

**ORDINANCE NO. 40-2021**

**AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO CONTRACT TO PURCHASE REAL PROPERTY TO BE USED BY THE CITY OF REYNOLDSBURG, AND DECLARING AN EMERGENCY**

**WHEREAS**, The City of Reynoldsburg desires to purchase certain real estate located within the corporate limits of the City; and

**WHEREAS**, The City of Reynoldsburg desires to use the land to be acquired for a public purpose; and

**WHEREAS**, Both Ohio Revised Code Section 715.21 and The Charter of the City of Reynoldsburg allow the City to acquire real property.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF REYNOLDSBURG, COUNTIES OF FRANKLIN, LICKING, AND FAIRFIELD, STATE OF OHIO, THAT:**

**Section 1.** The Mayor is hereby authorized and directed to purchase the real property located at 7332 East Main Street, Reynoldsburg, Ohio 43068, Franklin County, Ohio Parcel Numbers 060-000134, 060-000090, 060-000200, and 060-000218.

**Section 2.** The legal description attached as Exhibit "A" shall be incorporated by reference.

**Section 3.** The consideration to be paid for the property is Six Hundred Twenty-five Thousand dollars (\$625,000.00) to be paid upon execution and delivery to the City of Reynoldsburg, a Trustee's Deed accompanied by a title guaranty conveying the property to the City of Reynoldsburg in fee simple, free and clear of all encumbrances, excepting conditions and restrictions of record, zoning ordinances and taxes and assessments levied and assessed subsequent to the date of conveyance. The deed and title guaranty are to be to the satisfaction of the City Attorney.

**Section 4.** The purchase price in connection with the property acquisition to be paid by the City after acquiring the property is hereby appropriated from the unappropriated Capital Improvement Fund (410) to account no 410.000.0184.5611 Main Street Development. Funds will be reimbursed upon resale of the property.

**Section 5.** The purchase contract shall be consummated in such manner and on such terms as the City Attorney shall approve.

**Section 6.** In accordance with The Charter of the City of Reynoldsburg and Chapter 175 of the Codified Ordinances of the City of Reynoldsburg, competitive bidding is not required and is hereby waived.

**Section 7.** This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, welfare, and financial needs of the City. The reason for such necessity is to acquire the property timely at the agreed upon price. This ordinance shall take effect immediately upon the signature of the Mayor.

PASSED this 12<sup>th</sup> day of April, 2021.

Leana Jenkins, Council President  
Leanora Jenkins, Council President

ATTEST: Mollie Prasher  
Mollie Prasher, Clerk of Council

APPROVED: Joe Begeny  
Joe Begeny, Mayor

DATE: April 12, 2021

On behalf of the state of Ohio, Franklin County, City of Reynoldsburg,  
I, Mollie Prasher, duly qualified Clerk of Council for the City of Reynoldsburg,  
do hereby certify that the foregoing are copies of the originals, now on file,  
and have been certified by me, and the same are true and correct copies.

WITNESS by my signature, this 12th day of April 2021.

Mollie Prasher  
Mollie Prasher, Clerk of Council  
City of Reynoldsburg

## **ESCROW AGREEMENT**

**THIS ESCROW AGREEMENT** ("Agreement") is made and entered into to be effective as of the \_ day of April 2021, by and among Jack Sun and Leshan Sun ("Sellers"), City of Reynoldsburg (" Buyer"), and Gahanna Title Agency, 1010 Jackson Hole Drive, Ste 200, Blacklick, Ohio 43004 ("Escrow Agent").

**Whereas**, Sellers are the owner of a parcel of property commonly known 7332 East Main Street, Reynoldsburg, Ohio (the "Property") and the opportunity exists to promptly sell the Property on the terms and conditions of the Real Estate Purchase Agreement attached hereto as Exhibit "A" and incorporated herein (the "Contract");

**Whereas**, on April \_ , 2021, the Buyer and Sellers executed an Escrow Agreement (the "Agreement") whereby the Buyer agreed to place the purchase funds into an escrow account administered by the Escrow Agent until such time as the sale of the Property closes and other such conditions set forth herein; and

**NOW, THEREFORE**, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, and of the mutual covenants herein set forth, it is agreed as follows:

