

**BOROUGH OF MT. OLIVER
RESOLUTION NO. 788-19**

The Council of the Borough of Mt. Oliver hereby resolves to enter into an Agreement of Sale for the purchase of 195 Ormsby Avenue, Pittsburgh, PA 15210, in the form attached hereto. The property officers of the Borough are authorized and directed to execute the said Agreement and to take any action or execute any documents necessary to implement said Agreement.

This Resolution adopted by the Council of the Borough of Mt. Oliver at a duly assembled public meeting held this 20th day of May, 2019.

ATTEST:

BOROUGH OF MT. OLIVER



Manager

By: 

President, Borough Council

AGREEMENT OF SALE

THIS AGREEMENT OF SALE (this "Agreement"), made this 20th day of May, 2019, by and between LORETTA E. MARBURGER, ("Seller") and THE BOROUGH OF MT. OLIVER, ("Buyer").

NOW THEREFORE, Seller and Buyer, intending to be legally bound hereby, agree as follows:

1. Property: Seller agrees to sell, transfer and convey to Buyer, and Buyer agrees to purchase and accept from Seller, for the Purchase Price (as hereinafter defined), and subject to the terms and conditions of this Agreement, that certain real property situate in the Borough of Mt. Oliver, County of Allegheny and Commonwealth of Pennsylvania, consisting of approximately 0.07348 acres and being known as 195 Ormsby Avenue, Pittsburgh, PA 15210, designated as Block and Lot 33-D-239 in the Office of Property Assessment of Allegheny County, Pennsylvania, and being more particularly described on **Exhibit "A"** attached hereto and made a part hereof.

Together with Seller's interest in all appurtenances thereto including, without limitation, all easements, licenses, rights, privileges, servient estates and rights of way appurtenant thereto, all buildings, improvements, structures and fixtures, placed, constructed, installed, or located on the real property, the parking facilities related thereto, all other improvements situated on, over and under the real property, and all fixtures, systems, fittings and apparatus located at or used in conjunction with the real property (hereinafter collectively, the "**Property**").

The Buyer shall prepare a Deed conveying the Property to the Buyer and shall procure a title search and/or bringdown for the Property. In the event the title search and/or bringdown shows that the Property is subject to a mortgage, judgment, past due and/or delinquent real estate taxes and/or liens, the Seller shall pay such mortgage, judgment, past due and/or delinquent real estate taxes and/or liens in full within thirty (30) days of receiving written notice of such encumbrances from the Buyer. If Seller fails to pay such amounts in full within the aforementioned thirty (30) days, this Agreement shall terminate.

If the aforementioned title search and/or bringdown, shows that the Property is not subject to any mortgages, judgments, past due and/or delinquent real estate taxes and liens, the Buyer shall have the Deed delivered to Seller for execution.

2. Purchase Price: The purchase price for the Property is ONE DOLLAR (\$1.00).

3. Proration: The Allegheny County, Mt. Oliver Borough and City of Pittsburgh School District real estate taxes for the Property shall be prorated between the Buyer and Seller to the date of closing.

4. Closing Costs; Transfer Taxes: Buyer shall be responsible for the costs of the title search and/or bringdown for the Property, tax certifications/lien letters and all recording fees. The parties anticipate that this will be a transfer tax exempt transfer.

5. Closing: The closing of the sale and purchase of the Property will occur on a date mutually agreeable to Seller and Buyers.

6. Expenses: Seller and Buyer shall each pay their own costs and expenses in connection with this transaction, including, but not limited to, the costs of their respective legal counsel, and neither Seller nor Buyer will have any obligation with respect to costs and expenses incurred by the other in connection herewith, except as otherwise provided herein.

7. Possession: Possession of the Property will be delivered to Buyer at closing.

8. Representations and Warranties of Seller:

A. Seller makes the following representations and warranties to Buyer:

- 1) Seller has the full and lawful unrestricted right and power to execute, deliver, and perform its obligations under this Agreement and to complete all transactions contemplated hereunder, and there are no proceedings or actions pending or, to Seller's knowledge without investigation, threatened, which do or might limit or impair said right and power.
- 2) There are no rights, options, or other agreements of any kind to purchase or otherwise acquire or sell or otherwise dispose of the Property, or any interest therein, nor any claims to such rights, options, or other agreements.
- 3) Seller is not currently subject to bankruptcy or insolvency proceedings, nor the appointment of a receiver or trustee, under the state or federal law, nor has Seller made an assignment for the benefit of creditors or filed a petition for an arrangement or entered into an arrangement with creditors which petition, proceedings, assignment or arrangement was not dismissed by final, unappealable order of the court or body having jurisdiction over the matter; and Seller is not insolvent and have not admitted in writing the inability to pay their debtors as they become due.
- 4) There is no action, suit, or proceeding pending or, to Seller's actual knowledge without investigation, threatened in writing against Seller with respect to or arising out of the ownership, management or operation of the Property, in any court or before or by any federal, state, county, regional, or municipal department, bureau, commission, board, or agency or other governmental instrumentality, which would be binding on Buyer after the Closing.
- 5) Seller has not received any formal notice from a government authority with applicable jurisdiction of any legal requirement or

deficiency concerning the Property, nor any such notice requiring any work, repairs, construction, or alteration of the Property.

