

BILL NO. R-23-02-11

RESOLUTION NO. _____

**A RESOLUTION APPROVING THE
SALE OF CERTAIN REAL ESTATE
LOCATED AT 2408 WEST DUPONT
ROAD, FORT WAYNE, INDIANA 46818
– RESOLUTION #108-11-9-21-1 FOR
THE CITY OF FORT WAYNE, DIVISION
OF CITY UTILITIES.**

WHEREAS, the City of Fort Wayne, through its Division of City Utilities, wishes to sell that certain parcel of real property having been designated as tax parcel number 02-02-31-451-010.000-091 in Allen County, Indiana, having the street address of 2408 West Dupont Road (the “Real Estate”); and

WHEREAS, the Real Estate is site of a former well water treatment facility obtained through the City Utilities’ acquisition of Aqua Indiana, and is now a surplus asset, having been retired and formally abandoned, and all valuable equipment having been removed;

WHEREAS, City Utilities has followed the provisions of IC 36-1-11-4 and has reached agreement to sell the Real Estate for SEVENTY-NINE THOUSAND NINE HUNDRED AND 00/100 DOLLARS – (\$79,900.00) pursuant to the terms of the Real Property Purchase Agreement attached hereto and made a part hereof (the “Purchase Agreement”); and

WHEREAS, IC 36-1-11-3-(c)(1) requires Common Council approval of any sale of real estate by the City having an appraised value of at least \$50,000.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON
COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

SECTION 1. The sale of the Real Estate by the City of Fort Wayne through its Division of City Utilities, pursuant to the terms set forth in the Purchase Agreement, is hereby approved and agreed to. The appropriate officials of the City are hereby authorized to execute all documents necessary to accomplish said sale.

SECTION 2. This Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Malak Heiny, City Attorney

Interoffice Memo

Date: February 8, 2023
To: Common Council Members
From: Seth Weinglass, Program Manager – Capital Project Services – Telephone: 427-1330
RE: Sale of 2408 W Dupont Rd, Fort Wayne, Indiana 46818

Council Introduction Date: February 14, 2023 — Council District #: 3

Background & supporting information:

City Utilities has reached an agreement to sell the site of a former Aqua water treatment facility, located at 2408 West Dupont Road. The water treatment facility has been retired, and all valuable equipment removed. The land will be sold on an “AS-IS” basis including the remaining structural improvements and fixtures, which are all surplus assets for City Utilities.

The land was appraised and put up for public auction twice pursuant to Indiana Code section 36-1-11-4, both in 2021 and in 2022. No bids were received at either auction. Therefore local real estate broker Randy Harvey was engaged to sell the property pursuant to Indiana Code section 36-1-11-4(g). Mr. Harvey contacted several parties who had expressed interest in purchasing the property, and received one offer, from Lancia Homes LLC.

After soliciting additional offers from other buyers and receiving none, City Utilities accepted Lancia’s offer. The terms and conditions of the sale are in the attached purchase agreement. Since the purchase price exceeds \$50,000, Council approval is required by Indiana Code section IC 36-1-11-3(c)(1).

Implications of not being approved:

If this sale is not approved, City Utilities will not realize the negotiated proceeds of the transaction, and will continue to incur the liabilities of ownership of this surplus land.

Justification if prior approval is being requested: Not applicable.

Funding source: Not applicable.

Attachments:

- Aerial map
- Board of Public Works resolution re Intent to Sell
- Published Notice of Sale and Bid Sheet
- Purchase agreement approved by Board of Public Works

CC: Matthew Wirtz
Jill Hefrich



**A RESOLUTION OF BOARD OF PUBLIC WORKS
OF THE CITY OF FORT WAYNE, INDIANA,
APPROVING THE DISPOSAL OF
CERTAIN REAL ESTATE
LOCATED AT 2408 WEST DUPONT ROAD
IN FORT WAYNE, INDIANA**

RESOLUTION NUMBER 108-11-9-21-1

WHEREAS, the City of Fort Wayne (the "City") holds fee simple title to certain real property located at 2408 West Dupont Road in Fort Wayne, Indiana, comprising some 3.54 acres of land, and including certain structural improvements and fixtures formerly used as potable water treatment facilities, as more particularly described and depicted in Exhibit 1 attached hereto, incorporated herein by this reference (the "Property"); and

WHEREAS, the City has no present use for such Property, and future use by the City is unlikely, as all valuable equipment has been removed and the water treatment facilities decommissioned; and

WHEREAS, the City intends the Property, including said improvements and fixtures thereon, to be sold on an "AS-IS" basis, and conditioned on the grant of an easement over the Property, connecting the existing potable water line on the north of the Property to planned development immediately to the south of the Property.

WHEREAS, pursuant to Indiana Code 36-1-11-4, the Property has been appraised by two licensed, professional appraisers, and the disposing agent has determined a minimum bid for the property based on the appraisals and the disposing agent's knowledge of the property.

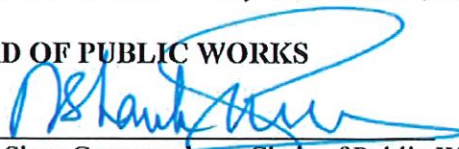
NOW THEREFORE, BE IT RESOLVED BY THE CITY OF FORT WAYNE, INDIANA BOARD OF PUBLIC WORKS AS FOLLOWS:

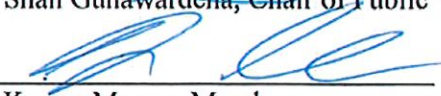
The City hereby resolves to sell the Property pursuant to the Indiana Code.

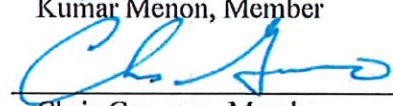
(Remainder of the page intentionally left blank—signature page to follow.)

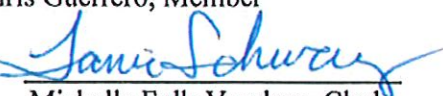
APPROVED this this 9th day of November, 2021.

