

RESOLUTION NO. \_\_\_\_

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A REAL PROPERTY PURCHASE AND SALE AGREEMENT WITH JOE WICKLIFFE AND MARY LOU WICKLIFFE AND TO PURCHASE CERTAIN REAL PROPERTY LOCATED EAST OF BURNS PARK BASEBALL FIELDS IN THE CITY OF NORTH LITTLE ROCK; APPROPRIATING FUNDS; AND FOR OTHER PURPOSES.**

WHEREAS, Arkansas Code Ann. § 14-54-302 authorizes the City to purchase real property when authorized by a resolution approved by a majority vote of the City Council present and participating; and

WHEREAS, Joe Wickliffe and Mary Lou Wickliffe of North Little Rock, Arkansas own real property generally located east of the Burns Park baseball fields (the "Property"), and desire to sell the same; and

WHEREAS, the City of North Little Rock is interested in purchasing the property for the future use of Burns Park and for any other reasons deemed necessary by the City; and

WHEREAS, Joe Wickliffe and Mary Lou Wickliffe have offered to sell the Property to the City for the purchase price of \$137,500.00; and

WHEREAS, Joe Wickliffe and Mary Lou Wickliffe desire to enter into Real Property Purchase and Sale Agreement with the City for the purchase and sale of said Property; and

WHEREAS, the purchase of the property by the City is in the best interest of the City and its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That the Mayor and City Clerk are hereby authorized to execute a Real Property Purchase and Sale Agreement (substantially similar to Exhibit A attached hereto) and to purchase from Joe Wickliffe and Mary Lou Wickliffe the Property located east of the Burns Park baseball fields for the total sum of One Hundred Thirty-Seven Thousand Five Hundred & 00/100 Dollars (\$137,500.00), said Property being described as follows:

PT SW NE COM NW COR E964' S30' W270' S135' W30' S59' S69\*W706' N498'  
TO POB 17-2N-12W to the City of North Little Rock, Pulaski County, Arkansas  
(Parcel No. 33R0170002600) and

PT TR 6 BG SW CR NW NE 17-2N-12 N152 8' N70\* E680 89' TO W R/W HWY S39\* E41 01' S52\*35'58" W200' S39\* E100' S52\* W232.62' W385.44' TO POB to the City of North Little Rock, Pulaski County, Arkansas (Parcel No. 33R0177900900) (see map attached hereto as Exhibit B).

SECTION 2: That the Mayor and City Clerk are hereby authorized to execute all documents necessary to effect the completion of the herein stated purchase; with all contracts/agreements to be reviewed and approved by the City Attorney prior to execution.

SECTION 3: That the purchase price for the Property in the amount of \$137,500.00 is hereby appropriated from the General Fund.

SECTION 4: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:


\_\_\_\_\_

\_\_\_\_\_

Mayor Joe A. Smith

SPONSOR:

ATTEST:

  
\_\_\_\_\_  
Mayor Joe A. Smith



\_\_\_\_\_  
Diane Whitbey, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/cf

## REAL PROPERTY PURCHASE AND SALE AGREEMENT

This **REAL PROPERTY PURCHASE AND SALE AGREEMENT** ("Agreement") is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2019 (the "Effective Date") by and between **JOE WICKLIFFE AND MARY LOU WICKLIFFE**, individuals, (the "Sellers") and the **CITY OF NORTH LITTLE ROCK, ARKANSAS**, an incorporated city of the first class (the "Buyer").

1. **Sale and Purchase of Property.** Sellers agree to grant, bargain, sell, and convey and Buyer agrees to purchase on the terms hereafter stated, all of Sellers' rights, titles, and interests in and to the following described property (the "Property"):

A tract of land lying located at Brown Drive the City of North Little Rock, Pulaski County, Arkansas, more particularly described as follows:

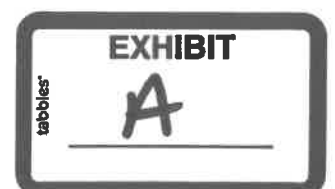
PT SW NE COM NW COR E964' S30' W270' S135' W30' S59' S69\*W706' N498'  
TO POB 17-2N-12W to the City of North Little Rock, Pulaski County, Arkansas  
(Parcel No. 33R0170002600) and

PT TR 6 BG SW CR NW NE 17-2N-12 N152 8' N70\* E680 89' TO W R/W HWY  
S39\* E41 01' S52\*35'58" W200' S39\* E100' S52\* W232.62' W385.44' TO POB to  
the City of North Little Rock, Pulaski County, Arkansas (Parcel No.  
33R0177900900).

