

ORDINANCE NUMBER 2019- 14

AN ORDINANCE DELINEATING OWNERSHIP AND CONTROL OF THE PUBLIC WATER SUPPLY SYSTEM, AND DECLARING AN EMERGENCY.

WHEREAS, issues have arisen within the Village regarding the ownership, control and maintenance responsibilities of the public water supply system in the public right of way and upon private property; and

WHEREAS, Village Council has concerns regarding potential loss of water before metering and the attendant risk to public health and welfare; and

WHEREAS, Village Council has determined that this risk of injury to public health, safety and general welfare poses an immediate threat of harm to the village and desires to immediately clarify ownership responsibilities;

NOW THEREFORE, BE IT RESOLVED by the Council of the Village of Apple Creek, Ohio, that:

SECTION ONE:

OWNERSHIP AND CONTROL OF THE PUBLIC WATER SUPPLY SYSTEM.

(A) The public water supply system of the Village, including all water mains, laterals, valves, hydrants, meters, and services, is under the exclusive control of the Village of Apple Creek and its authorized agents and employees. Such control shall include all piping from the Village mains to the point of ultimate consumption or to where the Village water is finally discharged freely at atmospheric pressure.

(B) Whenever a break or leak occurs in a public water main, or the portion of a water service line between the water main and the curb box, the Village will repair this at its own expense as soon as possible.

(C) Whenever a break or leak occurs in a private water main, or in the portion of a water service line between the curb box and the meter at any place upon the premises supplied, it shall be repaired at the expense of the customer or property owner. If the Village, in order to prevent excessive waste or substantial damage, deems it to be an urgent and necessary action to shut off the water, such action will be taken. The Village shall give written notice in advance to the customer and property owner. The customer or property owner must then make repairs before water service will be restored. In cases where the break or leak is creating a safety hazard or a high volume of water is being lost, the Village, after using its best efforts to notify the customer and property owner, may elect to repair the break or leak with either its own personnel or a contractor, with the cost of such work being paid for by the property owner. The property owner may be charged for the water lost due to breaks or leaks, with the estimated rate of water loss

being based on a standard engineering calculation and applied to the period of time from when the property owner is first notified of the break or leak, to when the break or leak is repaired or the water is shut off (whichever occurs first).

(D) The Village reserves the right to test and replace meters without the consent of the customer or property owner. The Village will endeavor to provide reasonable notice prior to testing or replacing a meter.

(E) The customer and property owner are responsible for providing access to meters for authorized Village personnel. Failure to comply may result in water service disconnection.

(F) The customer and property owner are responsible for maintaining plumbing at a property served by Village water in a condition that allows metering equipment to be installed, maintained, and repaired or replaced by the Village. Failure to comply may result in water service disconnection.

(G) The property owner is responsible for providing access for inside shutoffs at rental properties.

SECTION TWO:

This Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately from and after its passage. The reason for the emergency lies in the fact that this Ordinance is necessary for the immediate preservation of public health, safety and welfare.

SECTION THREE:

All prior Ordinances which conflict with the provisions of this Ordinance are hereby repealed to the extent that they are in conflict herewith.

SECTION FOUR:

If any provision of this Ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions are severable.

VOTE TO SUSPEND RULES:

Yeas 6 Nays 0

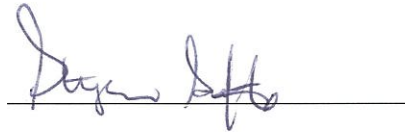
VOTE ON EMERGENCY ORDINANCE:

Yeas 6 Nays 0

PASSED: Sept. 5, 2019.

Yeas 6 Nays 0

ATTEST:

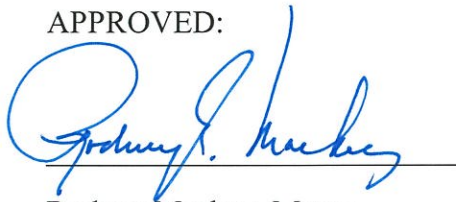


President of Council



Fiscal Officer

APPROVED:



Rodney Mackey, Mayor

RESOLUTION 2019-13

**A RESOLUTION TRANSFERRING MONIES FROM THE GENERAL FUND
TO THE STREET FUND.**

BE IT RESOLVED, by the Council of the Village of Apple Creek, County of
Wayne, State of Ohio;

Section 1.

That \$50,000.00 be transferred from the General Fund to the Street
Fund.

Section 2.

That this transfer of money is necessary to meet current expenses.

Section 3.

That this resolution shall be in effect as earliest allowed by law.