BOARD OF PUBLIC WORKS

BY: 
Shan Gunawardena, Chair of Public Works

BY: 
Kumar Menon, Member

BY: 
Chris Guerrero, Member

ATTEST: 
Michelle Fulk-Vondran, Clerk
Tania Schwarz, Acting Clerk

Prepared by: Seth Weinglass, City of Fort Wayne, Program Manager, Capital Project Services

ACKNOWLEDGEMENT

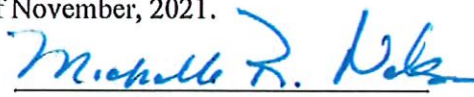
STATE OF INDIANA)
) SS
COUNTY OF ALLEN)

Before me, a Notary Public, in and for said County and State personally appeared Shan Gunawardena, Kumar Menon, and Chris Guerrero, as Members of the Board of Public Works of the City of Fort Wayne, and Michelle Fulk-Vondran, Clerk of the Board of Works, and acknowledged the execution of the foregoing contract as and for their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 9th day of November, 2021.

My Commission Expires:




Notary Public

Resident of Allen County

Michelle R. Nelson
Printed Name of Notary

EXHIBIT 1

PROPERTY OWNER NAME AND MAILING ADDRESS:

Landowner: City of Fort Wayne, Indiana
Mailing Address: 200 E Berry St. Ste. 250
Fort Wayne, IN 46802

AFFECTED PROPERTY:

PIN: 02-02-31-451-010.000-091
Address: 2408 West Dupont Road
Last Deed: 2010006312 (parcel no. 13, on page 35)

Legal Description:

A parcel of land located in the Southeast one-quarter of Section 31 Township 32 North Range 12 East, Allen County, Indiana, and more particularly described as follows, to wit:

Commencing at the South Quarter of Section 31 Township 32 North Range 12 East; thence South 89 degrees 55 minutes 37 seconds East (a bearing based for this description) along the South line of the Southeast One Quarter of said Section, a distance of 1360.6 feet to the East line of the West one-half of said Southeast one quarter; thence North 0 degrees 34 minutes 12 seconds West along said East line, a distance of 706.47 feet to the point of beginning, as marked by a 5/8 inch iron pin set. Beginning at the above described point; thence North 0 degrees 34 minutes 12 seconds West along said East line, a distance of 450.09 feet to a 5/8 inch iron pin; thence North 89 degrees 55 minutes 37 seconds West along the North line of the South 1151.0 feet of said Southeast one-quarter, a distance of 343.60 feet to a 5/8 inch iron pin; thence South 0 degrees 46 minutes 42 seconds East along the West line of a parcel described in document #91-40096, a distance of 450.05 feet to a 5/8 inch iron pin; thence South 89 degrees 55 minutes 37 seconds East, a distance of 341.97 feet to the point of beginning, containing 3.54 acres of land, more or less.

INTEREST TO BE SOLD: Fee simple in the entire parcel, including improvements and fixtures, to be sold "AS-IS," conditioned on the grant of a utility easement connecting the existing water main to the north to planned development immediately to the south.

NOTICE OF SALE OF
REAL ESTATE BY THE
BOARD OF PUBLIC WORKS
OF THE CITY OF FORT WAYNE

Notice is hereby given that the Board of Public Works of the City of Fort Wayne will receive bids for the sale of real estate. The Board of Public Works is declaring that certain real property that it owns, pursuant to deed number 2010006312 in the Office of the Recorder of Allen County (the 3.54 acre parcel to be sold having been denoted parcel no. 13, on page 35 on the face of such deed), located in Fort Wayne, Indiana, with a street address of 2408 W Dupont Rd, and having been designated property identification number 02-02-31-451-010.000-091, to be surplus and is soliciting bids to sell said property. The legal description is as follows:

A parcel of land located in the Southeast one-quarter of Section 31 Township 32 North Range 12 East, Allen County, Indiana, and more particularly described as follows, to wit:

Commencing at the South Quarter of Section 31 Township 32 North Range 12 East; thence South 89 degrees 55 minutes 37 seconds East (a bearing based for this description) along the South line of the Southeast One Quarter of said Section, a distance of 1360.6 feet to the East line of the West one-half of said Southeast one quarter; thence North 0 degrees 34 minutes 12 seconds West along said East line, a distance of 706.47 feet to the point of beginning, as marked by a 5/8 inch iron pin set. Beginning at the above described point; thence North 0 degrees 34 minutes 12 seconds West along said East line, a distance of 450.09 feet to a 5/8 inch iron pin; thence North 89 degrees 55 minutes 37 seconds West along the North line of the South 1151.0 feet of said Southeast one quarter, a distance of 343.60 feet to a 5/8 inch iron pin; thence South 0 degrees 46 minutes 42 seconds East along the West line of a parcel described in document #91-40096, a distance of 450.05 feet to a 5/8 inch iron pin; thence South 89 degrees 55 minutes 37 seconds East, a distance of 341.97 feet to the point of beginning, containing 3.54 acres of land, more or less.

Sale of the land will be conditioned on the grant of a utility easement connecting the existing water main to the north to planned development immediately to the south. The property, including all fixtures, equipment, and improvements thereon, are being sold "AS IS," "WHERE-IS," and "WITH ALL FAULTS," without warranty of any kind from Seller, either express or implied. Buyer will be responsible for any surveying and other closing costs.

Bids may be mailed or hand delivered to the attention of:

BOARD OF PUBLIC WORKS
ATTN: MICHELLE FULK-VONDRAN
200 EAST BERRY STREET - SUITE
210
FORT WAYNE, INDIANA 46802

No bid lower than One Hundred and Forty Thousand Dollars (\$140,000.00) will be accepted.

All bids shall be on the form prescribed by the Board of Public Works. A bid submitted by a trust as defined in IC 30-4-1-1(a) must identify each beneficiary of the trust and the settlor empowered to revoke or modify the trust. The property may not be sold to a person who is ineligible under Section 16 of Chapter 11, Disposal of Property, Indiana Code 36-1.

The sale of the real estate commences on 9/18/2022 and ends 11/17/2022. Bids must be delivered no later than 1:30pm local time on 11/17/2022 to the Office of the Board of Public Works, Suite 210 Citizens Square.

