hereunder.

d) At Closing, Seller and Purchaser shall execute an easement of approximately 3500 square feet, starting at the sidewalk located at the rear of the Property, heading westwardly toward the Units, for green space and for access to and from the green space. All easements shall be recorded with the Hamilton County, Ohio Recorder's office.

6. **Title.** Seller shall convey marketable fee simple title to the Property by limited warranty deed, in transferable and recordable form, at the Closing no later than 7 business days from

the date Purchaser's inspections or completed, but no later than March 14, 2014, free, clear and unencumbered as of the Closing Date, except for real estate taxes, general and special assessments, certified or otherwise, if any, zoning ordinances, and easements, reservations, limitations, and restrictions of record as of the date of acceptance hereof which do not affect the marketability of the title to the Property. Seller shall have the right to remove any and all encumbrances or liens out of the purchase monies at the Closing and shall reserve all necessary easements as required for the Units. Purchaser shall execute all easements at closing. Seller shall pay for the cost of preparing the deed, for all state and/or county transfer taxes required to be paid upon any conveyance, for the cost of recording corrective instruments, and for the cost of removing or discharging any defect, lien or encumbrance required for the conveyance of the Property as required by this Contract. All other closing costs, title examination, and the cost of title insurance, if any, shall be paid by Purchaser.

7. **Prorations.** Based on the most recent real estate tax bill, all real estate taxes and final assessments, general or special, certified to the County Auditor, if any, shall be prorated between Seller and Purchaser as of the Closing Date, and after such proration is made Purchaser shall be responsible for paying all installments of such taxes and assessments as they become due. In addition, any rent paid to Seller before the Closing Date shall be prorated between Seller and Purchaser. Any security deposits held by Seller shall be transferred to Purchaser, and any leases shall be assigned to Purchaser at Closing.

8. **Damage.** If, prior to Closing, the Property is damaged or destroyed by fire or other casualty, and the Property is not repaired or restored to the condition it was prior to the damage or destruction, by Seller's insurance company, then Purchaser shall have the option to terminate this Contract by written notice to Seller, and in such event the Earnest Money shall be promptly refunded to Purchaser.

9. **Pre-Closing Issues.** While this Contract is pending, Purchaser shall not make any substantial alterations or repairs without the prior written consent of Seller. Until physical possession is delivered to Purchaser, Seller shall remain responsible for any risk of loss and for maintaining a standard all risk insurance policy for the Property.

10. **Possession.** Seller shall deliver possession of the Property to Purchaser at Closing.

11. **Entire Agreement; Binding Effect.** This offer, when accepted, shall constitute a binding contract and the entire agreement of the parties (the "Contract"), and no oral representations, oral or implied agreements or understandings shall vary the terms of such Contract. This Contract shall be binding upon the parties, their respective heirs, administrators, executors and assigns.

12. **Default.** In the event that Purchaser defaults on this Contract, Seller shall retain the Earnest Money Deposit, as liquidated damages, Seller retain any improvements made by Purchaser, and Purchaser shall reimburse Seller for any damage done to the Property, during the inspection period. In the event that Seller defaults on this Contract, Purchaser shall be refunded the Earnest Money Deposit, as Purchaser's sole remedy.

13. **Broker.** Purchaser shall pay a commission of 3% to Re/Max On the Move and represents that realtor, Katherine A. Fisher is a member of Purchaser, as well as a realtor, along with Carolyn Wedding, representing Purchaser in connection with this transaction. Purchaser agrees to

indemnify and save and hold the Seller harmless from any and all liability for or expense in connection with any commission due or alleged to be due to any real estate broker employed in connection with this transaction.

14. **LEAD PAINT DISCLOSURES.** Purchaser acknowledges receipt of U.S.E.P.A. Lead Based Paint Disclosure and Lead Based Paint Inspection Addendum. (only applicable for houses built prior to 1978)

15. **RESIDENTIAL PROPERTY DISCLOSURE FORM.** Purchaser acknowledges that Seller is exempt from completion of the State of Ohio Residential Property Disclosure Form under O.R.C. Section 5302.30 (B)(2)(k).

16. **Time of Expiration of Offer.** This is an offer to Purchase from Purchaser and shall remain open for acceptance until 4:00 p.m. Cincinnati time on February 21, 2014. Purchaser shall deliver a copy hereof to Seller to be received by such time. If Purchaser has not delivered a copy hereof, signed by Purchaser, on or before that time, then this offer shall be null and void.

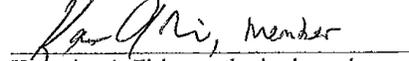
Executed by Purchaser at Cincinnati, Ohio this 21 day of February, 2014.

WITNESSES:



PURCHASER:

Breen-Fisher LLC


Katherine A. Fisher, authorized member

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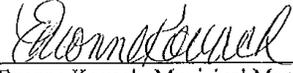
ACCEPTANCE AND EARNEST MONEY

The undersigned, as Seller, accepts the above offer as submitted and accepts the earnest money tendered by Purchaser.

WITNESSES:



VILLAGE OF GREENHILLS, OHIO

By: 
_____ Evonne Kovach, Municipal Manager

Date: Feb 21, 2014

1627015.1

Exhibit B

Terms and Conditions of Sale Contract for 14, 16, 18, & 20 Chalmers:

Purchase price: \$68,000, payable in 3 installments: \$25,000 at closing

\$21,500 paid 9 months after closing

\$21,500 paid 18 months after closing

Note: If property is re-sold prior to 18 months after closing, entire balance will be due.

Inclusions/Exclusions:

- 1) Buyer understands that no repairs will be made by seller and no money will be given by seller to make repairs.
- 2) Buyer will pay a 3% real estate commission to Re/Max On the Move to compensate Katherine A. Fisher and Carolyn Wedding for their efforts in coordinating this transaction. Katherine A. Fisher is a member of Breen-Fisher LLC as well as a real estate agent representing Breen-Fisher LLC (Buyer).

Personal Property: All appliances in all units that are owned by the Village of Greenhills.

Contingencies:

Inspections of roof, structure in crawl space, boilers, plumbing, electric, tenant leases and applications, and property title search. Inspections will be completed in 10 days from date of offer acceptance with this deadline to be extended by 15 days if inclement weather between offer acceptance date and inspection dead line date occurs.

Estimated closing date: 30 days from date of offer acceptance.

Buyer's Name: Breen-Fisher LLC (Katherine A. Fisher, Member)
2692 Madison Road, Suite N1-309
Cincinnati, Ohio 45208