Passed: Sept. 3, 2019

Attest:

A handwritten signature in blue ink, appearing to read "Rodney Mackey", is written over a horizontal line.

Rodney Mackey, Mayor

A handwritten signature in blue ink, appearing to read "Laurretta Busson", is written over a horizontal line.

Laurretta Busson, Fiscal Officer

**RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE
BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES
AND CERTIFYING THEM TO THE COUNTY AUDITOR**

(VILLAGE COUNCIL)

2019-12

Revised Code, Secs. 5705.34 & 5705.35

*The Council of the Village of Apple Creek, Wayne County,
Ohio, met in regular session on the 19 day of August, 2019,
at the office of the Village of Apple Creek with the following
members present:*

Rick Conrad

Paul Dillon

Robert McCarthy

Charlie Lewis

Steve Stoffer

Mr. Rick Conrad moved the adoption of the following Resolution:

*WHEREAS, This Council in accordance with the provisions of law has previously adopted a
Tax Budget for the next succeeding fiscal year commencing January 1st, 2020; and*

*WHEREAS, The Budget Commission of Wayne County, Ohio, has certified its action thereon
to this Council together with an estimate by the County Auditor of the rate of each tax necessary to be
levied by this Council, and what part thereof is without, and what part within, the ten mill tax limitation;
therefore, be it*

*RESOLVED, By the Council of the Village of Apple Creek
Wayne County, Ohio, that the amounts and rates, as determined by the Budget Commission in its
certification, be and the same are hereby accepted; and be it further*

*RESOLVED, That there be and is hereby levied on the tax duplicate of said Village the rate of
each tax necessary to be levied within and without the ten mill limitation as follows:*

SCHEDULE A SUMMARY OF AMOUNTS REQUIRED FROM GENERAL PROPERTY TAX APPROVED BY BUDGET COMMISSION, AND COUNTY AUDITOR'S ESTIMATED TAX RATES				
FUND	Amount to Be Derived from Levies Outside 10 Mill Limitation	Amount Approved by Budget Commission Inside 10 Mill Limitation	County Auditor's Estimate of Tax Rate to Be Levied	
			Inside 10 Mill Limit	Outside 10 Mill Limit
	Column II	Column IV	V	VI
GENERAL		47,000	2.60	
TOTAL		47,000	2.60	0.0
SCHEDULE B LEVIES OUTSIDE 10 MILL LIMITATION, EXCLUSIVE OF DEBT LEVIES				
FUND	Maximum Rate Authorized to Be Levied		County Auditor's Estimate of Yield of Levy Carry to Schedule A Column II	
GENERAL FUND				
	0.0			

APPLE CREEK

and by it further

RESOLVED, That the Clerk of this Council be and he is hereby directed to certify a copy
of this Resolution to the County Auditor of said County.

Mr. Charlie Lewis seconded the Resolution and the roll being called upon
its adoption the vote resulted as follows:

<u>Rick Conrad</u> ,	<u>X</u> yes	<u> </u> no
<u>Charlie Lewis</u> ,	<u>X</u> yes	<u> </u> no
<u>Paul Dillon</u> ,	<u>X</u> yes	<u> </u> no
<u>Robert McCarthy</u> ,	<u>X</u> yes	<u> </u> no
<u>Steve Stoffer</u> ,	<u>X</u> yes	<u> </u> no
<u> </u> ,	<u> </u> yes	<u> </u> no

Adopted the 19 day of August , 20 19

Stephen Bell
President of Council

Attest:

Lauretta Busson
Clerk of Council

ORDINANCE NUMBER 2019-11

AN ORDINANCE AMENDING ORDINANCE 2018-23 AND ADJUSTING THE SCHEDULE OF COMPENSATION AND BENEFITS FOR THE APPLE CREEK POLICE DEPARTMENT AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the Village of Apple Creek, Ohio ("Village) passed Ordinance No. 2018-23 in order to establish a schedule of compensation and benefits for non-elected employees of the Village; and

WHEREAS, the Village Council has determined to modify certain rates of compensation and benefits contained in said ordinance as pertains to the Police Department in order to increase employee retention and remain competitive with other similarly situated municipalities; and

WHEREAS, Village Council has determined this amendment to be in the best interests of the Village's residents, as it promotes the general health, welfare and safety of said citizenry, and must be passed on an emergency basis in order to prevent the possible loss of police coverage;

NOW THEREFORE, BE IT RESOLVED by the Council of the Village of Apple Creek, Ohio, that Ordinance 2018-23 shall be amended in pertinent parts as follows with all remaining unaltered provisions continuing in full effect:

SECTION ONE:

Police Department:

The Police Chief's salary shall be set at \$53,352.00 per year with full available benefits.