Any later-received bids will be returned unopened.

From the time of receipt until the due date and time, bids will be open to public inspection and bidders may raise their bids by submitting a revised bid form. A revised bid will become effective once the Board has given written notice of the revised bid to all other bidders.

No bid will be accepted from, or awarded to, any person, firm, or corporation that is in arrears to the City of Fort Wayne; who has failed to execute, in whole or in part in a satisfactory manner, any contract with the City of Fort Wayne; or who is a defaulter as to surety or otherwise upon any obligation to the City of Fort Wayne.

The Board of Public Works reserves the right to reject any and all bids and to waive any defect in any bid.

The Board hereby gives notice pursuant to IC 36-1-1-4(g) that in the event that no bids are accepted in the course of the present sale, a determination has been made that a broker or auctioneer will be hired to sell the real estate.

BOARD OF PUBLIC WORKS
Shan Gunawardena, Chair
Chris Guerrero, Member
Kumar Menon, Member

Attest: Michelle Fulk-Vondran, Clerk

Advertise in the Journal Gazette on
9/1/2022 and 9/8/2022
9-1, 9-8 hspaxlp



CITY OF FORT WAYNE
BOARD OF PUBLIC WORKS * PUBLIC BID OPENING
200 E BERRY STREET - STE 210 ROOM 220
MINUTES • NOVEMBER 17, 2022

Present: Michelle Fulk-Vondran, Seth Weinglass and Randy Harvey.

Call To Order 1 :30 pm

#108-11-9-21-1, Intent to Sell 2408 Dupont Rd (Paper submittal)	
bid date/time: 11/17/2022 1:30 PM	
owner: Capital Project Services – S Weinglass	
NAME	BID AMOUNT
NO BIDS	Rec'd

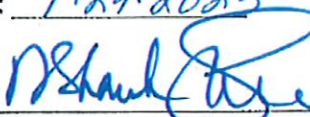
Adjourn Time: 1 :32 pm

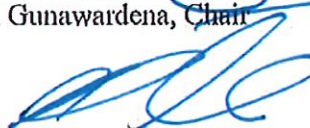
REAL PROPERTY PURCHASE AGREEMENT
Fort Wayne City Utilities

SELLER:

BOARD OF PUBLIC WORKS

Date: 1.24.2023

BY: 
Shan Gunawardena, Chair

BY: 
Kumar Menon, Member

BY: ABSENT
Chris Guerrero, Member

ATTEST: 
Michelle Fulk-Vondran, Clerk

Listing Broker (Co.) Coldwell Banker Real Estate Group () By Randy Harvey ()

Office code

Individual code

Selling Broker (Co.) Coldwell Banker Real Estate Group () By Randy Harvey ()

Office code

Individual code



PURCHASE AGREEMENT (IMPROVED PROPERTY)

For use only by members of the Indiana Association of REALTORS®

Date: January 7, 2023

A. **BUYER:** Lancia Properties LLC ("Buyer")
agrees to buy the following property from the owner ("Seller") for the consideration and subject to the following terms,
provisions, and conditions:

B. **PROPERTY:** The property ("Property") is known as 2408 W Dupont Rd
In Parry Township, Allen County, Fort Wayne
Indiana, 46818 (zip code) legally described as: N 450.09 OF S 1156.56 OF FRL E 343.60 OF W
1360.6 FT SE 1/4 SECTION 31

together with any existing permanent improvements and fixtures attached (unless leased or excluded), including, but
not limited to, electrical and/or gas fixtures, heating and central air-conditioning equipment and all attachments thereto,
built-in kitchen equipment, sump pumps, water softener, water purifier, fireplace inserts, gas logs and grates, central
vacuum equipment, window shades/blinds, curtain rods, drapery poles and fixtures, ceiling fans and light fixtures, towel
racks and bars, storm doors, windows, awnings, TV antennas, wall mounts, satellite dishes, storage barns, all
landscaping, mailbox, garage door opener(s) with control(s) AND THE FOLLOWING: (If applicable, any smart home
devices should be addressed in this paragraph.)

EXCLUDES THE FOLLOWING (include leased items):

The terms of this Agreement will determine what items are included/excluded, not the Seller's Disclosure Form,
multiple listing service or other promotional materials. All items sold shall be fully paid for by Seller at time of
closing the transaction. Buyer should verify total square footage, land, room dimensions or community
amenities if material.

C. **PRICE:** Buyer will pay the total purchase price of (\$ 79,900.00) Seventy-Nine Thousand, Nine
Hundred U.S. Dollars for the Property. If Buyer obtains an appraisal of the Property, this
Agreement is contingent upon the Property appraising at no less than the agreed upon purchase price. If appraised
value is less than the agreed upon purchase price Buyer retains the option to proceed toward closing at the agreed
upon purchase price. If Buyer is not willing or able to proceed at the agreed upon purchase price then: 1) either party
may terminate this Agreement; or 2) parties may mutually agree to amend the agreed upon price.

D. EARNEST MONEY:

1. **SUBMISSION:** Buyer submits \$ 10,000.00 U.S. Dollars as earnest money which shall be
applied to the purchase price at closing. If not submitted with Purchase Agreement, Earnest money shall be
delivered to Escrow Agent within 72 ☒ hours ☐ days after acceptance of offer to purchase.
Escrow Agent to be: ☒ Listing Broker ☐ Selling Broker ☐ Other _____ Escrow agent shall, after
acceptance of the Agreement and within two (2) banking days of receipt of the earnest money, deposit the earnest
money into its escrow account and hold it until time of closing the transaction or termination of this Agreement. Earnest
money shall be returned promptly to Buyer in the event this offer is not accepted. If Buyer fails to timely submit Earnest
Money to Escrow Agent as agreed to above, Buyer agrees Seller may terminate this Agreement by serving a Notice of
Termination to Buyer prior to Escrow Agent's receipt of the Earnest Money.

