

ORDINANCE NO. 18-022

**AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO AN AGREEMENT TO PURCHASE A 1.799 ACRE TRACT OF PROPERTY FROM ASHBROOK ASSOCIATION, INC. AND DECLARING AN EMERGENCY**

WHEREAS, the City wishes to purchase the property for parkland; and,

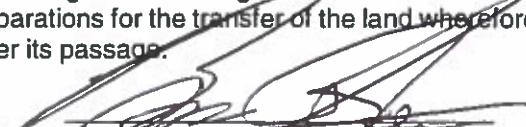
WHEREAS, Ashbrook Association, Inc. and the city have negotiated terms for the transfer of the property.

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

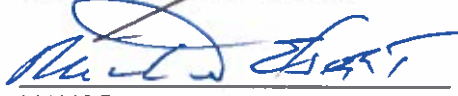
Section 1. That the Mayor be authorized to enter into a contract on behalf of the City of Canal Winchester with Ashbrook Association, Inc. for the purchase of a 1.799 acre parcel of land with PID #184-00220-00, herein attached as Exhibit A, for the purchase price of \$100.

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 real estate purchase 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 6/4/18

  
PRESIDENT OF COUNCIL

ATTEST Amanda M Jackson  
CLERK OF COUNCIL

  
MAYOR

DATE APPROVED 6-19-18

APPROVED AS TO FORM:

  
LEGAL COUNSEL

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

## REAL ESTATE PURCHASE AND SALE AGREEMENT

This Real Estate Purchase and Sale Agreement (the "Agreement") is entered into as of the last date of execution on the signature page below (the "Effective Date") by and between Ashbrook Association, Inc., an Ohio non-profit corporation ("Seller"), and City of Canal Winchester, Ohio, an Ohio municipal corporation ("Buyer"). The Buyer and Seller may be collectively referred to herein as the "parties".

1. The Property. Seller, for and in consideration and subject to the terms and conditions hereinafter set forth, agrees to sell to Buyer, and Buyer agrees to purchase, all of Seller's right, title and interest in and to the approximately 1.799-acre tract of real property identified as Franklin County Parcel Number 184-00220-00, as further described on Exhibit A attached hereto and incorporated herein by this reference (the "Property").

2. Price. The purchase price ("Purchase Price") for the Property shall equal One Hundred and 00/100 Dollars (\$100.00) payable in immediately available federal funds at the closing (the "Closing").

3. Warranties and Representations.

(a) Seller's Warranties and Representations. All warranties and representations set forth in this Section 3(a) shall be true and correct as of the date hereof, and as of the date of Closing, and shall survive Closing for a period of one (1) year. Seller hereby represents and warrants as follows:

(i) Seller has full right, power and authority to enter into this Agreement and carry out the obligations hereunder, and Seller further represents and warrants that this Agreement constitutes a valid and legally binding obligation of Seller enforceable against Seller in accordance with its terms; and

(ii) Seller has satisfied all requirements under its governing documents to convey the Property to Buyer.

(b) Buyer's Warranties and Representations. All warranties and representations set forth in this Section 3(b) shall be true and correct as of the date hereof, and as of the date of Closing, and shall survive Closing for a period of one (1) year. Buyer hereby represents and warrants as follows:

(i) Buyer has full right, power and authority to enter into this Agreement and carry out the obligations hereunder, and Buyer further represents and warrants that this Agreement constitutes a valid and legally binding obligation of Buyer enforceable against Buyer in accordance with its terms.

4. Prorations and Closing Costs. The Buyer and Seller agree as follows with respect to prorations and closing costs:

sole and exclusive remedy, to either: (i) cancel this Agreement; or (ii) institute an action for specific performance.

(b) Seller's Remedies. Any failure to close escrow which is the fault of Buyer constitutes a default by Buyer under this Agreement, and if Buyer fails to cure such default within five (5) days of receipt of written notice of default from Seller, then Seller shall have the right, as it sole and exclusive remedy, to terminate this Agreement.

9. Notice. All notices given under this Agreement shall be in writing and delivered by (a) the United States Postal Service, certified mail, return receipt requested, postage prepaid; (b) personal delivery; (c) a nationally recognized overnight air courier service; or (d) scanned email or facsimile; in each case sent, delivered, emailed or faxed to the parties as listed below. Each notice shall be deemed given upon the date sent. The lawyer for any party is entitled to give notice under the terms hereof. Any party may change at any time its notice address by delivering a change of address notice using the foregoing notice procedures.

To the Seller: Ashbrook Association, Inc.

\_\_\_\_\_

Attention: \_\_\_\_\_

Email: \_\_\_\_\_

To the Buyer: City of Canal Winchester, Ohio  
36 South High Street  
Canal Winchester, Ohio 43110  
Attention: Lucas Haire, Development Director  
Email: lhaire@canalwinchesterohio.gov

10. Miscellaneous. This Agreement may be changed, waived or amended only in an agreement signed by all parties to this Agreement. Except as specifically provided herein, this Agreement contains the entire understanding between the parties relating to the subject matter hereof, and it supersedes any and all prior oral or written understandings or agreements relating to any such matters. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their successors, assigns, heirs and personal representatives, as applicable. The captions of the several sections of this Agreement are not a part hereof, and these captions shall not be used to interpret any of the terms of this Agreement. This Agreement shall be construed and enforced in accordance with the laws of the State of Ohio without regard to principles of conflicts of laws. For equitable or legal proceedings arising under this Agreement, the parties agree to the exclusive venue and jurisdiction of the state and/or federal courts in Franklin County, Ohio, and each party hereby waives the right to challenge such venue and/or jurisdiction based upon forum non-conveniens or otherwise. All parties signing this Agreement have taken all duly authorized action necessary to authorize the execution of this Agreement and to execute any and all documents related hereto, and each of the parties may rely upon this section of the Agreement without the necessity of having further documentation to evidence such authority. Should any action or proceeding be brought to construe or enforce the terms and conditions of this Agreement or the parties' rights hereunder, the prevailing party shall be entitled to recover from the other party

**SELLER:**

ASHBROOK ASSOCIATION, INC., an  
Ohio non-profit corporation

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

June \_\_\_\_, 2018

**BUYER:**

CITY OF CANAL WINCHESTER, OHIO,  
an Ohio municipal corporation

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

Michael Ebert, Mayor

June \_\_\_\_, 2018