The Lieutenant's pay rate shall be set at \$21.34 per hour with full available benefits.

Any other full-time officers' rate of pay shall be set at \$17.45 per hour with full available benefits.

Any part-time officers' rate of pay shall be set at \$14.00 per hour.

SECTION TWO:

All benefits and terms of employment currently in place and not addressed herein shall remain in effect.

SECTION THREE:

This Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately from and after its passage. The reason for the emergency lies in the fact that this Ordinance is necessary for the immediate preservation of public health, safety and welfare.

SECTION FOUR:

All prior Ordinances which conflict with the provisions of this Ordinance are hereby repealed to the extent that they are in conflict herewith.

SECTION FIVE:

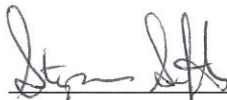
If any provision of this Ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions are severable.

VOTE TO SUSPEND RULES: Yeas 6 Nays 0

VOTE ON EMERGENCY ORDINANCE: Yeas 6 Nays 0

PASSED: August 5, 2019. Yeas 6 Nays 0

ATTEST:

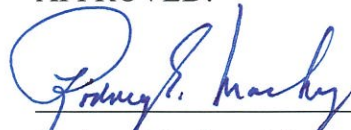


President of Council



Fiscal Officer

APPROVED:



Rodney Mackey, Mayor

ORDINANCE NUMBER 2019-10

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE VILLAGE OF APPLE CREEK AND DECLARING AN EMERGENCY.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the Village of Apple Creek supplement to the Code of Ordinances of Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Ohio code; and

WHEREAS, it is the intent of the Legislative Authority to accept these updated sections in accordance with the changes of the law of the State of Ohio and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date;

NOW THEREFORE, BE IT RESOLVED by the Council of the Village of Apple Creek, Ohio, that:

SECTION ONE:

That the Village of Apple Creek supplement to the Code of Ordinances of the Political Subdivision as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION TWO:

Such supplement shall be deemed published as of the day of its adoption and approval by the Legislative Authority and the Clerk of the Political Subdivision is hereby authorized and ordered to insert such supplement into the copy of the code of Ordinances kept on file in the Office of the clerk.

SECTION THREE:

This Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately from and after its passage. The reason for the emergency lies in the fact that this Ordinance is necessary for the immediate preservation of public health, safety and welfare.

VOTE TO SUSPEND RULES:

Yeas 6 Nays 0

VOTE ON EMERGENCY ORDINANCE:


Yeas 6 Nays 0

PASSED: Aug 5, 2019

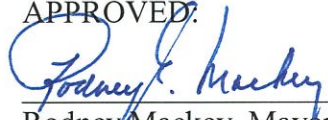
Yeas 6 Nays 0

ATTEST:


President of Council


Fiscal Officer

APPROVED:


Rodney Mackey, Mayor

RESOLUTION NO. 2019-9

A RESOLUTION ACCEPTING A MASTER AGREEMENT TO PROVIDE AGGREGATED GAS GENERATION SUPPLY AND RELATED SERVICES AND AUTHORIZING THE MAYOR OF THE VILLAGE OF APPLE CREEK TO EXECUTE SAID CONTRACT ON BEHALF OF THE VILLAGE.

WHEREAS, on July 15 2013, the Village approved an ordinance establishing an “opt-out” electric aggregation program pursuant to RC 4928.20 for residents and consumers in order maximize collective purchasing power for the benefit of Village gas users; and

WHEREAS, the Village has been previously certified as a governmental aggregator; and

WHEREAS, IGS has proposed a Master Agreement whereby the Village will exclusively employ IGS for provision of retail electric supply to members at pricing mutually agreed upon; and

WHEREAS, said Agreement shall extend from November 2019 through March October 2021; and

WHEREAS, Apple Creek Council has deemed it in the Village’s best interests, and promoting of the Village residents’ general health and welfare, to approve and enter into said Master Agreement with IGS;

NOW, THEREFORE, be it resolved by the Council of the Village of Apple Creek, Ohio that:

SECTION 1.

This Council hereby approves the submitted terms as attached hereto as Exhibit “A” and agrees to enter into said Agreement with IGS. Said extension shall run from November 2019 through October 2021 under said terms.

SECTION 2.

The Mayor is hereby authorized to sign said agreement on behalf of the Village of Apple Creek.

SECTION 3.

All prior Resolutions and Ordinances and parts of Resolutions and Ordinances which conflict with the provisions of this resolution are hereby repealed to the extent that they are in conflict herewith.

SECTION 4.