2. **DISBURSEMENT:** Upon notification that Buyer or Seller intends not to perform, and if Escrow Agent is the Broker,
then Broker holding the Earnest Money may release the Earnest Money as provided in this Agreement. If no
provision is made in this Agreement, Broker may send to Buyer and Seller notice of the disbursement by certified
mail of the intended payee of the Earnest Money as permitted in 876 IAC 8-2-2. If neither Buyer nor Seller enters
into a mutual release or initiates litigation within sixty (60) days of the mailing date of the certified letter, Broker may
release the Earnest Money to the party identified in the certified letter. If the Escrow Agent is the Broker, Broker
shall be absolved from any responsibility to make payment to Seller or Buyer unless the parties enter into a Mutual
Release or a Court issues an Order for payment, except as permitted in 876 IAC 8-2-2 (release of earnest money).
Buyer and Seller agree to hold the Broker harmless from any liability, including attorney's fees and costs, for good
faith disbursement of Earnest Money in accordance with this Agreement and licensing regulations.

2408 W Dupont Rd, Fort Wayne, IN 46818

(Property Address)

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E. METHOD OF PAYMENT: (Check appropriate paragraph number)

1. ☒ CASH: The entire purchase price shall be paid in cash, U.S. Dollars, and no financing is required. Buyer to provide proof of funds submitted ☐ with offer ☐ within _____ days of acceptance. If Buyer fails to timely submit proof of funds, Buyer agrees Seller may terminate this agreement by serving a notice of Termination prior to receiving the proof of funds. Buyer ☐ will ☐ will not have an appraisal.
 2. ☐ NEW MORTGAGE: Completion of this transaction shall be contingent upon the Buyer's ability to obtain a ☐ Conventional ☐ Insured Conventional ☐ FHA ☐ VA ☐ Other: _____ first mortgage loan for _____ % of purchase price, payable in not less than _____ years, with an original rate of interest not to exceed _____ % per annum and not to exceed _____ points. Buyer shall pay all costs of obtaining financing, except _____.
- Any inspections and charges which are required to be made and charged to Buyer or Seller by the lender, FHA, VA, or mortgage insurer, shall be made and charged in accordance with their prevailing rules or regulations and shall supersede any provisions of this Agreement. Buyer ☐ is ☐ is not using a down payment assistance program that may require an inspection.
3. ☐ ASSUMPTION: (Attach Financing Addendum)
 4. ☐ CONDITIONAL SALES CONTRACT: (Attach Financing Addendum)
 5. ☐ OTHER METHOD OF PAYMENT: (Attach Financing Addendum)

F. TIME FOR OBTAINING FINANCING:

1. APPLICATION: Within _____ days after the acceptance of this Agreement, Buyer agrees to make written application for any financing necessary, to complete this transaction or for approval to assume the unpaid balance of the existing mortgage and to make a diligent effort to meet the lender's requirements and to obtain financing in cooperation with the Broker and Seller. Buyer directs lender to order appraisal immediately.
2. APPROVAL: No more than _____ days after acceptance of this Agreement shall be allowed for obtaining loan approval, which shall include a completed appraisal, if required by lender or mortgage assumption approval. If an approval is not obtained within the time specified above, this Agreement may terminate unless an extension of time for this purpose is mutually agreed to in writing.

G. CLOSING:

1. DATE: The closing of the sale (the "Closing Date") shall be on or before July 10, 2023, or within 14 days after See Additional Remarks Line 407, whichever is later or this Agreement shall terminate unless an extension of time is mutually agreed to in writing. Any closing date earlier than the latest date above must be by mutual written agreement of the parties.
2. FEE: The settlement or closing fee incurred in conducting the settlement charged by the closing agent or company shall be paid by ☐ Buyer (included in allowance, if provided) ☐ Seller ☒ Shared equally.
3. CONTINGENCY: This Agreement:
 - ☒ is not contingent upon the closing of another transaction;
 - ☐ is contingent upon the closing of the pending transaction on Buyer's property located at _____ scheduled to close by _____.
 - ☐ is contingent upon the acceptance of a Purchase Agreement on Buyer's property:
 - ☐ Addendum to Purchase Agreement First Right Contingency. See attached Addendum.
 - ☐ Addendum to Purchase Agreement Limited Purchase Contingency Right. See attached Addendum.
4. GOOD FUNDS: Notwithstanding terms to the contrary, the Parties agree that as a condition to Closing, all funds delivered to the closing agent's escrow account be in such form that the closing agent shall be able to disburse in compliance with I.C. 27-07-3.7 et. seq. Therefore, all funds from a single source of \$10,000, U.S. Dollars, or more shall be wired unconditionally to the closing agent's escrow account and all funds under \$10,000, U.S. Dollars, from a single source shall be good funds as so defined by statute. Buyer is advised that the cost incurred to wire funds on behalf of the buyer to the closing agent's escrow account for the closing of this transaction shall become an expense to the buyer and the actual cost incurred shall appear on the closing statement.
5. WIRE FRAUD: If you receive any electronic communication directing you to transfer funds or provide nonpublic personal information, EVEN IF THAT ELECTRONIC COMMUNICATION APPEARS TO BE FROM BROKER OR TITLE COMPANY, do not respond until you verify the authenticity by direct communication with Broker or Title Company. Do not rely on telephone numbers provided in the electronic communication. Such requests may be part of a scheme to steal funds or use your identity.

H. POSSESSION:

1. The possession of the Property shall be delivered to Buyer ☒ at closing ☐ within _____ days beginning the day after closing by _____ ☐ AM ☐ PM ☐ noon or ☐ on or before _____. If closed, For each day Seller is entitled to possession after closing, Seller shall pay to Buyer at closing \$ _____ U.S. Dollars per day.

