

RESOLUTION NO. 1129

RESOLUTION APPROVING A PURCHASE AGREEMENT WITH PV PROPERTIES, L.C.
FOR TWO PARCELS TOTALING APPROXIMATELY 22 ACRES.

WHEREAS, PV Properties, LLC, is the owner of two parcels totaling approximately 22 acres, namely, Outlot B, Pedersen Valley, Part Two and an approximate 18-acre parcel off the northerly extension of Scott Drive (collectively the "Property"); and

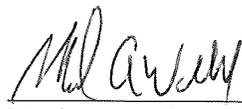
WHEREAS, the City and PV Properties, LLC, have negotiated a Purchase Agreement whereby PV Properties, LLC, would sell the Property to the City for \$375,000; and

WHEREAS, the City is intending to use the Property for parks and recreation space in the future; and

WHEREAS, it is now necessary for the City Council to formally approve said Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of West Branch, Iowa, that the aforementioned Purchase Agreement be and the same is hereby approved. Further, the Mayor and City Clerk are authorized to execute said Purchase Agreement on behalf of the City. Further, the Mayor and City Clerk, with the advice of the City Attorney, are hereby directed to execute any and all further documentation finalize this transaction on behalf of the City.

Passed and approved this 22nd day of July, 2013.



Mark Worrell, Mayor

ATTEST:



Matt Muckler, City Administrator/Clerk

REAL ESTATE OFFER AND ACCEPTANCE

TO: PV Properties, LLC, an Iowa limited liability company (hereafter referred to as "PVP")

The undersigned Buyers, the City of West Branch, Iowa (hereafter referred to as "City"), hereby offer to buy, and PVP, by its acceptance, hereby agrees to sell certain real property situated in Cedar County, Iowa, said real estate being two separate parcels, the first parcel being approximately 18 acres and the second parcel being approximately 4 acres (hereafter collectively the "Property"), said Property being depicted on the drawings attached hereto as Exhibit "A" and Exhibit "B" by this reference, being incorporated into this Agreement. The first parcel (Exhibit A) includes the 19.74 acre parcel except that portion marked as A, which is approximately 170 feet by 291 feet. The exact legal description to be taken from the abstract of title to be provided to the City by PVP and any surveys required pursuant to paragraph 16 below.

1. **Purchase Price.** City shall pay to PVP the sum of \$375,000.00 for the Property, being paid as follows: \$5,000 earnest money with this offer to be kept in trust by PVP, and the remaining balance, less allowable deductions described in Paragraph 9 below, shall be paid at the closing.
2. **Real Estate Taxes.** PVP shall pay the real estate taxes on the Property for Fiscal Year 2012 (due and payable in September, 2013 and March, 2014) and a pro rate share of the real estate taxes for Fiscal Year 2013 (payable in 2014 and 2015) to the date of closing. In addition, PVP shall also pay any other real estate taxes or assessments that are past due on the Property.
3. **Time of Acceptance.** This Offer to PVP shall be accepted no later than 5:00 p.m. on July 15, 2013, and if not, this Offer becomes null and void.
4. **Risk of Loss and Insurance.** PVP shall bear the risk of loss or damage to the Property prior to the date of possession and closing. PVP agrees to maintain its existing insurance on the Property and the City, at its option, may purchase additional insurance.
5. **Possession and Closing.** If the City timely performs all of its obligations under this Agreement, possession of the Property shall be conveyed to the City on July 31, 2013.
6. **Condition of the Property.** PVP shall maintain the Property in relatively the same condition as it exists on the date of this Agreement and in accordance with all applicable laws and regulations.
7. **Abstract and Title.** PVP, at its sole expense, shall promptly obtain an abstract(s) of title for the Property continued through the date of acceptance of this Agreement and deliver it to the City. The abstract(s) shall show marketable title in PVP in conformity with this Agreement, Iowa law and the title standards of the Iowa State Bar Association. PVP shall make every

reasonable effort to promptly perfect title. If the closing is delayed because of PVP's inability to provide marketable title, this Agreement shall remain in full force and effect unless the City rescinds the Agreement after giving 10 days written notice to PVP of the City's intent to rescind. The abstract shall become of the property of the City after PVP has been paid in full. PVP shall pay the costs of any additional title work or abstracting because of the act or omission of PVP. The abstract shall be obtained from an qualified abstracter of the Title Guaranty Division of the Iowa Housing Finance Authority. City, at its sole expense and cost, may prior to closing, obtain a continuation of the abstract to determine whether marketable title remains in PVP. Both parties agree that the closing shall not occur unless marketable title is shown in PVP.