This Resolution shall take effect and be in force immediately upon its passage.

VOTE ON RESOLUTION:

Yeas 5 Nays 0


PASSED: May 20, 2019.

Yeas 5 Nays 0

ATTEST:

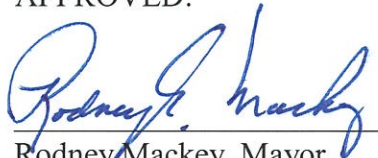


President of Council



Fiscal Officer

APPROVED:



Rodney Mackey, Mayor

May 21, 2019

To: Village of Apple Creek

From: OML Service Corporation & Palmer Energy

Subject: Natural Gas RFP for the Village of Apple Creek Gas Governmental Aggregation Program

Summarized Recommendation for the Village

Contract for a 24-month fixed rate with IGS Energy commencing with the November 2019 billing period.

RFP Overview

As the authorized energy consultant for the Village of Apple Creek, the Ohio Municipal League Service Corporation (OMLSC) and Palmer Energy (Palmer) issued an RFP for natural gas governmental aggregation program service to ten suppliers. Since the inception of the current contract term with Volunteer Energy, the Village's aggregation program has averaged around 145 participants with estimated aggregate usage of 13,000 Mcf/yr.

The RFP requested terms lengths of 12 & 24 months commencing with the November 2019 billing period. The current contract (fixed rate @ \$2.99/Mcf) with Volunteer expires with the October 2019 billing period. Refreshed pricing offers were requested from IGS & Volunteer; those offers are displayed in the table below:

Supplier	Term (Months)	NYMEX + Offer (per MCF)	Fixed Rate Offer (per MCF)	Est. Annual Fixed Rate <u>Increase</u> per Customer vs. Current Contract	Est. Annual Fixed Rate <u>Community Increase</u> vs. Current Contract
IGS	12	\$0.39	\$3.27	\$25	\$3,700
Volunteer	12	\$0.50	\$3.45	\$41	\$6,100
IGS	24	\$0.39	\$3.23	\$21	\$3,200
Volunteer	24	\$0.50	\$3.39	\$36	\$5,300

Table Notes

- 1) The "Estimated Annual Fixed Rate Increase" columns on the far-right indicate higher costs vs. the Village's current contract price.
- 2) Estimated cost increases are based upon historic usage and enrollment. Actual enrollment and usage will vary.

Current Term Fixed Rate Savings

The Village elected to contract for a fully fixed supply rate on the current contract. Based on usage information from Dominion Energy Ohio (DEO) & Palmer's estimates for November 2018 – May 2019, the Village's fixed contract rate saved an average of \$43/participant (~\$6,400 community-wide) compared to actual NYMEX futures settlements over this time frame.



Pricing Structure Selection

Two of the more common rate structures serving natural gas governmental aggregations are a fully fixed supply rate (fixed rate) and a New York Mercantile Exchange (NYMEX) final monthly settlement + fixed basis rate (NYMEX +).

A fixed rate pricing structure locks in NYMEX supply costs + basis costs (i.e. gas transportation from the producer to the utility) for the entirety of the term. All gas supply consumed by residents and commercial participants is billed at the contracted fixed rate through the utility. The remaining charges for local distribution are separately charged by the local utility, DEO, and regulated by the Public Utilities Commission of Ohio (PUCO).

Another typical pricing mechanism is a variable price utilizing a NYMEX + pricing structure in which basis costs (i.e. the adder) are locked and NYMEX commodity costs are determined by the applicable market settlement each month (i.e. the NYMEX final monthly settlement). Under this structure, the supply cost varies monthly unless the Village fixes and, thereby, converts a portion of the agreement term into a fixed price.

All pricing structures have benefits and drawbacks. Fixing for the entire term provides participants price certainty over the period but can end up being higher than a variable price if the gas futures market declines. Since gas futures prices have been relatively sedate the past few years, variable pricing has provided very competitive pricing. Conversely, if gas futures prices start to increase under a variable structure, the customers' pricing increases as well. There can be no certainty on the direction of natural gas futures prices over the next year or two. What can be said is that the fixed price offer from IGS for 24 months is highly competitive based upon current market conditions and lower than fixed rate pricing available on the PUCO Apples-to-Apples website for similar term lengths (especially considering associated termination fees). This would provide participants price certainty in what can be a volatile market.

Finally, it is important to note that participants can terminate for \$0 if they find an alternative price they prefer. Palmer, therefore, recommends the Village evaluate the fixed rate offers.