2408 W Dupont Rd, Fort Wayne, IN 46818

(Property Address)

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- 116 If Seller does not deliver possession by the date and time required in the first sentence of this paragraph, Seller
117 shall pay Buyer \$_____ U.S. Dollars per day as liquidated damages until possession is delivered to Buyer;
118 and Buyer shall have all other legal and equitable remedies available against the Seller.
- 119 2. **MAINTENANCE OF PROPERTY:** Seller shall maintain the Property in its present condition until its possession is
120 delivered to Buyer, subject to repairs in response to any inspection. Buyer may inspect the Property prior to closing
121 to determine whether Seller has complied with this paragraph. Seller shall remove all debris and personal property
122 not included in the sale.
- 123 3. **CASUALTY LOSS:** Risk of loss by damage or destruction to the Property prior to the closing shall be borne by
124 Seller, including any deductible(s). In the event any damage or destruction is not fully repaired prior to closing,
125 Buyer, at Buyer's option, may either (a) terminate this Agreement with prompt return of earnest money to
126 buyer or (b) elect to close the transaction, in which event Seller's right to all real property insurance proceeds
127 resulting from such damage or destruction shall be assigned in writing by Seller to Buyer.
- 128 4. **UTILITIES/MUNICIPAL SERVICES:** Seller shall pay for all municipal services and public utility charges through the
129 day of possession.
- 130 5. **HOME HEATING FUEL:** Any remaining fuel stored in tank(s) ☐ to be included in the sale ☐ will be purchased
131 by Buyer at current market price measured within five (5) days prior to closing ☒ not applicable.
- 132
- 133 I. **SURVEY:** Buyer shall receive a (Check one) ☐ **SURVEYOR LOCATION REPORT**, which is a survey where corner
134 markers are not set; ☒ **BOUNDARY SURVEY**, which is a survey where corner markers of the Property are set prior to
135 closing; ☐ **WAIVED**, no survey unless required by lender; at (Check one) ☐ Buyer's expense (included in
136 allowance, if provided) ☒ Seller's expense ☐ Shared equally. The survey shall (1) be received prior to closing and
137 certified as of a current date, (2) be reasonably satisfactory to Buyer, (3) show the location of all improvements and
138 easements. If Buyer waives the right to conduct a survey, the Seller, the Listing and Selling Brokers, and all licensees
139 associated with Brokers are released from any and all liability relating to any issues that could have been discovered by
140 a survey. This release shall survive the closing.
- 141
- 142 J. **FLOOD AREA:** If the property is located in a flood plain, Buyer may be required to carry flood insurance at Buyer's
143 expense. Revised flood maps and changes to Federal law may substantially increase future flood insurance premiums
144 or require insurance for formerly exempt properties. Buyer should consult with one or more flood insurance agents
145 regarding the need for flood insurance and possible premium increases. Buyer ☒ may ☐ may not terminate this
146 Agreement if the Property requires flood insurance.
- 147
- 148 K. **BUILDING USE LIMITATIONS:** Buyer's intended use for the Property is ☐ single-family, owner occupied use ☒ other
149 **R3 Zoning**. Buyer shall have 180 days after acceptance of Purchase
150 Agreement to satisfy the following building or use limitation: _____.
- 151
- 152 L. **HOMEOWNER'S INSURANCE:** Completion of this transaction shall be contingent upon the Buyer's ability to obtain a
153 favorable written commitment for homeowner's insurance within N/A days after acceptance of this Agreement.
154 Buyer should consult with one or more insurance agents regarding optional, or additional, coverage.
- 155
- 156 M. **ENVIRONMENTAL CONTAMINANTS ADVISORY/RELEASE:** Buyer and Seller acknowledge that Listing Broker,
157 Selling Broker and all licensees associated with Brokers are NOT experts and have NO special training, knowledge or
158 experience with regard to the evaluation or existence of possible lead-based paint, radon, mold and other biological
159 contaminants ("Environmental Contaminants") which might exist and affect the Property. Environmental Contaminants
160 at harmful levels may cause property damage and serious illness, including but not limited to, allergic and/or respiratory
161 problems, particularly in persons with immune system problems, young children and/or the elderly.
- 162
- 163 Buyer is **STRONGLY ADVISED** to obtain inspections (see below) to fully determine the condition of the Property and its
164 environmental status. The **ONLY** way to determine if Environmental Contaminants are present at the Property at
165 harmful levels is through inspections.
- 166
- 167 Buyer and Seller agree to consult with appropriate experts and accept all risks for Environmental
168 Contaminants and release and hold harmless all Brokers, their companies and licensees from any and all
169 liability, including attorney's fees and costs, arising out of or related to any inspection, inspection result,
170 repair, disclosed defect or deficiency affecting the Property, including Environmental Contaminants. This
171 release shall survive the closing.
- 172
- 173 N. **INSPECTIONS: (Check one)**
- 174
- 175 Buyer has been made aware that independent inspections disclosing the condition of the property may be
176 conducted and has been afforded the opportunity to require such inspections as a condition of this Agreement.

2408 W Dupont Rd, Fort Wayne, IN 46818

(Property Address)

Page 3 of 8 (Purchase Agreement)

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1. ☐ **BUYER WAIVES THE RIGHT TO HAVE INDEPENDENT INSPECTIONS**

Buyer WAIVES inspections and relies upon the condition of the Property based upon Buyer's own examination and releases the Seller, the Listing and Selling Brokers and all licensees associated with Brokers from any and all liability relating to any defect or deficiency affecting the Property, which release shall survive the closing. Required FHA/VA or lender inspections are not included in this waiver.

2. ☒ **BUYER RESERVES THE RIGHT TO HAVE INDEPENDENT INSPECTIONS** (including Lead-Based Paint)
Buyer reserves the right to have independent inspections in addition to any inspection required by FHA, VA, or Buyer's lender(s). All inspections shall be:

- At Buyer's expense (unless agreed otherwise by the parties or required by lender);
- Conducted by licensed, independent inspectors or qualified independent contractors selected by Buyer within the following time periods.

Seller shall have water, gas, electricity and all operable pilot lights on for Buyer's inspections. Seller must make all areas of the Property available and accessible for Buyer's inspection.

3. ☐ **PROPERTY IS SOLD "AS IS".** See Attached Addendum.

INSPECTION/RESPONSE PERIOD (Does not apply with As Is Addendum):

A. **INITIAL INSPECTION PERIOD:** Buyer shall order all independent inspections after acceptance of the Purchase Agreement. Buyer shall have 90 days beginning the day following the date of acceptance of the Purchase Agreement to respond to the inspection report(s) in writing to Seller (see "Buyer's Inspection Response").