1. All capitalized terms in this Agreement, if not otherwise defined herein, shall have the meanings ascribed to them in the Contract.
2. Buyer shall pay Purchase Price, as adjusted, in readily available funds to Escrow Agent to be held in Escrow and subject to disbursement in accordance with the terms of this Agreement executed by the Buyer and Sellers contemporaneous to the Contract. Buyer shall close on or before the thirtieth (30<sup>th</sup>) day after Buyer waives or satisfies the Buyer's Contingencies (the "Closing").
3. Upon Buyer paying the Purchase Price into escrow, the Sellers shall have 60 (sixty) days to close Sellers' business, remove Sellers' restaurant equipment, and repair any damage done to the land, walkways, curbs building, and sidewalk as a result of Sellers' continued operation of the business and/or removal of the restaurant equipment.
4. The Escrow Agent shall disburse the Escrow Funds as follows:
  - 4.1 Upon Sellers' closing of the business and the sale of the restaurant equipment, Sellers shall proceed to close on the Contract and deliver possession to the Property at Sellers' closing. After Sellers' Closing and upon the reasonable approval of the Buyer of the condition of the premises, the Buyer shall sign and provide to Escrow Agent written consent to release escrow funds whereupon the Escrow Agent shall release the net sale proceeds, as adjusted, to Sellers and provide Buyer keys to the property.

- 4.2 Escrow Agent shall follow any written instructions concerning the Escrow Funds in a writing signed by both the Buyer and Sellers or any Order from a court of competent jurisdiction.
- 4.3 If for any reason the Buyer does not provide, within six (6) months of the date of Closing on the Property by Sellers, instructions to Escrow Agent for the complete distribution of the Escrow Funds or such other documentation pursuant to this Paragraph 4 necessary for Escrow Agent to distribute the Escrow Funds, Escrow Agent shall be entitled to either interplead the Escrow Funds, or Escrow Agent may continue to hold the Escrow Funds and wait for written instruction from the Buyer and Sellers to disburse the funds or an Order of a court of competent jurisdiction, whichever event may occur first.
- 5. The Escrow Agent shall hold the Escrow Funds in a non-interest bearing escrow account.
- 6. Any notice to be given shall be in writing and sent by certified mail, return receipt requested:

As to Seller: Jack Sun and Leshan Sun  
642 River Trace  
Westerville, Ohio 43081

With a copy to: Donald B. Hallows, Esq.  
1010 Jackson Hole Drive  
Blacklick, Ohio 43004

As to Buyer: City of Reynoldsburg  
732 E. Main Street  
Reynoldsburg, Ohio 43068  
Attn: Joe Begeny, Mayor

With a copy to: Chris Shook, Esq.  
City Attorney  
7232 E. Main Street  
Reynoldsburg, Ohio 43068

As to Escrow Agent: Chris Chapman, Esquire.  
1010 Jackson Hole Drive Ste 200  
Blacklick, Ohio 43004

Any party may change the address to which notices are to be addressed by sending written notice to the other respective parties pursuant to this Paragraph.

- 7. The duties and obligations of the Escrow Agent shall be determined solely by the express provisions of this Agreement, and the Escrow Agent shall not be liable except for the performance of the duties and obligations specifically set forth in this Agreement.

8. Sellers hereby agree to release, hold harmless and indemnify the Escrow Agent from and against any and all liability, cost or expense of defending any claim or liability arising out of or relating to this Agreement, including, without limitation, reasonable attorney fees and court costs incurred by it in connection with any arbitration, court action or interpleader, unless due to the negligence or willful misconduct of the Escrow Agent, or its failure to comply with the terms of this Agreement. This Agreement shall survive disbursement of the Escrow Funds.
9. **Buyer and Sellers acknowledge that the Escrow Agent assumes no responsibility whatsoever for bank holidays, bank failure, insolvency, inability of their depository to disburse the Escrow Funds plus accrued interest, if any, due to bank or governmental regulation or delay in transfer of funds through the federal wire system.** Buyer and Sellers further acknowledge that Federal Deposit Insurance Corporation ("FDIC") coverage applies up to a specified maximum amount for each individual depositor including all of depositor's accounts at the same or related institution, and that Escrow Agent assumes no responsibility for, nor will it be held liable for any loss occurring which arises from the fact that the amount of the above account may cause the aggregate amount of any individual depositor's accounts to exceed the amount insured by the FDIC. Buyer and Sellers have made their own independent investigation of Huntington National Bank ("HNB"), the Escrow Agent's banking institution which will hold the Escrow Funds, and have not relied upon any assurances by Escrow Agent as to the financial stability of HNB. **The undersigned parties hereto certify and acknowledge that they are aware that the FDIC coverage applies only to the cumulative maximum amount of \$250,000.00 for all of Escrow Agent's accounts at the same or related institution. Escrow Agent assumes no responsibility for, nor will it be held liable for any loss occurring which arises from the fact that the amount of the Buyer's deposit into Escrow will be substantially above the amount of FDIC insurance available to cover a loss resulting from the failure of HNB.**
10. In the event that the Escrow Agent has not been given written instructions to disburse the Escrow Funds on or before September 1, 2021, then Escrow Agent shall make inquiry of the Sellers and Buyer as to the disposition of the Escrow Funds. Unless disposition of the Escrow Funds is agreed upon in writing at that time by both Sellers and Buyer, Escrow Agent may be entitled to either interplead the Escrow Funds pursuant to Paragraph 11 below or continue to hold the Escrow Funds and wait for written instructions from Sellers and Buyer, the choice of which is at Escrow Agent's sole and absolute discretion.
11. In the event Buyer or Sellers make any demand upon Escrow Agent concerning this Agreement or the Escrow Funds that is not agreed upon by both parties, Escrow Agent, at its election and in its sole and absolute discretion, may cause the Escrow Funds to be delivered to a court of competent jurisdiction to determine the rights of Sellers and Buyer, or to interplead Sellers and Buyer by an action brought in any such court. Deposit by Escrow Agent into such court of the Escrow Funds shall relieve Escrow Agent of all further liability and responsibility in connection with this Agreement and the Escrow Funds.
12. This Agreement shall terminate upon disbursement by the Escrow Agent of the Escrow Funds, Sellers' Documents, and Buyer's Documents in accordance with the terms of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Escrow Agreement to be executed as of the date first above written.