- 6) Upon the delivery of the Deed, Buyer will be vested with good, marketable, and unencumbered title to the Property.
- 7) To Seller's knowledge, no assessments or notices thereof have been made against or are threatened or proposed in writing against the Property or any part thereof, which have not been paid in full.
- 8) No hazardous waste, hazardous or toxic materials or wastes, or any product regulated by any law or ordinance including but not limited to petroleum products, toxic pollutants and PCB's, have been stored, treated at, or disposed of by Seller on the Property in violation of applicable law, and, to Seller's knowledge, has never been stored at, treated, soaked or seeped onto, or disposed of on the Property in violation of applicable law.
- 9) To Seller's knowledge, the Property has not received special treatment (including but not limited to "clean and green" assessment status) that might result in claims for taxes related to the Property or the recoupment thereof arising out of the conversion of its use.
- 10) To Seller's knowledge, there are no underground storage tanks on the Property.

B. Seller shall not, without the prior written approval of Buyer (i) make or permit to be made any material changes or alterations to any part of the Property prior to closing; (ii) enter into any agreement affecting any part of the Property; (iii) permit any liens, mortgages, deeds of trust, or other encumbrances not currently of record to be placed against, or to affect any part of the Property or title to the Property, other than any liens for taxes and other governmental assessments not yet due and payable. Seller shall promptly notify Buyer of any material changes that occur with respect to any of the matters set forth in Seller's representations and warranties contained herein.

C. Seller agrees to indemnify and save Buyer harmless from and against any loss, cost, injury, damages and expense (including attorney's fees) incurred as a result of a breach of any of the representations or warranties of Seller set forth in this Section, which representations and warranties shall survive closing.

9. Integrated Agreement: This Agreement constitutes the entire agreement between the parties hereto and there are no other understandings, representations, statements, or warranties, oral or written, relating to the subject matter hereof. This Agreement may not be changed, modified or amended in whole or in part, except in writing and signed by all parties.

10. Governing Law: This Agreement shall be deemed to have been made under and shall be construed in accordance with and governed by the laws of the Commonwealth of Pennsylvania.

11. Binding Effect: This Agreement and all of its terms and conditions shall extend to and be binding upon the parties hereto and upon their respective heirs, executors, administrators, successors and assigns.

12. Risk of Loss: Risk of loss shall remain on Seller until closing.

13. Default:

A. By Buyer: In the event that Buyer defaults in the Purchase of the Property pursuant to the terms of this Agreement, Seller shall have the right, as its sole and exclusive remedy, to terminate this Agreement upon which the parties shall have no further obligation hereunder.

B. By Seller: In the event that Seller defaults under any term or condition of this Agreement, Buyer may, at Buyer's sole option, elect to: (1) terminate this Agreement, upon which the parties shall have no further obligation hereunder; or (2) institute an action for specific performance without any right to damages, however the Buyer shall be entitled to collect all reasonable counsel fees incurred in such action.

14. Attorney Fees: In the event of a default, the prevailing party in any enforcement action shall be entitled to recover reasonable attorney fees, costs and expenses incurred in enforcing this Agreement.

15. Counterparts: This Agreement may be executed by the parties on any number of separate counterparts, and all such counterparts so executed constitute one agreement binding on all the parties, notwithstanding that all the parties are not signatories to the same counterpart. This Agreement may be executed by facsimile signatures or by electronic signatures (such as an executed pdf document emailed by a party), and each counterpart executed and transmitted by facsimile or email shall have the same force and effect as an originally executed document. At the request of any party, a party executing and transmitting a facsimile and/or electronic executed copy of this Agreement will execute and deliver an originally executed copy of the same to the requesting party.

16. Coal Notice: **THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL HAS THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS**

INSTRUMENT. (This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P.L. 984, as amended, and is not intended as notice of unrecorded instruments, if any). Unless this notice is stricken, the deed for the Property will contain this notice and will also contain, and Buyer will sign, the notice specified in the Bituminous Mine Subsidence and Land Conservation Act of 1966.

IN WITNESS WHEREOF the parties have set their hands and seals the day and year first above written.

WITNESS/ATTEST:

Blaine C. Holzer

SELLER:

Loretta E. Marburger
Loretta E. Marburger

WITNESS/ATTEST:

Kathy L. Connolly

BUYER:

MT. OLIVER BOROUGH

By: Amber L. McGough
Title: Council President

EXHIBIT "A"

LEGAL DESCRIPTION

ALL that certain lot or piece of ground situate in the Borough of Mt. Oliver, County of Allegheny and Commonwealth of Pennsylvania, being parts of Lots Nos. 56 and 58 in Josephine Ormsby's Plan of Lots recorded in the Recorder's Office of Allegheny County in Plan Book Volume 2, page 140 bounded and described as follows, to-wit:

BEGINNING ON THE Southerly line of Ormsby Avenue at a point distant 22 feet Eastwardly from the Northwesterly corner of Lot No. 56 and at the line of Lot heretofore conveyed by George A. Becker to Wolfgang Bacher et ux; thence Eastwardly along said Ormsby Avenue in front or width 29 feet 4 ½ inches to line of lot heretofore conveyed by George A. Becker to H. J. Weinheimer, et al; and thence extending back Southwardly preserving a uniform width of 29 feet 4 ½ inches a distance of 109.91 feet to the line of property previously conveyed by George A. Becker to Joseph Petz et ux.

SUBJECT to grants, rights, easements, exceptions, reservations, covenants and restrictions as contained in prior instruments of record and in said recorded plan.

SUBJECT to coal, mining and mineral rights as heretofore conveyed or reserved by prior instruments of record and to building line and easements on said recorded plan.

BEING the same property which Catherine B. Schessler, unmarried, conveyed to Charles E. Marburger and Loretta E. Marburger, his wife, by deed dated April 20, 1970, and recorded in the Department of Real Estate of Allegheny County, Pennsylvania on April 21, 1970 at Deed Book Volume 4623, Page 483.

BEING known and designated as Block and Lot No. 33-D-239 in the Deed Registry Office of Allegheny County, Pennsylvania.