2. **Purchase Price.** Buyer shall pay the sum of **One Hundred Thirty-Seven Thousand Five Hundred & 00/100 Dollars (\$137,500.00)** for the Property (the "Purchase Price"). The Purchase Price shall be paid in full at the Closing by certified check, wire transfer, or other delivery of immediately available funds. The Earnest Money shall be credited to the Purchase Price at Closing. Unless an earlier date and time has been mutually agreed to in writing by Buyer and Sellers, the closing (the "Closing") shall occur as soon as possible at the offices of the Title Company but in any event, no later than \_\_\_\_\_ (the "Closing Date").

3. **Title Insurance.** Within ten (10) days of the Effective Date, Sellers, at their sole cost, shall furnish to Buyer a commitment for an American Land Title Association ("ALTA") owner's title insurance policy in the amount of the Purchase Price issued by the Title Company as agent for a company authorized to insure title to real property in the State of Arkansas and which company is reasonably acceptable to Buyer (the "Title Commitment").

Where the Title Commitment shows special exceptions to title other than those standard exceptions contained in the ALTA commitment form, and where such special exceptions relate to restrictions, conditions, defects or other matters which would interfere with Buyer's use or adversely affect the value of the Property, then within ten (10) days of delivery of the Title Commitment and Boundary Survey described hereafter, Buyer shall deliver written notice of objections to Sellers. Such notice shall state specifically those exceptions to which Buyer objects. All objections not specifically enumerated within such a timely delivered notice shall be deemed



to be waived by Buyer. Within ten (10) days of Buyer's delivery of notice of objections to Sellers, Sellers may cure such objections or have the exceptions waived or removed by the Title Company issuing the commitment. If Sellers fail to timely cure and/or have waived such objections and exceptions, or if Sellers deliver written notice to Buyer that it will not so cure, then, within ten (10) days from delivery of such notice from Sellers or the end of the period within which Sellers may cure (whichever is applicable), Buyer shall have the option to:

- (a) Terminate this Agreement by delivering written notice thereof to Sellers, in which event all sums paid or deposited by Buyer shall be returned to Buyer; or
- (b) Purchase the Property subject to such objections and exceptions with no reduction in the Purchase Price; or
- (c) Agree to extend the closing date for ten (10) days to give Sellers additional time to cure such objections. If Buyer fails to deliver notice of termination or grant an extension of the closing date within that period, the objections shall be deemed to be waived and the transaction shall close as scheduled.

Sellers shall cause the Title Company to deliver the marked down Title Commitment or Pro Forma policy at Closing and the committed owner's title insurance policy as soon as practicable after closing, and Sellers shall pay all expenses related to the issuance of the owner's title insurance policy.

4. **Buyer's Review Period.** For the period of time beginning on the Effective Date and terminating at the expiration of sixty (60) days after the Effective Date, Buyer or its agent(s) shall be entitled to conduct such reviews related to the Property and inspections of the Property as Buyer deems necessary, including, without limitation, title review, survey review, environmental review, soil composition analysis, an appraisal of the value of the Property, financing analyses, feasibility studies, traffic analyses, etc. (the "Buyer's Review Period"). During Buyer's Review Period, Buyer or its agents shall have the right to enter upon the Property to perform non-destructive tests such as, but not limited to, soils testing, environmental studies, or any other tests that might be necessary to help determine the feasibility of the Property, subject, however, to Sellers' prior approval of each such inspection and test and location thereof (which approval shall not be unreasonably withheld, delayed or conditioned). In the event that Buyer is dissatisfied with the results of Buyer's review or otherwise determines that the Property is not feasible for its purposes in its discretion, Buyer shall deliver written notice thereof to Sellers prior to expiration of Buyer's Review Period, and this Agreement shall terminate, the Earnest Money shall be promptly refunded to Buyer and neither Buyer nor Sellers shall have any further obligation to the other pursuant to this Agreement, or otherwise.

5. **Conveyance.** Unless otherwise specified, conveyance of the Property shall be made to Buyer by warranty deed, in fee simple absolute, except it shall be subject to recorded instruments and easements if any, which do not materially affect the value of the Property. Such conveyance shall include all mineral rights, if any, owned by Sellers concerning and located on the property. It is the responsibility of the Buyer to independently verify and investigate the existence or nonexistence of mineral rights and any legal ramifications thereof. Sellers warrant and represents

only signatures set forth below are required to transfer legal title to the Property. Sellers also warrant and represent that Sellers have peaceable possession of the Property, including all improvements and fixtures thereon, and the legal authority and capacity to convey the Property by a good and sufficient special warranty deed, free from any liens, leaseholds or other interests.