**Sellers:**

By: . Jack Sun

By: . Leshan Sun

**Buyer:**



\_\_\_\_\_  
City of Reynoldsburg

By: Joe Begeny

Title: Mayor of Reynoldsburg, Ohio

**Escrow Agent:**

**Hallowes Law Group LLC**

By: . Donald B. Hallowes, Esquire, Authorized Agent

**EXHIBIT A  
CONTRACT**

## **REAL ESTATE PURCHASE CONTRACT**

**THIS REAL ESTATE PURCHASE CONTRACT** (the "Contract") is executed, delivered and made effective as of the Effective Date (as defined in Article 12(g)) by and between (i) **City of Reynoldsburg** ("Buyer") and (ii) **Jack Sun and Leshan Sun**, husband and wife ("Sellers"); Buyer and Sellers sometimes referred to individually as a "Party" or collectively as the "Parties").

### **Preliminary Statements**

A. Sellers is the owner of Franklin County, Ohio Parcel Numbers 060-000134, 060-000090, 060-000200, and 060-000218, commonly known as 7332 East Main Street, Reynoldsburg, Ohio (as shown on Exhibit A, attached hereto and incorporated herein) being an approximate 0.45 acre tract improved with a Fast Food/Drive-In Restaurant, together with all improvements thereon, and all easements, leases and other rights and privileges appurtenant thereto (hereinafter "the Property").

B. Sellers desire to (i) sell and convey the Property (as is approximately shown on Exhibit B, attached hereto and incorporated herein, together with all improvements thereon, and all easements, leases and other rights and privileges appurtenant thereto) to Buyer upon the terms and conditions hereinafter set forth.

C. The Parties desire to set forth in this Contract their respective rights, obligations and conditions with respect to the aforementioned transaction.



## Statement of the Contract

In consideration of the foregoing Preliminary Statements, which are hereby incorporated herein, and of the mutual promises herein set forth, the Parties do hereby make this Contract on the following terms and conditions, intending to be bound hereby:

### Article 1: Purchase Price.

The purchase price (the "Purchase Price") to be paid by Buyer to Sellers for the Property shall be Six Hundred Twenty Five Thousand Dollars (\$625,000.00). The Purchase Price shall be due and payable in immediately available funds at the Closing (as hereinafter defined), subject to adjustments for certain charges and credits as provided hereinafter.

### Article 2: Closing; Possession; Condition of Property.

a. Closing. Subject to the provisions of Article 5 and satisfaction and/or waiver of Buyer's Contingencies (as hereinafter defined), the transaction for the sale and purchase of the Property shall be closed as provided below by the delivery of the deed and other Closing instruments specified for the Property as provided in Article 7 and by the payment of the Purchase Price for the Property as provided in Article 1 on or before the sixtieth (60th) day after Buyer waives or satisfies the Buyer's Contingencies (the "Closing"). The specific date, time and location of Closing shall be mutually agreed upon Buyer and Sellers.

b. Possession. Buyer shall be entitled to possession of the Property at the Closing.

c. Condition. The Property and each building or other improvement thereon shall be sold **in** "as is" condition as of the Effective Date.

d. Buyer agrees to provide sixty (60) days written notice to Seller prior to closing to provide Seller a full and fair opportunity to arrange to vacate the premises.

