

RESOLUTION NO. 2036

RESOLUTION APPROVING A PURCHASE AGREEMENT WITH DUSTON ANDERSON FOR THE WEST BRANCH WASTEWATER TREATMENT FACILITY PROJECT.

WHEREAS, the City of West Branch is required to construct improvements to the existing wastewater treatment plant (the "Project"); and

WHEREAS, as part of the Project, the City Engineer has identified the need for an additional 10-acre parcel for the Project; and

WHEREAS, the City Attorney has drafted an agreement to purchase approximately 10-acres from Duston Anderson near the existing wastewater treatment plant (the "Parcel"); and

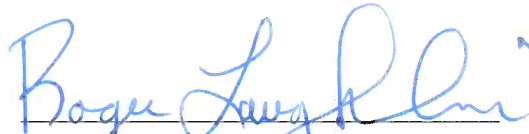
WHEREAS, pursuant to the purchase agreement, the City will pay \$200,000 for the Parcel; and

WHEREAS, it is now necessary for the City Council to approve the purchase agreement.

NOW, THEREFORE, It Is Resolved by the Council of the City of West Branch, Iowa, that the City Council of the City of West Branch does hereby formally approve said purchase agreement with Duston Anderson.

BE IT FURTHER RESOLVED, that the Mayor and Deputy City Clerk are hereby directed to execute any and all documentation necessary to close this transaction.

Passed and approved this 7th day of September, 2021.



Roger Laughlin, Mayor

ATTEST:



Leslie Brick, Deputy City Clerk

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT entered into by and between the City of West Branch, Iowa, 110 N. Poplar Street, West Branch, Iowa 52358 (hereafter the “Buyer”); and the Duston A. Anderson (hereinafter collectively the “Seller”).

1. **REAL ESTATE DESCRIPTION.** The Seller agrees to sell and the Buyer agrees to purchase the following described properties in the City of West Branch, Iowa:

That property generally depicted on Exhibit “A” attached hereto (Exact legal description to be taken from the abstract of title and recorded Acquisition Plat)

This parcel shall hereafter be collectively referred to as the “Property.”

2. **PURCHASE PRICE.** The purchase price of the Property shall be \$20,000 per acre, based upon the acreage shown on the recorded Acquisition Plat, with \$1,000.00 to the Seller as Earnest Money after execution of this Agreement and approval by the West Branch City Council, and the remaining balance to be paid in full on or before November 1, 2021, subject to allowed deductions outlined below.

3. **DATE OF POSSESSION.** The Buyer shall be granted possession of the Property no later than November 1, 2021.

4. **REAL ESTATE TAXES.** Seller shall pay any unpaid real estate taxes payable in prior years and any and all real estate taxes and utilities that accrue during the term of this Agreement.

5. **RISK OF LOSS AND INSURANCE.** Seller shall bear the risk of loss or damage to the Property prior to the date of possession. Buyer may, at his sole cost and expense, maintain insurance on the Property, but is not obliged to do so.

6. **USE OF PURCHASE PRICE.** At the time of closing, the Buyer shall pay, without setoff, all the remaining monies due to the Seller after deducting the payments to pay off outstanding liens, property taxes that have accrued as of the date of possession and abstracting fees.

7. **ABSTRACT AND TITLE.** Seller shall promptly obtain an abstract of title to the Property continued through the date of acceptance of this Purchase Agreement and deliver it to Buyer for examination. It shall show merchantable title in Seller in conformity with this Agreement, Iowa law and title standards of the Iowa State Bar Association. Seller shall make every reasonable effort to perfect title. If the closing is delayed by Seller’s inability to provide marketable title, this Agreement shall remain in full force and effect unless rescinded by Buyer after giving ten days written notice to Seller. The abstract shall become property of

Buyer when the purchase price is paid in full. Seller shall pay the costs of any additional abstracting work due to any act or omission of Seller.

8. **DEED.** Upon payment of the purchase price, Seller shall convey the Property to Buyer by Warranty Deed, free and clear of all liens, restrictions, and encumbrances.

9. **TIME IS OF THE ESSENCE.** Time is of the essence in this contract.

10. REMEDIES OF THE PARTIES.

- a. If Buyer fails to perform this contract, Seller may forfeit it as provided in the Iowa Code, and all payments made shall be forfeited, at Seller's option, upon thirty days written notice of intention to accelerate the entire balance because of such failure (during which thirty days such failure is not corrected) Seller may declare the entire balance immediately due and payable. Thereafter, this contract may be foreclosed in equity and the Court may appoint a receiver.
- b. If Seller fails to timely perform this contract, Buyer shall have the right to have all payments made returned to them.
- c. Seller and Buyer also are entitled to utilize any and all other remedies or actions at law or in equity available to them and shall be entitled to obtain a judgment for costs and attorneys fees as permitted by law.

11. **CONTRACT BINDING ON SUCCESSORS IN INTEREST.** This contract shall apply to and bind the successors in interest of the parties.

12. **ASSIGNMENT.** Either party may assign this Purchase Agreement by giving written notice of said assignment to the other party.

13. **CONSTRUCTION.** Words and phrased shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

14. **CERTIFICATION.** Seller and Buyer each certify that they are not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order of the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and are not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Each party hereby agrees to defend, indemnify, and hold harmless the other party from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to a breach of the foregoing certification.

15. **TESTING/SURVEY.** The Seller expressly agrees, that upon 24-hour notice to the Seller by the Buyer, to allow access onto and into the Properties for the purpose of testing and surveying said Property.