B. **SCOPE OF INSPECTION:** Inspections may include but are not limited to the condition of the following systems and components: heating, cooling, electrical, plumbing, roof, walls, ceilings, floors, foundation, basement, crawl space, well/septic, water, wood destroying insects and organisms, lead-based paint (note: intact lead-based paint that is in good condition is not necessarily a hazard), radon, mold and other biological contaminants and/or the following:

Environmental Inspections

C. **ADDITIONAL INSPECTION:** If the INITIAL inspection report reveals the presence of lead-based paint, radon, mold and other biological contaminants, or any other condition that requires further examination or testing, then Buyer shall notify Seller in writing and have additional days from the deadline listed above to order, receive and respond in writing to all inspection reports.

D. **INSPECTION RESPONSE(S) REQUIRED:** If the Buyer does not comply with any Inspection/Response Period or make a written objection to any problem revealed in a report within the applicable Inspection/Response Period, the Property shall be deemed to be acceptable. If one party fails to respond or request in writing an extension of time to respond to the other party's independent inspection response, then that inspection response is accepted. A timely request for extension is not an acceptance of the inspection response, whether or not granted. A reasonable time period to respond is required to prevent misuse of this acceptance provision. Factors considered in determining reasonable time periods include, but are not limited to, availability of responding party to respond, type and expense of repairs requested and need of responding party to obtain additional opinions to formulate a response.

E. **IF DEFECT IS IDENTIFIED:** If an inspection report reveals a DEFECT(S) with the Property, the Buyer must:
1. Provide the inspection report, or relevant parts thereof, to the Seller; and
2. Give the Seller the opportunity to remedy the defect(s).

F. **SELLER RESPONSE TO INSPECTION DEFECT:** If Seller is unable or unwilling to remedy the defect(s) to Buyer's reasonable satisfaction before closing (or at a time otherwise agreed to by the parties), then Buyer may terminate this Agreement or waive such defect(s) and the transaction shall proceed toward closing. Seller may terminate this Agreement if Buyer chooses to further negotiate with subsequent inspection response(s).

G. **DEFECT DEFINED:** Under Indiana law, "defect" means a condition that would have a significant adverse effect on the value of the Property, that would significantly impair the health or safety of future occupants of the property, or that if not repaired, removed, or replaced would significantly shorten or adversely affect the expected normal life of the premises.

H. **PREVIOUSLY DISCLOSED DEFECT:** Buyer agrees that any property defect(s) previously disclosed by Seller, or routine maintenance and minor repair items mentioned in any report, shall not be a basis for termination of this agreement.

I. **INSPECTION RELEASE:** Buyer releases and holds harmless all Brokers and their companies from any and all liability, including attorney's fees and costs, arising out of or related to any inspection, inspection result, repair, disclosed defect or deficiency affecting the Property, including but not limited to lead-based paint, radon, mold and other biological contaminants. This release shall survive the closing.

O. **LIMITED HOME WARRANTY PROGRAM:**

Buyer acknowledges the availability of a LIMITED HOME WARRANTY PROGRAM with a deductible paid by Buyer which ☐ will ☒ will not be provided at a cost not to exceed \$ U.S. Dollars charged to ☐ Buyer ☐ Seller and ordered by ☐ Buyer ☐ Seller. Buyer and Seller acknowledge this LIMITED HOME WARRANTY PROGRAM may not cover any pre-existing defects in the Property nor replace the need for an independent home inspection. Broker may receive a fee from the home warranty provider and/or a member benefit. The Limited Home Warranty Program is a contract between Buyer/Seller and the Home Warranty Provider.

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242 The Parties agree that Brokers and their companies shall be released and held harmless in the event of claims disputes with
243 the Home Warranty Provider.
244

245 P. DISCLOSURES: (Check one)

- 246 1. Buyer ☐ has ☐ has not ☒ not applicable received and executed SELLER'S RESIDENTIAL REAL ESTATE
247 SALES DISCLOSURE.
248 2. Buyer ☐ has ☐ has not ☒ not applicable received and executed a LEAD-BASED PAINT CERTIFICATION
249 AND ACKNOWLEDGEMENT.
250

251 Q. TITLE APPROVAL: Prior to closing, Buyer shall be furnished with ☒ a title insurance commitment for the
252 most current and comprehensive ALTA Owner's Title Insurance Policy available in the amount of the purchase price or
253 ☐ an abstract of title continued to date, showing marketable title to Property in Seller's name. Seller must convey title free
254 and clear of any encumbrances and title defects, with the exception of any mortgage assumed by Buyer and any restrictions
255 or easements of record not materially interfering with Buyer's intended use of the Property. A title company, at Buyer's
256 request, can provide information about availability of various additional title insurance coverages and endorsements and the associated
257 costs.
258

259 OWNER'S TITLE INSURANCE PREMIUM and that portion of Title Service Fees incurred to prepare the Owner's Policy
260 (including title search and examination and commitment preparation), to be paid by ☐ Buyer (included in allowance,
261 if provided) ☒ Seller ☐ Shared equally.
262

263 LENDER'S TITLE INSURANCE PREMIUM and that portion of Title Service Fees incurred to prepare the Lender's Policy
264 (including title search and examination and commitment preparation), if applicable, to be paid by ☐ Buyer (included in
265 allowance, if provided) ☐ Seller ☐ Shared equally ☒ Other Not Applicable
266

267 The parties agree that ☒ Seller ☐ Buyer will select a title insurance company to issue a title insurance policy and will
268 order the commitment ☒ Immediately or ☐ other: _____
269

270 Pursuant to Federal and State Law, Seller cannot make Seller's selection of a title insurance provider a condition of this
271 Agreement.
272

273 Seller agrees to pay the cost of obtaining all other documents necessary to perfect title (including the cost of the deed
274 and vendor's affidavit), so that marketable title can be conveyed.
275