Within forty-five (45) days after closing, Seller shall be permitted to access the property to remove fixtures located in the standing building on the premises. Seller shall indemnify and hold Buyer harmless for any damage caused to the premises occasioned by Seller's access during the time period.

### Article 3: Inspection of the Property

Inspection of Property. As of the Effective Date, Buyer and its representatives, agents, and contractors shall have the right to enter upon and have reasonable access to the Property in order to conduct such examinations, inspections, studies and tests thereof as Buyer may deem necessary or desirable in Buyer's sole discretion including, without limitation, surveys, soil tests, environmental examinations, audits and tests, feasibility studies and appraisals; and after conducting the same, Buyer shall restore the Property to substantially the same condition as it was prior to Buyer's undertaking of tests and examinations described in this Article 3. Buyer agrees to indemnify and hold Sellers harmless from any and all third-party liabilities, claims, causes of action, penalties, demands, and expenses of any kind or nature whatsoever arising from Buyer or Buyer's representatives actions while inspecting the Property. Buyer shall provide Sellers forty-eight (48) hour advance notice to Sellers before entering the Property

#### Article 4: Delivery of Sellers's Information.

Within five (5) business days after the Effective Date, Sellers shall deliver to Buyer the following: copies of any title insurance policies; surveys; soils analysis; environmental studies and audits, and related materials; copies of any and all documents received by Sellers from governmental entities; and all other pertinent reports and information related to the Property which are in Sellers's or Sellers's agents possession or which can be reasonably obtained at no additional cost to Sellers. Sellers agrees, in good faith, to continue to share other relevant information on the Property throughout the term of this Contract which may be beneficial to the Buyer.

#### Article 5: Buyer's Contingencies.

a Buyer's Contingencies. Buyer's obligations under this Contract are specifically subject to the following conditions precedent and contingencies (individually, a " Buyer' s Contingency" and collectively, "Buyer's Contingencies"), which may be satisfied or waived solely by Buyer, in its sole and absolute discretion, and at its expense within the time-period hereinafter specified for each enumerated category of Buyer'sContingencies:

(i) Survey and Title. Within the time period provided in Article 6 of this Contract, Buyer shall have approved the Title to the Property.

(ii) General Due Diligence. Within forty-five (45) days after the Effective Date, Buyer, in Buyer's sole discretion, shall have satisfied itself in all matters pertaining to its due diligence on the Property, including, but not limited to the suitability of the soils within the Property for Buyer's intended use; the availability, size, quality and quantity of any utility service or connection; environmental matters (including but not limited to Phase I and Phase II Environmental Assessments); the Leases; zoning; any other survey, test, appraisal, examination or inspection described in or permitted by Article 3 of this Contract; review of all documents supplied pursuant to Article 4 of this Contract; the general feasibility, suitability and fitness of the Property; and any and all additional matters or investigations as Buyer deems necessary or appropriate.

(iii) Governmental Approval. Within forty-five (45) days after the Effective Date, Buyer shall have obtained approval for this Contract and to purchase the Property from the Reynoldsburg City Council, the Mayor of Reynoldsburg, and any and all other related governmental entities as are deemed necessary by the Buyer.

b. Effect of Failure to Satisfy Buyer's Contingencies. If any of Buyer's Contingencies are not satisfied or waived within the applicable time period specified for each in Article 5(a), then Buyer shall have the right, in Buyer' s sole and absolute discretion, to terminate this Contract by giving to Sellers written notice of such termination within the time period specified herein. If Buyer should fail to give to Sellers such notice on or before the applicable expiration date of each respective Buyer' s Contingency in Article 5(a), then Buyer shall be deemed to have satisfied or waived such Buyer'sContingency.

Article 6: Title and Survey.

- a. Issuance of the Title Commitment. Within seven (7) days following the Effective Date, Sellers, at Sellers's sole expense, shall order and obtain from First American Title Insurance Company (the "Title Company") and deliver to Buyer its commitment for the issuance of an owner's policy of title insurance with respect to the Property on the then current ALTA form authorized for use within the State of Ohio (the "Title Commitment"). The Title Commitment shall show fee simple title to the Property in Sellers free and clear of all liens and encumbrances except: (i) the standard exceptions for an owner's policy, unless one or more of such exceptions are waived by the Title Company, (ii) real estate taxes and assessments affecting the Property, and (iii) easements, conditions, restrictions, covenants, reservations, leases, encumbrances, liens and other matters of record or affecting the Property. The Title Commitment shall be issued in favor of Buyer as the proposed insured, in the aggregate dollar amount of the Purchase Price for the Property.
  