Term & Supplier Evaluation

IGS & Volunteer both confirmed new customers entering their respective program after the initial opt-out would be eligible to receive the original contract price. No termination fees are charged to customers who choose to terminate with the selected aggregation supplier after initial enrollment.

IGS & Volunteer clarified refresh mailings to newly eligible customers would occur around the 12-month point of a 24-month term.

As seen in the table on Page 1, IGS provided the most competitive 12 & 24-month fixed rates. For a 12-month fixed rate, IGS's offer is about \$16/yr. lower (per customer) than the Volunteer offer. For a 24-month fixed rate, the IGS offer is estimated to be about \$15/yr. (per customer) lower than the Volunteer offer. Similar to Volunteer, IGS has ample experience supplying and coordinating aggregation programs notably through other Palmer-managed aggregation programs. **Palmer recommends the Village contract with IGS Energy.**

The final determination comes down to term length. The 12-month fixed rate from IGS is \$0.04/Mcf lower than the 24-month fixed rate. This is due to NYMEX futures pricing being lower in Year 2 of a 24-month contract:

- November 2019 – October 2020 weighted NYMEX = ~\$2.89
- November 2020 – October 2021 weighted NYMEX = ~\$2.79



Basis pricing is currently trading even regarding the split in Year 1 vs. Year 2 of a 24-month term. Over the past 10+ years, an abundance of Marcellus and Utica shale has been realized throughout southwestern Pennsylvania, northern West Virginia, and eastern Ohio (i.e. DEO territory). These previously untapped resources of shale gas and soon-to-follow booming production levels allowed for regional basis prices to move precipitously downward over recent years throughout the DEO footprint.

As the energy industry caught on, new pipeline infrastructure was put in motion to be approved by the FERC (Federal Energy Regulatory Commission), much of which has already been built and is flowing gas all throughout the state of Ohio and beyond (out west, up north into Michigan & Canada, etc.). As the former supply glut in east Ohio has begun to spread out to lower supply areas throughout the U.S., a corresponding increase in regional basis market prices has occurred.

While NYMEX futures pricing appears to have settled into a comfortable range, basis prices in DEO have room to move higher over the coming 12-24 months as supply levels continue to exit the region. As we saw last winter, stable gas supply prices are far from a certainty as well, especially during peak weather months.

Therefore, **Palmer recommends the Village contract for a 24-month fixed rate.**

As always, if you have any questions please don't hesitate to contact us.

RESOLUTION NUMBER 2019-8

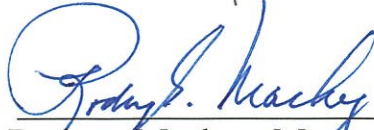
A RESOLUTION ACCEPTING THE BID OF KIMBLE RECYCLING & DISPOSAL, INC. FOR WASTE REMOVAL SERVICES AND AUTHORIZING THE MAYOR OF THE VILLAGE OF APPLE CREEK TO EXECUTIVE THE ATTACHED CONTRACT ON BEHALF OF THE VILLAGE.

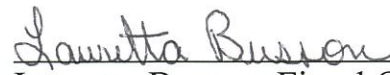
WHEREAS, the Village of Apple Creek council hereby accepts that bid made on May 6, 2019, by the Kimble Recycling & Disposal, Inc. for contractual waste removal services within the Village, deeming said bid to be the lowest and best bid made, and in the best interest of the Apple Creek citizenry; an

WHEREAS, Village Council has elected to enter into an exclusive agreement with Kimble Recycling & Disposal, Inc., as of July 1, 2019 for services as per the terms listed in the attached contract.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Apple Creek, County of Wayne, State of Ohio, agrees this day to enter into the attached waste removal contract with Kimble Recycling & Disposal, Inc. commencing July 1, 2019 and shall continue for a term of three (3) years from that date with a two-year extension available upon mutual agreement of both the Village and Kimble Recycling & Disposal, Inc. The Mayor is herby authorized to executive any and all documents to effectuate this contractual agreement.

PASSED: May 20, 2019.


Rodney Mackey, Mayor


Laurretta Busson, Fiscal Officer

RESOLUTION NO. 2019-7

A RESOLUTION AUTHORIZING THE VILLAGE OF FREDERICKSBURG, OHIO TO PURCHASE WATER FROM THE VILLAGE OF APPLE CREEK, OHIO, AND DECLARING AN EMERGENCY.

WHEREAS, the Village of Fredericksburg, Ohio has inquired of the Village of Apple Creek, pursuant to an Environmental Protection Agency request, if the Village of Apple Creek would consider the sale of village water to the Village of Fredericksburg; and

WHEREAS, it is the desire of Apple Creek's village council to assist the Village of Fredericksburg, so long as no cost is incurred to the Village of Apple Creek, if water is required of the village; and

WHEREAS, the Village of Apple Creek determines the sale of water to the Village of Fredericksburg, Ohio to be in the public's best interests due to public health and safety;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Apple Creek, Ohio, as follows:

SECTION ONE.