276 R. TAXES: (Check appropriate paragraph number)

- 277 1. ☐ Buyer will assume and pay all taxes on the Property beginning with the taxes due and payable on
278 _____, and all taxes due thereafter. At or before closing, Seller shall pay all taxes
279 for the Property payable before that date.
280 2. ☒ All taxes that have accrued for any prior calendar year that remain unpaid shall be paid by Seller either to the
281 County Treasurer and/or the Buyer in the form of a credit at closing. All taxes that have accrued for the current
282 calendar year shall be prorated on a calendar-year basis as of the day immediately prior to the Closing Date.
283 3. ☐ For recent construction or other tax situations. Seller will give a tax credit of
284 \$ _____ U.S. Dollars to Buyer at closing. This shall be a final settlement.
285

286 For purposes of paragraph 1 and 2: For the purpose of determining the credit amount for accrued but unpaid taxes,
287 taxes shall be assumed to be the same as the most recent year when taxes were billed based upon *certified* tax rates.
288 This shall be a final settlement.
289

290 WARNING:

291 *The succeeding year tax bill for recently constructed homes or following reassessment periods may greatly exceed
292 the last tax bill available to the closing agent.
293

294 *Buyer acknowledges Seller's tax exemptions and/or credits may not be reflected on future tax bills.
295

296 *Buyer may apply for current-year exemptions/credits at or after closing.
297

298 S. PRORATIONS AND SPECIAL ASSESSMENTS: Insurance, if assigned to Buyer, interest on any debt assumed or
299 taken subject to, any rents, all other income and ordinary operating expenses of the Property, including but not limited
300 to, public utility charges, shall be prorated as of the day immediately prior to the Closing Date. Seller shall pay any
301 special assessments applicable to the Property for municipal improvements previously made to benefit the Property.
302 Seller warrants that Seller has no knowledge of any planned improvements which may result in assessments and that
303 no governmental or private agency has served notice requiring repairs, alterations or corrections of any existing
304 conditions. Public or municipal improvements which are not completed as of the date above but which will result in a
305
306

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lien or charge shall be paid by Buyer. Buyer will assume and pay all special assessments for municipal improvements completed after the date of this Agreement.

T. **TIME:** Time is of the essence. Time periods specified in this Agreement and any subsequent Addenda to the Purchase Agreement are calendar days and shall expire at 11:59 PM of the date stated unless the parties agree in writing to a different date and/or time.

Note: Seller and Buyer have the right to withdraw any offer/Counter Offer prior to written acceptance and delivery of such offer/Counter Offer.

U. **HOMEOWNERS ASSOCIATION/CONDOMINIUM ASSOCIATION ("Association"):** If the property is located in a community governed by a mandatory homeowners association, the following must be provided by the Seller to Buyer within 0 days after acceptance of this Agreement, but not later than ten (10) days prior to closing pursuant to I.C. 32-21-5-8.5: 1. A disclosure that the property is in a community governed by a homeowners association; 2) A copy of the recorded governing documents; 3) a statement indicating there are assessments and the amount of any assessments; 4) The following information about a board member, homeowners association agent, or other person who has a contract with the homeowners association to provide any management services for the homeowners association: (A) the name, (B) the business or home address. Brokers are not responsible for obtaining, verifying or interpreting this information. The parties agree that Brokers and their companies shall be released and held harmless from any and all liability arising out of or related to these documents.

If the Buyer does not make a written response to the documents within 0 days after receipt, the documents shall be deemed acceptable. In the event the Buyer does not accept the provisions in the documents and such provisions cannot be waived, this Agreement may be terminated by the Buyer and the earnest money deposit shall be refunded to Buyer promptly. Any approval of sale required by the Association shall be obtained by the Seller, in writing, within 0 days after Buyer's approval of the documents. Fees charged by the "Association", or its management company, for purposes of verification of good standing and/or transfer of ownership shall be shared equally by Buyer and Seller. Start-up or one time reserve fees, if any, shall be paid by Buyer.

Buyer acknowledges that in every neighborhood there are conditions which others may find objectionable. Buyer shall therefore be responsible to become fully acquainted with neighborhood and other off-site conditions that could affect the Property.

V. **ATTORNEY'S FEES:** Any party to this Agreement who is the prevailing party in any legal or equitable proceeding against any other party brought under or with relation to the Agreement or transaction shall be additionally entitled to recover court costs and reasonable attorney's fees from the non-prevailing party.

W. **FAIR HOUSING:** The parties acknowledge that the Fair Housing Act prohibits discrimination in housing because of race, color, national origin, religion, sex, familial status, and disability. Due to Fair Housing risks, Brokers will not prepare, review, or submit personal information letters, including photographs, from Buyer to Seller. The National Association of REALTORS® Code of Ethics also prohibits REALTORS® from discriminating on the basis of sexual orientation or gender identity.

X. **ADDITIONAL PROVISIONS:**

1. Unless otherwise provided, any proration's for rent, taxes, insurance, damage deposits, association dues/assessments, or any other items shall be computed as of the day immediately prior to the Closing Date.
2. Underground mining has occurred in Indiana, and Buyers are advised of the availability of subsidence insurance. Broker is not responsible for providing or verifying this information.
3. The Indiana State Police has created a registry of known meth contaminated properties which can be found at www.in.gov/meth. Click on "Cland Lab Addresses." Broker is not responsible for providing or verifying this information.
4. The Indiana Sheriff's Sex Offender Registry (www.indianasheriffs.org) exists to inform the public about the identity, location and appearance of sex offenders residing within Indiana. Broker is not responsible for providing or verifying this information.