- b. Objections to Title. Buyer shall have thirty (30) days from the date that it receives the Title Commitment to review the Title Commitment. If the Title Commitment shows any defect, covenant, agreement, encroachment, easement, encumbrance, lien, restriction, reservation, condition or other title matter or condition which unreasonably interferes with Buyer's proposed use of the Property, as Buyer may determine in its sole and absolute discretion, Buyer shall, within said period, give Sellers written notice specifying the specific objection (the "Buyer's Objection").

In the event Buyer should timely notify Sellers of any such Buyer's Objection, Sellers shall have ten (10) business days following receipt of any such notice from Buyer to remedy said Buyer's Objection. The parties agree in good faith to attempt to resolve any and all of Buyer's Objections provided that such are reasonable. In the event Sellers do not remedy or obtain title insurance against any such Buyer's Objection within ten (10) business days after the expiration of the aforementioned ten (10) business day period Buyer, at Buyer's option, shall have the right to (i) waive such Buyer's Objection and proceed with the Closing, or (ii) terminate this Contract, whereupon all Sellers' and Buyer's obligations hereunder shall terminate and neither Party shall have any further obligation or liability hereunder to the other Party thereafter. Provided, however, if the Buyer's Objection is one which can be removed by the payment of money, to secure the release of a lien or monetary encumbrance not in excess of the Purchase Price (such as a tax lien certificate of judgment or mortgage), Sellers shall be required to and hereby agrees to satisfy any such encumbrance from the net proceeds due and payable to Sellers at the Closing in order to remove the lien or encumbrance from title to the Property.

- c. Permitted Exceptions. All of the matters set forth on the Survey and Title Commitment, if not constituting a Buyer's Objection, shall be a permitted exception to title to the Property (collectively, the "Permitted Exceptions"). "Permitted Exceptions" shall also include, at Sellers' election, the Deed Restrictions (as hereinafter defined).

- d. Title Commitment, Title Policy and Survey Premium and Fees. Sellers shall pay all search, commitment or similar fees for the issuance of the Title Commitment and the premium attributable to the title insurance policy for the owner insuring an amount not in excess of the Purchase Price. Buyer shall be solely responsible for the premiums attributable to its lender's title insurance policy, if any, and any endorsements requested by Buyer and/or its lender.

Article 7: Closing Costs and Prorations.

a. Conveyance, Recording and Escrow Fees. Sellers shall pay the real property conveyance fee applicable to the sale and conveyance of the Property and any recording fees associated with mortgage or similar lien releases attributable to the Property. Buyer shall pay all other recording fees.

b. Real Estate Taxes and Assessments. At Closing, Sellers shall pay or credit against the Purchase Price all delinquent taxes, including penalty and interest, all assessments that are a lien on the date of Closing prorated through the date of Closing and all agricultural use tax recoupments for years prior to the year of Closing. At Closing and based on the Purchase Price, Sellers also shall pay or credit on the Purchase Price all other unpaid real estate taxes and assessments that are a lien for years prior to Closing and a portion of such taxes and agricultural use tax recoupments based on a 365-day year and, if undetermined, on most recent available tax rate and valuation, giving effect to applicable exemptions, recently voted millage, change in valuation, etc., whether or not certified. The tax proration determined at Closing shall be final and neither Party shall have the right to contest said amount unless predicated on fraud or intentional misrepresentation.

c. Other Expenses. Each Party shall be responsible for all other fees, costs and expenses incurred by it in connection with this transaction, including any such expenses for services rendered by accountants, appraisers, architects, attorneys, contractors, engineers and other persons not otherwise expressly provided for herein.

Article 8: Closing Instruments.

a. Instruments to be Delivered by Sellers. At the Closing, Sellers shall execute and deliver to Buyer and/or the Title Company the following instruments:

(i) Deed. A recordable general warranty deed (the "Deed"), which conveys to Buyer good and marketable title in fee simple to the Property free and clear of all liens, conditions, restrictions, easements, reservations, encumbrances and rights of third parties except the Permitted Exceptions and the following matters which shall be excepted and/or reserved by Sellers, as the case may be, in the Deed.

(ii) Sellers's Affidavit. A sellers' affidavit given by Sellers to Buyer and the Title Company with respect to the payment of bills for work performed or materials furnished to the Property within ninety (90) days prior to the Closing and with respect to any other off-record matter which is required for the issuance of the owner's policy of title insurance and specifically incorporating the Sellers's Warranties contained in Article 10 herein.