The Village of Fredericksburg, Ohio is permitted to purchase water from the Village of Apple Creek if Fredericksburg can acquire appropriate easements and financing to connect to the Village of Apple Creek's water system.

SECTION TWO.

All costs for such water line extension will be the responsibility of the Village of Fredericksburg.

SECTION THREE.

All prior Ordinances and parts of Ordinances which conflict with the provisions of this ordinance are hereby repealed to the extent that they are in conflict herewith.

SECTION FOUR.

This Ordinance shall take effect and be in force immediately upon its passage.

VOTE TO SUSPEND RULES:

Yeas 6 Nays 0

VOTE ON EMERGENCY RESOLUTION:

Yeas 6 Nays 0


PASSED: May 6, 2019.

Yeas 6 Nays 0

ATTEST:

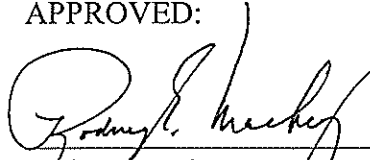


President of Council



Fiscal Officer

APPROVED:



Rodney Mackey, Mayor

RESOLUTION NO. 2019-6

A RESOLUTION AUTHORIZING THE APPLE CREEK COMMUNITY IMPROVEMENT CORPORATION TO EXECUTE A PURCHASE CONTRACT AND SELL ON BEHALF OF APPLE CREEK VILLAGE COUNCIL THAT PROPERTY COMMONLY KNOWN AS THE VACANT "WOODEN NICKEL LOT" TO KNOX CATTLE COMPANY, AN OHIO GENERAL PARTNERSHIP, OR ITS ASSIGNS, FOR A TOTAL PURCHASE PRICE OF \$8,000.00, AND DECLARING AN EMERGENCY.

WHEREAS, the Village of Apple Creek presently owns that vacant village lot formerly known as the "Wooden Nickel lot" (identified as Wayne County Permanent Parcel No. 28-00309.000 and being the southern part of village lot 45); and

WHEREAS, the Village of Apple Creek has designated the Apple Creek Community Improvement Corporation as an agency of the village in accord with ORC 1724.10; and

WHEREAS, the Village of Apple Creek's Council has determined that the subject real property is not required for its purposes, and that prompt sale of said property would promote the welfare of the Village's citizens; and

WHEREAS, said sale and purchase agreement is time sensitive and Council must declare an emergency in order to facilitate said sale lest the prospective buyer recant its offer thereby causing irreparable economic harm to the Village; and

WHEREAS, it is the desire of Apple Creek's village council to empower the Apple Creek Community Improvement Corporation as its agent with authority to execute a purchase contract to sell its interest in Parcel 28-00309.00 formerly known as "Wooden Nickel Lot" property to Knox Cattle Company, a general partnership, or its assigns, for a total purchase price of \$8,000.00;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Apple Creek, Ohio, as follows:

SECTION ONE.

The Apple Creek Community Improvement Corporation, by and through its president, is authorized to execute a purchase contract for the sale of the property formerly known as "Wooden Nickle Lot" to Knox Cattle Company, a general partnership, or its assigns, for a total purchase price of \$8,000.00, and to execute any and all documents necessary to facilitate final sale of said property within the existing terms of said contract. A copy of said purchase contract is attached hereto as Exhibit "A".

SECTION TWO.

Prior to final closing of said sale, the Village of Apple Creek, by and through the Mayor, shall transfer title of said property to the Apple Creek Community Improvement Corporation in order to facilitate said sale. The Mayor is hereby empowered to execute said deed on behalf of the Village.

SECTION THREE.

All net sales proceeds of said sale for the Village shall be transmitted and assigned to the Village of Apple Creek by the Apple Creek Community Improvement Corporation.

SECTION FOUR:

All prior Ordinances and parts of Ordinances which conflict with the provisions of this ordinance are hereby repealed to the extent that they are in conflict herewith.

SECTION FIVE:

This Ordinance shall take effect and be in force immediately upon its passage.

VOTE TO SUSPEND RULES:

Yeas 6 Nays 0

VOTE ON EMERGENCY RESOLUTION:

Yeas 6 Nays 0

PASSED: April 15, 2019.