6. **Representations and Warranties of Sellers and Buyer.**

(a) Sellers represent, warrant and agree that:

- (1) Sellers have the power and authority to sell and convey the Property and, prior to the Closing, shall have taken all actions required for the consummation of the transactions contemplated by this Agreement.
- (2) No other consent or approval is required in order to make this Agreement a legal, valid and binding obligation of Sellers.
- (3) No services, material or work have been supplied, or as of the Closing Date will have been supplied to the Property for which payment (or arrangements satisfactory to Buyer for payment) has not been made. If, subsequent to the Closing Date, any mechanic's or other lien, charge or order for the payment of money shall be filed against the Property, or any portion thereof as a result of labor or material supplied to the Property prior to the Closing Date, within twenty (20) days after notice to Sellers of the filing thereof, Sellers shall take such action, by bonding, deposit, payment or otherwise, as will remove or satisfy such lien of record against the Property and Sellers shall indemnify and hold Buyer harmless from and against all costs, fees, expenses, judgments and liabilities in arising from or in connection with such liens, charges or order for payment.
- (4) To the Sellers' knowledge, there is no pending, threatened or proposed litigation, claim, cause of action, investigations, action, legal or administrative proceeding or condemnation proceeding affecting or relating to the Property.
- (5) To Sellers' knowledge, all taxes, assessments, special assessments (including all special improvement district assessments) due for years prior to the year of Closing have been paid in full.
- (6) There are no contracts for the purchase, outstanding options to purchase, or rights of first refusal to purchase, the Property or any portion thereof nor any other outstanding agreements, notes, mortgages, leases or indenture of lease affecting the Property which will not be fully released and satisfied at or before Closing.

(b) Buyer represents, warrants and agrees that:

- (1) Buyer has the power and authority to enter into this Agreement.
- (2) No other consent or approval is required in order to make this Agreement a legal,

valid and binding obligation of Buyer.

(c) **Survival.** All representations, warranties, covenants, indemnities and agreements contained in this Agreement shall survive the Closing and shall not be merged into any deed, assignment or other instrument or document delivered in connection with the transaction contemplated hereby; provided however, that Buyer must give Sellers notice of any claim arising under the Agreement within one (1) year of Closing. Sellers must likewise give Buyer notice of any claim arising under this Agreement within one (1) year of closing; *except* that in the case of improper construction, Sellers must give Buyer notice within two-years of the date that the construction is substantially completed.

7. **Pro Rations.** Taxes and special assessments due on or before the Closing Date shall be paid by Sellers. Insurance, general taxes and special assessments shall be prorated as of the Closing Date, unless otherwise specified herein.

8. **Costs, Brokers and Termination.** The closing costs for the transaction contemplated herein shall be split among the parties as follows:

**Sellers:**

Title examination or search fees  
Premium for owner's title insurance  
IRS notification form  
Preparation of conveyance documents  
One-half of escrow fees,  
One-half of documentary stamps,  
Other charges customarily paid by Sellers.

**Buyer:**

Premium for mortgagee's title insurance, if any  
Recording fees  
One-half of escrow fees  
One-half of documentary stamps,  
Other charges customarily paid by Buyer.

9. **Contingencies.** Buyer's offer to purchase the Property is expressly contingent upon Buyer's satisfaction of the contingencies listed below within the deadline indicated for each contingency. Buyer shall notify Sellers in writing when the contingencies are satisfied. If Buyer fails to provide such written notice before the indicated deadline that a contingency has been satisfied, then this Agreement shall be void, and the Earnest Money shall be refunded to Buyer, and Buyer and Sellers shall have no further obligation to each other.

10. **Possession.** Possession of the Property shall be delivered to Buyer upon the Closing.

11. **Miscellaneous.**

(a) **Notices.**

(1) All notices, demands or requests made pursuant to, under or by virtue of this Agreement must be in writing and mailed to the party to which the notice, demand or request is being made by postage, prepaid, certified or registered mail, return receipt requested, as follows:

IF TO SELLERS: Joe and Mary Lou Wickliffe  
605 Collum Drive  
North Little Rock, Arkansas 72118  
(501) \_\_\_\_\_

IF TO BUYER: City of North Little Rock  
300 Main Street  
North Little Rock, AR 72114  
Attn: Danny Bradley  
(501) 975-8601

- (2) Any such notice, demand or request shall be deemed to have been rendered or given on the date of mailing.
- (3) Notice of any address change shall be given in accordance with the provisions of this Section.

(b) Environmental Representation. Sellers warrant and represent that, to their actual knowledge, the Property is not now nor are Sellers aware that it has ever been used for the purpose of disposal of, refining, generating, manufacturing, producing, storing, handling, treating, transferring, releasing, processing or transporting any petroleum, petroleum derived products and/or hazardous waste or hazardous substance and/or toxic waste or toxic substance (except for such substances as may be legally permitted for use in connection with a Seller's business operation), as such terms are defined in the Resource Conservation and Recovery Act of 1976, 42 USC 6901 *et seq.*, as amended, the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 USC 9601 *et seq.*, or the Superfund Amendments and Reauthorization Act, Public Law 99-499, as amended, or any other applicable federal, state or local environmental law, regulation, code or ordinance, to its actual knowledge, there are no pollutants, contaminants or hazardous or toxic wastes, substances or materials present (except those which occur solely due to their natural presence in the Property) in, on or under the Property, to its actual knowledge, the Property does not contain any underground storage tanks in, on or under the surface of any portion thereof and the Property has never contained any such tanks and, to its actual knowledge, the Property is free from all asbestos (excepted as noted below), petroleum, petroleum derived products and other hazardous materials in excess of lawful limits.