(iii) Authority. One or more certificates of Sellers regarding the authority of the Person or Persons who sign this Contract and the other Closing instruments on behalf of Sellers.

(iv) Documents. Originals, as available, or copies of all contracts relating to the property.

(v) Warranties. An assignment of all transferable warranties and guarantees then in effect, if any, with respect to the improvements located on the Property or any repairs or renovations to such improvements being conveyed hereunder in a form that shall be mutually agreed by Buyer and Sellers.

(vi) Other Instruments . A Closing and disbursement statement, an IRS Form 1099-B report of proceeds from a real estate transaction [§ D045(e), IRC], and a non-foreign person certificate [§ D445, IRC, FIRPTA], if required.

b. Instruments to be Delivered by Buyer. At the Closing, Buyer shall execute and deliver to Sellers and/or the Title Company the following instruments:

(vii) Authority. One or more certificates of the Buyer regarding the authority of the Person or Persons who sign this Contract and the other Closing instruments on behalf of Buyer.

(viii) Other Instrument s. A Closing and disbursement statement and a real property conveyance feestatement.

Article 9: Risk of Loss or Damage; Appropriation.

a. Risk of Loss or Damage. Notwithstanding Buyer's obligations, Sellers shall bear the risk of loss or damage to the Property until the Closing and agrees to maintain adequate insurance on the Property with a reputable insurance carrier. If any event should occur prior to the Closing Date which causes a material loss or damage, then Sellers shall promptly notify Buyer of such event and Buyer shall have the right, at its option: (i) to proceed with the transaction by giving to Sellers written notice thereof in which case Buyer shall be entitled to any and all insurance proceeds, or (ii) to terminate this Contract by giving to Sellers written notice of such termination. The election of Buyer shall be exercised by written notice given to Sellers within twenty(20) days after receipt of notice of such event from Sellers. The failure by Buyer to so notify Sellers shall constitute an election to proceed with the transaction.

b. Appropriation. If appropriation proceedings should be commenced against the Property or if any governmental authority should notify Sellers of its intention to acquire the same pursuant to the power of eminent domain prior to the Closing, then Sellers shall notify Buyer thereof. In such event, Buyer shall have the right, at its option: (i) to proceed with the transaction by giving to Sellers written notice that all of Buyer's contingencies of the transaction to be released have been removed subject only to the contingencies which are typically required at Closing, in which event Buyer shall have the right to negotiate with and sell to such governmental authority or to contest such appropriation in litigation proceedings, and shall be entitled to all proceeds thereof, up to the amount of the Purchase Price with all excess being the property of the Sellers and Sellers shall convey the Property subject to such proceedings and shall receive the Purchase Price specified in this Contract at the Closing; or (ii) to terminate this Contract by giving to Sellers written notice of such termination. The election of Buyer shall be exercised by written notice given to Sellers within twenty (20) days after Sellers has given to Buyer written notice of such governmental action. The failure by Buyer to so notify Sellers shall constitute an election to proceed with the transaction.

Article 10: Representations and Indemnification.

a. Sellers' Representations. Sellers represent and warrant the following as of the Effective Date which said representations and warranties shall survive the Closing:

(i) There is no action proceeding, threatened or investigation pending or threatened against Sellers relating to the Property or against the Property, or any part thereof before any court or governmental department, commission, ward, agency or instrumentality and Sellers does not know of any basis for any such action, proceeding or investigation;

(ii) There are no adverse or other parties in possession of the Property and no other party has been granted any license, lease or other right relating to the use or possession of the Property, or any part thereof;

(iii) Sellers have not received notice, written or otherwise, from any governmental or quasi-governmental agency requiring correction of any condition with respect to the Property or any part thereof;

(iv) Sellers have not received any notice, written or otherwise, of any pending or contemplated condemnation with respect to the Property, or any part thereof;

(v) Sellers have not received notice of, or has no other knowledge or information of, any pending or contemplated change in any governmental regulation or private restriction applicable to the Premises, any pending or threatened judicial action or pending or threatened action by adjoining landowners or other persons, parties or entities;

(vi) On the day of Closing, the Property will be free and clear of liens, encumbrances and encroachments, other than the Permitted Exceptions;

(vii) There will be no unpaid improvements related to the Property within ninety (90) days immediately preceding the Closing which might constitute the basis of a mechanics' lien;

(viii) Sellers have full power and authority to enter into and fully perform and comply with the terms of this Contract. Neither the execution and delivery of this Contract nor its performance by Sellers will conflict with or result in the breach of any mortgage, note, indenture, contract, agreement, law, rule or regulation to which Sellers is a party or by which Sellers are bound;