Yeas 6 Nays 0

ATTEST:

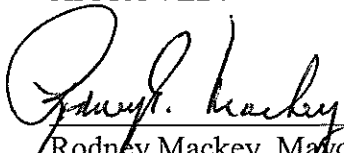


President of Council



Fiscal Officer

APPROVED:



Rodney Mackey, Mayor

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT is made as of April 15, 2019, by and between The Apple Creek Community Improvement Corporation (an Assignee of The Village of Apple Creek), 63 E. Main Street, Apple Creek, Ohio 44606 (hereinafter referred to as "Seller") and Knox Cattle Company, an Ohio Partnership of _____ Wooster, Ohio 44691 (hereinafter referred to as "Buyer").

In consideration of the mutual promises, covenants, and agreements hereinafter set forth, and for other good and valuable consideration, Seller and Buyer agree as follows:

1. Purchase and Sale of the Premises. On the terms and conditions set forth in this Agreement, Seller shall sell, convey, assign, and transfer to Buyer, and Buyer shall purchase from Seller all of Seller's right, title, and interest in and to the real estate located in the Village of Apple Creek, Ohio, being parcel number 28-00309.00, commonly known as 12 W. Main Street, Apple Creek, Ohio; south part of lot 45; (hereinafter referred to as "the Premises").

2. Purchase Price. Buyer shall pay for said Premises the sum of Eight Thousand and No/100 Dollars (\$8,000.00) payable to Seller on the Closing Date via certified bank/cashier's check, as well as such prorations, credits, allowances, or other adjustments as provided for in this Agreement.

3. Conveyance. If the Buyer shall pay the full amount of the purchase price at the time and in the manner above stipulated, then upon receipt of the full amount of the purchase price, the Seller shall convey to the Buyer good and marketable title in fee simple to the Premises by transferrable and recordable General Warranty Deed at the Closing Date.

4. Evidence of Title. Seller shall deliver to Buyer an Attorney's Certificate of Title issued by Taggart Law Firm, LPA, 140 W. Liberty Street, Wooster, Ohio 44691, showing in Seller good and marketable title to the Premises in fee simple, free and clear of all liens, parties in possession, and encumbrances excepting only:

- (a) those created or assumed in writing by Buyer;
- (b) zoning ordinances;
- (c) public highways and rights-of way;
- (d) restrictions, conditions, oil and gas leases, and utility easements of record; and
- (e) taxes and assessments which are not to be paid by Seller under this Agreement.

If title to all or a part of the Premises is not marketable, or if additional liens and encumbrances exist other than those set forth in the first paragraph of this Section 4, the Buyer shall notify Seller thereof and Seller shall have thirty (30) days to cure any such title defects. If Seller is unable to cure all of the title defects objected to by Buyer within thirty (30) days, then Buyer shall

have the option of terminating this Agreement or granting Sellers additional time to cure the title defects. Marketability shall be determined in accordance with the standards of title examinations promulgated by the Ohio State Bar Association.

5. Taxes and Assessments, Prorations. Seller shall pay or credit on the purchase price the amount of all delinquent taxes, including penalties and interest, and all special assessments that are a lien as of the day of closing, both current and reassessed and whether due or to become due.

Seller shall also credit the purchase price for all unpaid real estate taxes not yet due for the year prior to the closing through the date of closing. The proration of the undetermined taxes shall be based upon a 365 day year and on the most recently available tax rate and valuation. It is the intention of the parties in making the tax proration to allow Buyer a credit as close in amount as possible to the amount which Buyer will be required to pay to the county treasurer, giving effect to applicable exemptions, recently voted millage, changes in valuation or other similar matters which may have an effect on the amount of the real estate taxes, whether or not they have been certified.

6. Closing Date. As used in this Agreement, references to the "closing" shall mean the closing of the purchase and sale contemplated by this Agreement. The closing date shall occur in Wooster, Ohio, at the offices of Killbuck Title Agency, Inc., 140 W. Liberty Street, Wooster, Ohio 44691, (330) 264-5141 (the "Escrow Agent"), on or before May 1, 2019.

