

RESOLUTION 2022-16

RESOLUTION APPROVING AN AMENDMENT TO THAT CERTAIN PURCHASE AGREEMENT WITH DUSTON ANDERSON.

WHEREAS, the City and Duston Anderson previously entered into a Purchase Agreement so the city could acquire an approximate 10-acre parcel for the Wastewater Treatment Plant upgrades; and

WHEREAS, Anderson is going to participate in a 1031 exchange for tax purposes; and

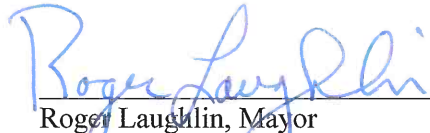
WHEREAS, to that end, Anderson needs to amend the purchase agreement to have the proceeds of the sales price go to the exchange agent; and

WHEREAS, Anderson has drafted an amendment that requires approval by the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of West Branch, Iowa, that the aforementioned Amendment be and the same is hereby approved.

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Passed and approved this 22nd day of February, 2022.


Roger Laughlin, Mayor

ATTEST:


Leslie Brick, City Clerk

AMENDMENT TO PURCHASE AGREEMENT (RELINQUISHED PROPERTY)

WHEREAS Duston A. Anderson (Seller) and the City of West Branch (Buyer) are parties to a Purchase Agreement dated August 31, 2021; and

WHEREAS, pursuant to the Purchase Agreement, Buyer is purchasing from Seller the real estate described on Exhibit A (hereinafter the "Real Property"); and

WHEREAS, the parties desire to amend the Purchase Agreement to allow Seller to use the Real Property as part of a tax-free exchange pursuant to Section 1031 of the Internal Revenue Code; and

THEREFORE, the Purchase Agreement is hereby amended by adding the following:

Seller intends to use the Real Property as Relinquished Property for a tax-free exchange pursuant to Section 1031 of the Internal Revenue Code. Buyer agrees to cooperate with Seller and sign any necessary documents. Seller shall pay all costs associated with the exchange, and Buyer shall not be responsible for any of those costs. Seller shall indemnify and hold Buyer harmless from any and all claims or liability arising from the tax-free exchange. Buyer consents to Seller's assignment of this agreement to DJF EXCHANGE, INC., as Qualified Intermediary. Said Assignment shall not relieve Seller of any obligation under the Purchase Agreement. At closing, the net proceeds shall be paid directly to the Qualified Intermediary, but title shall pass directly from Seller to Buyer.

This Amendment may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Facsimile signatures, electronic signatures, and scanned and emailed signatures shall be given the same force and effect as original signatures for purposes of this Amendment.

The terms and conditions of the Purchase Agreement that are consistent with this Amendment shall remain in full force and effect. The terms and conditions of the Purchase Agreement that are inconsistent with this Amendment are hereby rendered null and void.

Dust A Anderson 2-7-22
Duston A. Anderson, Seller Date

Roger Laughlin (Sign and Date)
City of West Branch, Buyer Date
By: ROGER LAUGHLIN (Print Name)
MAYOR (Print Title)

EXHIBIT A
REAL PROPERTY

Real estate in Cedar County, Iowa, described as follows:

That part of the SE ¼ of Section 8, Township 79 North, Range 4 West of the 5th P.M., Cedar County, Iowa, lying south of Interstate 80, legally described as Parcel N, as shown in Book L, Page 34, Plat Records of Cedar County, Iowa.