(ix) To the best of Sellers' knowledge, the Property is free from any toxic or hazardous material or substance or other pollutant of nature as defined or regulated by applicable federal, state, or local laws and is free from any environmental condition that could give rise to a governmental clean-up. Sellers have not received notification, written or otherwise, from any governmental or quasi-governmental entity pertaining to toxic or hazardous material or substance or other pollutant of nature related to the Property;

(x) Sellers will not take or omit to take any action that would have the effect of violating any of the representations, warranties or agreements of Sellers contained herein nor will Sellers enter into any leases which will affect the Property;

(xi) Neither the execution and delivery of this Contract nor its performance by Sellers will conflict with or result in the breach of any mortgage, note, indenture, contract, agreement, law, rule or regulation to which Sellers are a party or by which Sellers are bound;

(xii) To Sellers' knowledge, Sellers are not under any legal disability which would impede or void any of Sellers's contractual obligations nor is Sellers a debtor in any proceeding under the bankruptcy laws of the United States;

(xiii) Sellers have and will convey to Buyer good, marketable and indefeasible fee simple title, free and clear of all conditions, restrictions, exception and reservations, except as specifically permitted herein;

(xiv) Sellers have not entered into any lease, verbal or written agreements, contracts or letters of intent with any third-party pertaining to the Property which have not been disclosed in writing to Buyer in this Contract; and

(xv) Sellers shall not enter into any verbal or written agreements, contracts or letters of intent with any third-party pertaining to the Property prior to the Closing without Buyer's permission.

At Closing, Sellers shall give a certificate to Buyer stating that these representations and warranties are true and accurate as of Closing.

b. Sellers's Indemnification. Sellers agrees to indemnify and hold Buyer and its respective nominees, successors, assigns, officers, directors, partners, agents, employees and beneficiaries harmless from any and all third-party liabilities, claims, causes of action, penalties, demands, and expenses of any kind or nature whatsoever related to a breach of the Sellers Representations contained in Article 10(a)(i)-(xv), including all expenses related thereto, including without limitation, court costs and attorneys' fees, which said indemnification survive the Closing.

#### Article 12: General and Miscellaneous Provisions.

a Notice. Any notice or other communication required or permitted to be given to a Party under this Contract shall be in writing, unless otherwise specified in this Contract, and shall be given by registered or certified United States mail, return receipt requested and postage prepaid. Notice shall be effective upon receipt of the receiving Party or if the receiving Party refuses service, the date placed in the United States mail system. Either Party may change its address for notice by giving written notice thereof to the other Party. The address of each Party for notice initially is as follows:

Buyer:  
City of Reynoldsburg  
7232 E. Main Street  
Reynoldsburg, Ohio 43068  
ATTN: Joe Begeny, Mayor

Sellers:  
Jack Sun and Leshan Sun  
642 River Trace,  
Westerville, Ohio 43081

With a copy to:  
Cluis Shook, Esq.  
City Attorney  
7232 E. Main Street  
Reynoldsburg, OH 43068

With a copy to:



b. Complete Agreement, Amendment, Waiver; Counterparts. This Contract, including all exhibits, constitutes the complete agreement between the parties with respect to the subject matter hereof, all previous understandings, if any, between the parties; no oral or implied understandings, representations or warranties shall vary the terms of this Contract; and neither this Contract nor any of its provisions may be amended or waived other than by a written instrument executed by Sellers and Buyer. This Contract or any such amendment or waiver may be executed in several counterparts, each of which shall be considered a duplicate original and the same instrument.

c. Governing Law; Severability. This Contract shall be governed by and construed in accordance with the laws of the State of Ohio. The invalidity or unenforceability of any provision of this Contract in any particular respect shall not affect the validity and enforceability of any other provision of this Contract or of the same provision in any other respect.

d. Successor and Assigns; Assignment. This Contract shall inure to the benefit of and be binding upon the Parties hereto and their respective heirs, personal representatives, successors and permitted assigns. Notwithstanding the foregoing, Buyer may assign this Contract to any third-party individual or entity, with Sellers' prior written consent (and upon written notice to Sellers and Title Company), at which time Buyer's assignee will be substituted for Buyer and Buyer shall be relieved of all obligations under this Contract. Sellers hereby further agree to accept all required performance under this Contract from Buyer's nominee and to render Sellers' performance of all of Sellers' obligations under this Contract to Buyer's nominee, if requested, in accordance with this paragraph. Sellers may assign their rights in this Contract with the prior approval of Buyer.