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2408 W Dupont

- 365 5. Conveyance of this Property shall be by general Warranty Deed, or by _____
366 subject to taxes, easements, restrictive covenants and encumbrances of record, unless otherwise agreed.
367
- 368 6. If it is determined Seller is a "foreign person" subject to the Foreign Investment In Real Property Tax Act, Seller will
369 pay applicable tax obligation.
370
- 371 7. Any notice required or permitted to be delivered shall be deemed received when personally delivered, transmitted
372 electronically or digitally or sent by express courier or United States mail, postage prepaid, certified and return
373 receipt requested, addressed to Seller or Buyer or the designated agent of either party.
374
- 375 8. This Agreement shall be construed under and in accordance with the laws of the State of Indiana and is binding
376 upon the parties' respective heirs, executors, administrators, legal representatives, successors, and assigns.
377
- 378 9. In case any provision contained in this Agreement is held invalid, illegal, or unenforceable in any respect, the
379 invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.
380
- 381 10. This Agreement constitutes the sole and only agreement of the parties and supersedes any prior understandings or
382 written or oral agreements between the parties' respecting the transaction and cannot be changed except by their
383 written consent.
384
- 385 11. All rights, duties and obligations of the parties shall survive the passing of title to, or an interest in, the Property.
386
- 387 12. Broker(s) may refer Buyer or Seller to other professionals, service providers or product vendors, including lenders,
388 loan brokers, title insurers, escrow companies, inspectors, pest control companies, contractors and home warranty
389 companies. Broker(s) does not guarantee the performance of any service provider. Buyer and Seller are free to select
390 providers other than those referred or recommended to them by Broker(s). The Parties agree that Brokers and their
391 companies shall be released and held harmless in the event of claims disputes with any service provider.
392
- 393 13. By signing below, the parties to this transaction acknowledge: 1) receipt of a copy of this Agreement; and 2)
394 information regarding this transaction may be published in a listing service, Internet or other advertising media.
395
- 396 14. Any amounts payable by one party to the other, or by one party on behalf of the other party, shall not be owed
397 until this transaction is closed.
398
- 399 15. Buyer and seller consent to receive communications from Broker(s) via telephone, U.S. mail, email, text message
400 and facsimile at the numbers/addresses provided to Broker(s) unless Buyer and Seller notify Broker(s) in writing to the
401 contrary.
402
- 403 16. Buyer discloses to Seller that Buyer holds Indiana Real Estate License # RB14027843
404
- 405 17. Where the word "Broker" appears, it shall mean "Licensee" as provided in I.C.25-34.1-10-6.8.
406

407 Y. **FURTHER CONDITIONS (List and attach any addenda):** Closing To Be Within 14 Days After Inspection
408 Paragraphs And Zoning Paragraphs Of This Offer Have Been Completed And Buyer Is Satisfied With The Results
409 And Responses.
410

411 Buyer Accepts The Following: 1. Seller Conveying Title By Special Warranty Deed, 2. After The Inspections
412 Have Been Completed Per Inspection Paragraphs Of This Offer And Buyer Is Satisfied With The Results And
413 Responses And After Zoning Approval Has Been Granted, Buyer To Accept The Property Being Sold "As Is",
414 "Where Is", and "With All Faults", Without Warranty Of Any Kind From Seller Either Expressed Or Implied. 3.
415 This Transaction Is Subject To Approval By Both The Board Of Public Works And The Common Council Of Fort
416 Continued... See Addendum Further Conditions 1
417

418 Z. **CONSULT YOUR ADVISORS:** Buyer and Seller acknowledge they have been advised that, prior to signing this
419 document, they may seek the advice of an attorney for the legal or tax consequences of this document and the
420 transaction to which it relates. In any real estate transaction, it is recommended that you consult with a professional,
421 such as a civil engineer, environmental engineer, or other person, with experience in evaluating the condition of the
422 Property.

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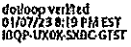
AA. ACKNOWLEDGEMENTS: This ☒ is ☐ is not a limited agency transaction. Buyer and Seller acknowledge that each has received agency office policy disclosures, has had agency explained, and now confirms all agency relationships. Buyer and Seller further acknowledge that they understand and accept agency relationships involved in this transaction.

EXPIRATION OF OFFER: Unless accepted in writing by Seller and delivered to Buyer by 5
☐ AM ☒ PM ☐ Noon, on January 13, 2023, this Purchase Agreement shall be null and void and all parties shall be relieved of any and all liability or obligations.

This Agreement/contract together with any and all subsequent forms, amendments and addenda may be executed simultaneously or in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. The parties agree that this Agreement, together with any and all subsequent forms, amendments and addenda may be transmitted between them electronically or digitally. The parties intend that electronically or digitally transmitted signatures constitute original signatures and are binding on the parties. The original documents shall be promptly delivered, if requested.

LEGAL REMEDIES/DEFAULT: If this offer is accepted and Buyer fails or refuses to close the transaction, without legal cause, the earnest money shall be retained by Seller for damages Seller has or will incur. Seller retains all rights to seek other legal and equitable remedies, which may include specific performance and additional monetary damages. All parties have the legal duty to use good faith and due diligence in completing the terms and conditions of this Agreement. A material failure to perform any obligation under this Agreement is a default which may subject the defaulting party to liability for damages and/or other legal remedies, which, as stated above, may include specific performance and monetary damages in addition to loss of Earnest Money.

By signature below, the parties verify that they understand and approve this Purchase Agreement and acknowledge receipt of a signed copy.

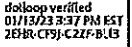
			
BUYER'S SIGNATURE	DATE	BUYER'S SIGNATURE	DATE
<u>Lancia Properties LLC</u>			
PRINTED		PRINTED	

SELLER'S RESPONSE: (Check appropriate paragraph number):

On 01/13/2023, at 3:15 ☒ AM ☐ PM ☐ Noon

1. ☒ The above offer is Accepted.
2. ☐ The above offer is Rejected.
3. ☐ The above offer is Countered. See Counter Offer. Seller should sign both the Purchase Agreement and the Counter Offer.

By signature below, the parties verify that they understand and approve this Purchase Agreement and acknowledge receipt of a signed copy.

			
SELLER'S SIGNATURE	DATE	SELLER'S SIGNATURE	DATE
<u>City Of Fort Wayne Indiana</u>			
PRINTED		PRINTED	



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ADDENDUM

PROPERTY: 2408 W Dupont Rd, Fort Wayne, IN 46818

1) Further Conditions

Wayne Indiana. In The Event Either Body Does Not Approve Of This Transaction, The Transaction Shall Be Terminated And Both Parties Shall Be Released From This Purchase Agreement.

The Commencement Of The Inspection Process And Zoning Process Per The Offer Will Start After The Above Listed Government Authorities Have Approved This Offer To Purchase Agreement.

Date: _____

Jamie Lancia
Signature

Date: _____

Signature

Date: _____

Seth Welnglass
Signature

Date: _____

Signature

Addendum