

ORDINANCE NO. 18-007

AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES TO TRANSFER CANAL LANDS AND TO DECLARE AN EMERGENCY

WHEREAS, the City of Canal Winchester desires to acquire a parcel of land, PID 184-001310-00, owned by the State of Ohio for recreational purposes; and

WHEREAS, the City hereby finds and determines that acquiring the portion of abandoned Ohio and Erie Canal lands east of the intersection of Gender and Groveport Roads, north of Groveport Rd. will promote the welfare of the residents of the City, and

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

SECTION 1. That the Mayor be and hereby is authorized and directed to sign the agreement to transfer canal lands substantially similar to Exhibit A which is attached hereto and made part hereof.

SECTION 2. That this Ordinance is hereby declared to be an emergency measure necessary for the public health, safety and welfare, such emergency arising from the exigencies of the agreement and the need to immediately begin preparations for the transfer of the land; wherefore, this Ordinance shall take effect and be in force from and after its passage.

DATE PASSED 2/5/18

ATTEST Amanda M Jackson
CLERK OF COUNCIL

[Signature]
PRESIDENT OF COUNCIL
[Signature]
MAYOR

DATE APPROVED 2-6-18

APPROVED AS TO FORM:

[Signature]
LAW DIRECTOR

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

Amanda M Jackson
FINANCE DIRECTOR/CLERK OF COUNCIL

County: Franklin

AGREEMENT TO TRANSFER CANAL LANDS

This AGREEMENT, made and entered into pursuant to R.C. 1501.01, 1520.02, and 1546.02, by and between the State of Ohio, Department of Natural Resources, the Grantor, whose mailing address is 2045 Morse Road, Building E-2, Columbus, Ohio 43229, and the City of Canal Winchester, whose mailing address is 36 S. High Street, Canal Winchester, Ohio, 43110, hereinafter individually and collectively referred to as the Grantee.

WITNESSETH, THAT IN CONSIDERATION of the mutual benefits conferred and the mutual promises of the parties herein contained, the Grantor agrees to transfer and convey the below described canal land, with a possibility of reverter clause in favor of the State of Ohio should the canal land herein no longer be used only for public recreational and roadway purposes, including associated utilities by Grantee. Grantee fully understands and agrees that the subject canal land shall only be used for public recreational and roadway purposes, including associated utilities. If any portion of the below described canal land is not used for public recreational and roadway purposes, including associated utilities, under this Agreement, then the canal land shall automatically revert to the Grantor.

Grantee further agrees to accept, upon and under the provisions, terms, and conditions herein expressed, the following described canal land:

Being approximately 3.3 acres of the abandoned Ohio and Erie Canal lands, still under the State of Ohio's ownership situated in the State of Ohio, in the City of Canal Winchester, and County of Franklin, and as shown in EXHIBIT A.

Further reference is made to Ohio and Erie Canal Plat No. 149, being a plat of a part of the Harry Anno Survey of the Ohio & Erie Canal Lands on file in the office of the Ohio Department of Natural Resources, Office of Real Estate and Land Management at Columbus, Ohio.

County: Franklin

The parties agree that the transfer of the above-described canal land to Grantee is subject to any and all outstanding easements, rights, permits and right-of-way license agreements for the installation and maintenance of gas lines, water lines, sewers, telephone, telegraph, optic fiber cables, power transmission lines, and other utilities which have been granted by the Grantor, whether or not the same may be of record.

The Grantee shall, at its expense, prepare a survey of the canal land to be transferred. This survey shall meet all requirements for transferring and recording in the County where it is to be recorded and shall be subject to the approval of the Grantor.

The Grantee fully understands and agrees that the Grantor, at its sole discretion, may consider this Agreement null and void, with all obligations thereunder ceasing, in the event that the Grantee fails to execute and return this Agreement to the Grantor within forty-five (45) days of the Grantee's receipt of this Agreement.

Upon receipt of the survey from Grantee according to the terms of this Agreement, the Grantor further agrees to convey said canal land to the Grantee by a properly executed Governor's Deed of Quit Claim. Said Governor's Deed shall be delivered by Grantor to the Grantee at the time of consummation and closing of this Agreement.

The Grantee shall not be liable for the payment of any taxes before the date of transfer of the above-described canal land. However, the Grantee shall be responsible for any transfer fees, and the like, as a result of the transfer, and shall save and hold the Grantor harmless for the same. The Grantee shall notify the County Auditor of this transfer as soon as practical after the date of receipt of deed.

The Grantee shall record the Governor's Deed of Quit Claim with the county recorder's office as soon as practicable, but no later than thirty (30) days after the date of receipt of the Governor's Deed of Quit Claim. Following recordation with the county recorder's office, the Grantee shall send a

County: Franklin

recorded copy of the Governor's Deed of Quit Claim to the Ohio Department of Natural Resources, Office of Real Estate – Ohio & Erie Canal Program, Building E-2, 2045 Morse Road, Columbus, OH 43229.

Grantee, by signature on this document, certifies that Grantee: (1) has reviewed and understands the Ohio ethics and conflict of interest laws as found in Ohio Revised Code Chapter 102 and in Ohio Revised Code Sections 2921.42 and 2921.43, and (2) will take no action inconsistent with those laws. The Grantee, understands that failure to comply with Ohio's ethics and conflict of interest laws is, in itself, grounds for termination of this Agreement and may result in the loss of other contracts or grants with the State of Ohio.

Obligations of the Grantor are subject to the provisions of Section 126.07 of the Ohio Revised Code.

This Agreement states the entire agreement between the parties and supersedes and replaces all oral and written representations, bids, agreements, memoranda and correspondence between, by or for the parties relating to the canal land, and shall be construed in accordance with and governed by the laws of Ohio. No amendment or modification of this Agreement shall be binding unless made by written instrument of equal formality signed by both Grantor and Grantee. Waiver by either party of performance by the other party of any of the provisions of the Agreement shall not be construed as a waiver of any further right to insist upon full performance of the terms hereof.

This Agreement shall not be assignable by the Grantee without prior written consent of the Grantor.

IN TESTIMONY WHEREOF, the parties have hereunto set their hands this 6TH day of February, 2018.

County: Franklin

GRANTEE: City of Canal Winchester

BY: Michael Ebert

STATE OF OHIO

COUNTY OF FRANKLIN

Before me, a notary public in and for said County and State, personally appeared the above-named Michael Ebert, representing the City of Canal Winchester, who acknowledged that he/she did sign the foregoing instrument, and that the same is their free act and deed.

In Testimony whereof, I have hereunto set my hand and official seal at Canal Winchester, Ohio, this 6th day of February, 2018.



Bobbi Sumner
Notary Public, State of Ohio
My Commission Expires 04-21-18

Bobbi Sumner
Notary

My Commission Expires: April 21, 2018

GRANTOR

JAMES ZEHRINGER, Director
Ohio Department of Natural Resources

STATE OF OHIO
COUNTY OF FRANKLIN

Before me, a notary public in and for said County and State, personally appeared _____, representing the Ohio Department of Natural Resources, who acknowledges that he did sign the foregoing instrument, and that the same is his free act and deed.

In Testimony whereof, I have hereunto set my hand and official seal at _____, Ohio, this ____ day of _____, 2018.

Notary

My Commission Expires: _____

APPROVED:

APPROVED AS TO FORM:

PAUL BALDRIDGE, Chief
Office of Real Estate

MIKE DeWINE
Ohio Attorney General

DATE

DATE

EXHIBIT A



State of Ohio - Franklin County – City of Canal Winchester. Part of parcel 184-001310-00.