(c) Entire Agreement. This Agreement and any exhibits attached hereto contain all of the terms agreed upon between the parties with respect to the subject matter hereof and supersedes any and all prior written understandings. All provisions of this Agreement shall survive the Closing.

(d) Acceptance. This Agreement may not be changed, modified or terminated except by an instrument executed by the parties hereto.

(e) Waiver. No waiver by either party of any failure or refusal of the other party to comply

with any of its obligations shall be deemed a waiver of any other or subsequent failure or refusal to so comply.

- (f) Assignment. This Agreement may not be assigned to Buyer unless written consent of Sellers is obtained, such consent not to be unreasonably withheld. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- (g) Section Headings. The headings of the various Sections of this Agreement have been inserted only for the purposes of convenience and are not part of this Agreement and shall not be deemed in any manner to modify, explain, qualify or restrict any of the provisions of this Agreement.
- (h) Governing Law. This Agreement shall be governed by and in accordance with the laws of the State of Arkansas applicable to contracts made and to be performed wholly within that State.
- (i) Time. Buyer and Sellers agree time is of the essence with regard to all times and dates set forth in this Agreement. Unless otherwise specified, days as it appears in this Agreement shall mean calendar days. Further, all times and dates set forth in this Agreement refer to Arkansas Central time and date.
- (j) Counterparts. This Agreement may be executed in any number of counterparts, each of which will constitute an original. It is understood by the parties hereto that this Agreement may be executed in multiple counterparts which, when collectively read together, shall constitute a single document which is binding upon all parties hereto. It is further understood that counterparts of this document may bear facsimile transmission signatures and that facsimile versions of such signatures shall be equally enforceable as original versions thereof.
- (k) FIRPTA Compliance, Tax Reporting. Buyer and Sellers agree to disclose on or before the Closing, to the Closing Agent for this transaction, their United States citizenship status, solely for the purpose of compliance with the Foreign Investment in Real Property Taxation Act (FIRPTA). In addition, Buyer and Sellers shall execute all documents required by such Closing Agent to document compliance with the AIRPTA and all other applicable laws. Buyer and Sellers agree that nothing in this Agreement is intended to limit the responsibility of the Closing Agent as defined pursuant to United States Treasury Regulation 1.6045-4 to (i) be the "reporting person" under state and federal tax laws (including without limitation 26 USC Section 6045(e)), and (ii) file all necessary forms regarding the Closing, including without limitation form 1099, 8288 or 8288A. By accepting the role as Closing Agent, this Agreement shall obligate the Closing Agent to fulfill their responsibilities as set forth above and as defined by the above statutes. Sellers will execute an affidavit confirming compliance with FIRPTA, as prepared by the Closing Agent.



This **REAL PROPERTY PURCHASE AND SALE AGREEMENT** is executed and effective as of the day and year first above written.

**SELLERS:**

**BUYER:**

**City of North Little Rock, Arkansas**

By \_\_\_\_\_  
Joe Wickliffe

By \_\_\_\_\_  
Joe A. Smith, Mayor

**ATTEST:**

By \_\_\_\_\_  
Mary Lou Wickliffe

\_\_\_\_\_  
Diane Whitbey, City Clerk

**ACKNOWLEDGEMENT**

**STATE OF ARKANSAS    )**  
  **) SS.**  
**COUNTY OF PULASKI    )**

On this day personally appeared before me, a Notary Public within and for the State and County aforesaid, Joe and Mary Lou Wickliffe, property owners, who acknowledged they voluntarily executed the foregoing instrument for the purposes therein contained.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**ACKNOWLEDGEMENT**

**STATE OF ARKANSAS**    )  
                                      ) SS.  
**COUNTY OF PULASKI**    )

On this day personally appeared before me, a Notary Public within and for the State and County aforesaid, Joe A. Smith and Diane Whitbey, Mayor and City Clerk of the City of North Little Rock, respectively, who acknowledged they voluntarily executed the foregoing instrument for the purposes therein contained.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

FORM PREPARED BY:  
Office of North Little Rock City Attorney  
116 Main Street  
North Little Rock, AR 72114

EXHIBIT

B.

tabbles

CRYSTAL HILL RD

MACARTHUR DR

BROWN DR

CULLUM RD

NLR City Limits

33R-017-79-009.00

33R-017-00-026.00



300 Feet

150

0

This map is not survey accurate.

Date: 4/1/2019

Wickliffe Property