16. **CITY COUNCIL APPROVAL REQUIRED.** Both parties expressly agree that this Agreement is not binding upon the City until such time as approved by the West Branch City Council.

17. **PERSONAL PROPERTY REMOVED.** Prior to the date of possession, the Seller shall have removed all items of personal property from the Property. In the event that the Buyer has to remove and dispose of items of personal property left on the Property, Seller shall reimburse the Buyer for the same within thirty (30) days of invoice of the City.

18. **THREAT OF CONDEMNATION.** This Agreement was negotiated under the threat of eminent domain to condemn the Property.

19. **PERMANENT ACCESS EASEMENT.** At the time of closing, the City shall grant to the Seller a permanent access easement across the City's driveway at the wastewater facility to access the remaining of Seller's property.

Buyer:

By: Dustin A. Anderson
Dustin A. Anderson

By: Dustin A. Anderson

Date: 8-31-21

City of West Branch:

Roger Laughlin
Roger Laughlin, Mayor

ATTEST:

Leslie Brick
Leslie Brick, Deputy City Clerk

Date: 8/31/2021

STATE OF IOWA, COUNTY OF CEDAR, ss:

This instrument was acknowledged on this 31st day of August, 2021, by Roger Laughlin and Leslie Brick, as Mayor and Deputy City Clerk respectively of the City of West Branch, Iowa.

Heidi Van Auker



Notary Public

STATE OF IOWA, COUNTY OF Cedar, ss:

This instrument was acknowledged before me on this 31st day of August, 2021 by Duston A. Anderson and _____, as CIRCLE ONE (single person) or (husband and wife)

Heidi Van Auken

Notary Public



DRAFT

ACQUISITION PLAT

INDEX/LEGEND

COUNTY: CEDAR
 SECTION: 8 TOWNSHIP: 79 RANGE: 4
 ALIQUOT PART: SW 1/4, SE 1/4
 CITY: WEST BRANCH, IOWA

PROPRIETOR: DUSTON A. ANDERSON
 PREPARED BY: CRAIG W. BEEDLE, PLS 17913
 VEENSTRA & KIMM, INC.
 860 22ND AVE. SUITE 4
 CORALVILLE, IA 52241
 (319) 486-1000

SURVEY PREPARED BY: CRAIG W. BEEDLE, VEENSTRA AND KIMM, INC. - 860 22ND AVENUE - CORALVILLE, IA 52241 - (319) 486-1000

Acquisition Description

Acquisition of Property in that part of the Southeast Quarter of Section 8, Township 79 North, Range 4, West of the 5th Principal Meridian, Cedar County, Iowa, lying South of Interstate 80 as recorded in Book 1247 on Pages 160 to 161 of the Cedar County Records. Said Acquisition being more described as:

Beginning at the South 1/4 Corner of said Section 8; thence N01°18'39"W, 1058.92 feet along the West line of the SE 1/4 of said Section 8; thence N89°04'36"E, 987.26 feet; thence S27°41'21"E, 429.71 feet to a point on the North line of that part of the West Half of the Southeast Quarter of said Section 8 as recorded in Book 154 on Page 68 of the Cedar County Records; thence S89°04'42"W, 1148.35 feet along said North line to the Northwest corner of said Part of the West Half of the Southeast Quarter of said Section 8; thence S01°19'35"E, 675.28 feet along the West line of said Part of the West Half of the Southeast Quarter of said Section 8 to a point on the South line of the SE 1/4 of said Section 8; thence S89°04'42"W, 30.03 feet along said South line to the Point of Beginning. Said Acquisition contains 10.00 Acres.

- LEGEND**
- - FOUND PROPERTY CORNER - 5/8" REBAR UNLESS OTHERWISE NOTED
 - ① - FOUND 5/8" REBAR W/ RED CAP #10586 CAP #12487
 - ② - FOUND 5/8" REBAR W/ ORANGE CAP #12487
 - - SET 5/8" REBAR WITH PLASTIC YELLOW CAP #17913
 - ▲ - FOUND SECTION CORNER AS NOTED
 - (*) - RECORD DISTANCE OR BEARING

- _____ PARCEL BOUNDARY
- _____ PROPERTY LINES
- _____ EASEMENT LINES
- _____ ROW LINES
- _____ SECTION LINES
- _____ CENTER LINE

DATE SURVEYED: 5/28/2021
 PROPRIETOR: DUSTON A. ANDERSON
 SURVEY PREPARED FOR: CITY OF WEST BRANCH, IOWA
 BASIS OF BEARING: NAD83 IOWA STATE PLANE
 COORDINATE SYSTEM SOUTH ZONE 1402 AS
 BROADCAST BY THE IOWA REAL TIME NETWORK.



I hereby certify that this engineering document was prepared by me or under my direct personal supervision and that I am a duly licensed Professional Engineer under the laws of the State of Iowa.

Signed: _____ Date: _____
 Craig W. Beedle, PLS
 Iowa License No. 17913
 My license renewal date is December 31, 2021
 Drawings covered by this seal: PS-01

DWG. NO. PS-01
 PROJECT 348373

ACQUISITION PLAT
 PART OF THE SW 1/4 - SE 1/4
 SECTION 8-T79N-R4W

WWTP IMPROVEMENTS
 CITY OF WEST BRANCH, IOWA
 860 22nd Avenue - Suite 4 • Coralville, Iowa 52241-5655
 319-466-1000 • 319-466-1008(FAX) • 888-241-8041(WATS)



DATE	REVISIONS	SCALE	AS NOTED
		AS SHOWN	
		DATE	
		BY	
		APP'D	
		DATE	14/02/21
		ISSUED DATE	