e. Survival of the Contract; Survival of Certain Terms. The promises, terms, conditions, representations, warranties and provisions of this Contract shall survive the Closing of the transactions and the delivery and recording of the deed and any other instrument for the conveyance of the Property; and if the deed or any other recorded instrument is or may be construed to be inconsistent with any provision of this Contract, then the applicable provisions of this Contract shall control and shall not be deemed to have been merged into such deed or other recorded instrument, unless otherwise expressly provided in any such instrument.

f. Real Estate Brokerage Commission. The Parties represent that no real estate broker or other Person has been employed for compensation by either Party to represent it in this transaction. Each Party hereby represents and warrants to the other Party that, except as provided above, it has no knowledge of any agreement, understanding or fact which would entitle any real estate broker, finder or other Person, to any commission, fee or other compensation as a result of the transaction which is the subject of this Contract. Each Party hereby agrees to indemnify, defend and hold harmless the other Party from and against any liability, cost or expense, including attorneys' fees, as a result of any claim for a commission, fee or other compensation made by any real estate broker, finder or other Person and asserted against the other Party by reason of an arrangement made or alleged to have been made by the indemnifying Party.

g Certain Defined Terms. For purposes of this Contract, the term: (i) "Person" means a corporation, association, partnership (general or limited), limited liability company, trust, estate, government, governmental agency or other entity as well as an individual or natural person, unless the context otherwise requires, (ii) "Day" or "day" shall mean a calendar day and (iii) "Effective Date" means the date that the last Party to execute this Contract delivers this executed Contract to the other Party.

h Time. Time is of the essence with respect to the performance of each provision of this Contract.

i Ownership of Plans. In the event this transaction does not close, all plans, surveys, reports, studies, tests, audits, investigations, designs, drawings and related information and materials (collectively, the "Plans") prepared for or at the request of Buyer and relating to the Property shall, upon the reasonable request of Sellers, be promptly delivered to Sellers.

j Like-Kind Exchange. The Parties acknowledge that either may elect to purchase or sell the Property as part of a tax-free exchange under Section 1031 of the Internal Revenue Code of 1986, as amended ("Code"). As such, the Parties agree to reasonably cooperate in connection therewith. If requested by Buyer or Sellers, each will participate in the exchange contemplated by this Article as an accommodation to the other with the express understanding and agreement that: (i) Sellers or Buyer shall not be required to take title to any property in order to effectuate such exchange, (ii) under no circumstance shall Sellers be required to postpone or refrain from receiving any of the Purchase Proceeds due Sellers hereunder, (iii) neither Party is making any representation or warranty regarding such exchange or whether such exchange qualifies as such under the Code, (iv) each Party shall indemnify and hold the other harmless from and against any cost, expense or liability, including attorneys' fees, incurred by Buyer and/or Sellers as the case may be, in connection with the provisions of this §12U) or any such exchange and (v) Buyer and/or Sellers as the case may be, shall not be required to incur any additional costs, fees or expenses (including, without limitation, attorney fees) to accommodate any proposed like-kind exchange.

k Defaults and Remedies.

(i) Default by Sellers. If this transaction is not closed because of Sellers' failure to perform hereunder (through no fault of Buyer), or Sellers fail to comply with any of its obligations, covenants, warranties or agreements, Buyer may bring any action against Sellers for legal or equitable relief.

(ii) Default by Buyer. If this transaction is not closed because of Buyer's failure to perform hereunder (through no fault of Sellers), or Buyer fails to comply with any of its obligations, covenants, warranties or agreements, Sellers may bring any action against Buyer for legal or equitable relief not to exceed Ten Thousand Dollars (\$10,000.00).

Recording. Neither Party may record this Contract, however, either Party may record a customary Memorandum of Contract, at the recording Parties' expense.

m Offer & Acceptance. This Contract shall be open for Sellers' acceptance until 5:00 p.m. on the third (3rd) business day after Buyer has delivered this Contract to Sellers.

Signatures Appear on the Following Page

IN WITNESS WHEREOF, each Party has executed and delivered this Contract to the other Party to be effective as of the Effective Date.

**Buyer:**  
**City of Reynoldsburg**

By: \_\_\_\_\_

Its: MP-(ol:

Date: 9/1/2011 (1'-01..)

**Approved as to Form:**  
**City of Reynoldsburg - City Attorney**

By:

Date: \_\_\_\_\_

**Sellers:**  
**Jack Sun and Leshan Sun,**  
Husband and Wife

Jack Sun: \_\_\_\_\_

Leshan Sun: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_