8. **Environmental matters.** PVP warrants, to the best of its knowledge and belief that there exist no abandoned wells, solid waste disposal sites, hazardous wastes or substances or underground storage tanks on the Property. PVP also warrants that PVP has done nothing to contaminate the Property with hazardous wastes and materials. PVP also warrants that the Property, or any portion thereof, is not subject to any local, state or federal judicial or administrative action, litigation or order, as the case may be, regarding wells, solid waste disposal sites, hazardous wastes or substances or underground storage tanks. In the event that there exist any of the following conditions described above on the Property, PVP shall be required to remediate, at its own cost, the environmental condition in compliance with applicable law. In the event that requires spending \$25,000 or more, PVP may cancel this Agreement.
9. **Conveyance via Warranty Deed.** Upon payment of the Purchase price by the City to PVP, PVP shall convey the Property to the City free from liens, restrictions and encumbrances except as allowed by this Agreement. General warranties of title shall extend to the time of delivery to the City.
10. **Use of Purchase Price.** At the time of settlement and closing, funds from the Purchase Price may be used to pay taxes and other liens, satisfy judgments and acquire any other interests, if any, convey marketable title to the City.
11. **Remedies of the parties.**
 - A. If the City fails to timely perform under this Agreement, PVP may forfeit this Agreement as outlined in Iowa Code Chapter 656, and all payments made by the City to PVP shall be forfeited, or at PVP's option, upon thirty days' written notice of intention to accelerate the entire balance because of the City's default (during which 30 days the default is not corrected), PVP may declare the entire balance immediately due and payable. Thereafter, this Agreement may be foreclosed in equity and the Court may appoint a receiver.
 - B. If PVP fails to timely perform under this Agreement, the City has the right to file suit to demand specific performance under this Agreement.

C. PVP and the City are also entitled to utilize any and all remedies or actions at law or in equity to them, and the prevailing party shall be entitled to obtain judgment for reasonable attorneys' fees and cost.

12. **Notices.** Any notices under this Agreement shall be in writing and deemed to be served when it is delivered by personal delivery or mailed by certified mail, addressed to the parties at the following addresses:

To the City:

City Administrator
110 N. Poplar Street
West Branch, Iowa 52358

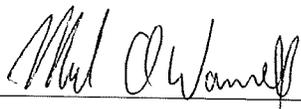
To PVP:

PV Properties, LLC
c/o Thomas Lawrence
203 Windflower Lane
Solon, Iowa 52333

13. **General Provisions.** In the performance of each part of this Agreement, time shall be of the essence. Failure to promptly assert rights herein shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default. This Agreement shall apply to and bind the successors in interests of the parties. This Agreement shall survive the closing. This Agreement contains the entire agreement among the parties and shall not be amended except by a written instrument duly executed by the City and PVP. Paragraphs and headings are for convenience of reference and shall not limit or affect the meaning of this Agreement. Words and phrases shall be construed in the singular or plural number, and as masculine, feminine or neuter gender according to the context.
14. **No Real Estate Agent or Broker.** Each party expressly states that it has not used the service of a real estate agent or broker in connection with this transaction.
15. **Inspection/Access to the Property.** During the term of this Agreement, the City may have access to the Property for the purposes of inspection or testing or other similar actions upon written notice to PVP. Said inspections shall not cause any damage to the existing farm tenant on the Property.
16. **Existing tenants.** PVP shall ensure that all existing leases have been terminated in strict compliance with applicable law prior to conveyance of the Property to the City.

17. **Surveying.** If it is necessary to obtain survey(s) of the Property in order to complete a valid conveyance of the Property to the City, PVP shall cause said surveys to be completed at its sole expense.
18. **City Council approval required.** Both parties agree that this Agreement is not enforceable against the City until review and approval by the West Branch City Council as required by law. If this Agreement is not approved by August 31, 2013, this Agreement shall become null and void, and PVP agrees to return the earnest money to the City.