7. Closing Procedure. The sale and purchase of the Premises shall be closed by placing all documents and funds necessary to completion of the transaction contemplated herein in escrow with the Escrow Agent. An executed copy of this Agreement shall be delivered to the Escrow Agent and shall condition its instructions for the closing. The closing shall proceed as follows:

- (a) On the closing date, Buyer shall deposit with the Escrow Agent the purchase price, less any amounts paid directly to Seller.
- (b) Prior to the closing date, Seller shall deposit with the Escrow Agent the Deed and such other documents as are necessary to transfer the premises pursuant to the terms of this Agreement.
- (c) Upon the deposits by Seller and Buyer as aforesaid, the Escrow Agent shall confirm that upon filing of the Deed of record, Buyer will acquire title as herein contemplated.
- (d) On the closing date, the Escrow Agent shall file the Deed of record and shall deliver to Buyer, as soon as practicable, the Escrow Agent's closing statement of account. Said account shall reflect the following sums which shall be charged and payable by Buyer:
 - (i) the cost of recording the warranty deed;

- (ii) any costs relative to obtaining a mortgage on the premises, including the cost of recording said mortgage and any mortgagee's insurance required by the financial institution;
 - (iii) one-half ($\frac{1}{2}$) the cost of preparation of this Purchase Agreement;
 - (iv) one-half ($\frac{1}{2}$) of the closing and escrow fees.
 - (v) title insurance commitment and premium fees if title insurance is desired by Buyer.
- (e) The Escrow Agent shall next deliver to Seller, as soon as practicable, the Escrow Agent's closing statement of accounts and its check, payable to Seller, in the amount of the Purchase Price (less any amounts previously received by Seller), after first deducting therefrom the following sums which shall be charged to and payable by Seller:
- (i) the transfer tax assessed by the Auditor of the county in which the Premises are located;
 - (ii) the cost of discharging any liens upon the Premises;
 - (iii) all debts to be made by reason of the proration of taxes and general and special assessments;
 - (iv) the cost of preparation of warranty deed;
 - (v) the cost of the title search and certificate of title;
 - (vi) one-half ($\frac{1}{2}$) of the cost of preparation of this Purchase Agreement;
 - (vii) one-half ($\frac{1}{2}$) of the closing and escrow fees;

8. Possession. Seller shall transfer possession of the Premises to the Buyer on the Closing Date. The Seller shall vacate the Premises prior to possession by the Buyer, and the Seller shall give written or oral notification to the Buyer of the exact date of transfer of possession to the Buyer.

9. Breach. Should Buyer fail to consummate the purchase of the Premises for any reasons other than those specifically set forth below, then this Agreement shall be terminated and the down payment forfeited to the Seller as liquidated damages for the Buyer's breach of contract. Notwithstanding anything to the contrary previously stated in this Item, Buyer's failure to consummate the purchase the Premises as the result of Seller being unable to provide Buyer with a

good and marketable title, as set forth in Item 4 above shall not be deemed a breach of contract on the part of the Buyer.

10. Condition of Premises. The Premises is sold in its present "AS IS" condition.

11. Megan's Law. Ohio's Sex Offender Registration and Notification Law requires the local sheriff to provide written notice to certain members of the community if a sex offender resides in the area. The notices provided by the sheriff are public records and open to inspection under Ohio's Public Records Law. Seller certifies that Seller has not received notice pursuant to Ohio's Sex Offender Registration and Notification Law. Buyer acknowledges that the information disclosed above may no longer be accurate. If current information on the status of registered sex offenders in the area is desired, Buyer agrees to assume the responsibility to check with the local sheriff's office. Buyer is relying on Buyer's own inquiry with the local sheriff's office regarding registered sex offenders in the area and is not relying on the Seller or any Broker or realtor involved in the transaction.

12. Disclaimer of Brokerage Commission. The parties represent that no real estate broker or salesman has been engaged by either of them and that no brokerage fees are due and owing to or through any real estate broker's office or to any salesman by reason of this sale as described in this Agreement.

13. Construction. This Agreement embraces the entire transaction between the parties, and it is agreed that there have been no representations, warranties, or conditions other than those set forth in this Agreement. No change may be made in this Agreement except by instrument in writing, duly executed by the parties.

14. Time of the Essence. It is expressly agreed that time shall be of the essence of this Agreement.

15. Binding Effect. This Purchase Agreement shall be binding upon the parties, their heirs, executors, administrators, successors, and assigns. This Agreement may be executed in any number of counterparts each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same agreement.

16. Contract Made in Ohio. This Purchase Agreement shall be deemed to have been executed in the State of Ohio and shall be governed by the laws of the State of Ohio.

17. Authority. The individuals signing on behalf of Seller and Buyer herein represent that said persons have the authority to sign this Agreement, have received approval to do so, and are committing Seller and Buyer to the terms, conditions, and obligations as expressed in this Agreement. Seller represents that all applicable resolutions and/or ordinances have been properly passed, and that the undersigned has authority to execute this document.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this 15
day of April, 2019.

SELLER

THE APPLE CREEK COMMUNITY
IMPROVEMENT CORPORATION

By: 

BUYER

JERRY L. BAKER, sole Partner

KNOX CATTLE COMPANY

By: 