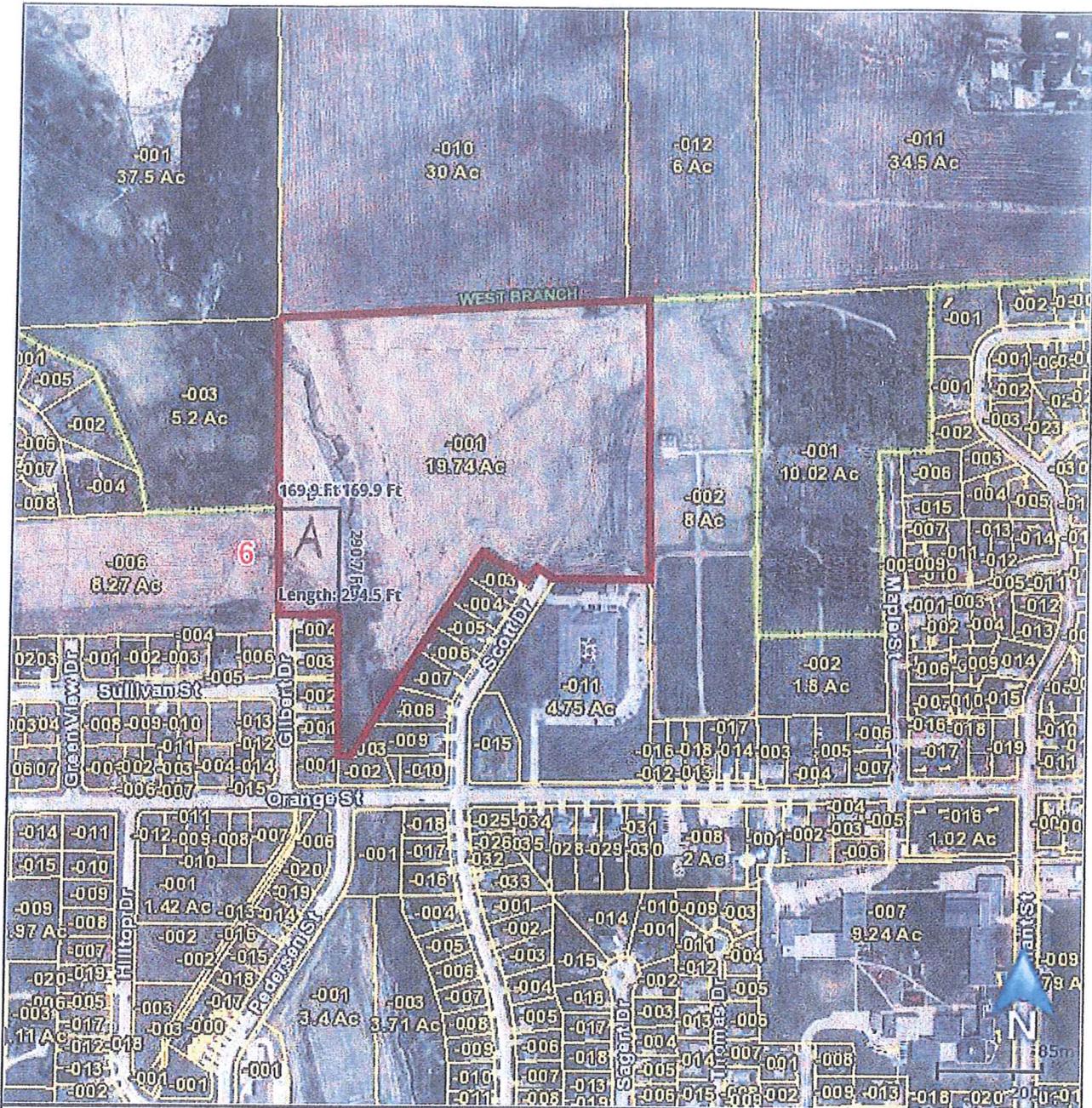
This offer is presented to PVP on this 28th day of June, 2013.

By:  _____

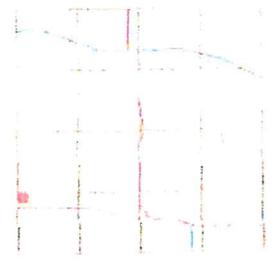
Mark Worrell, Mayor

This offer is accepted on this 28th day of June, 2013.

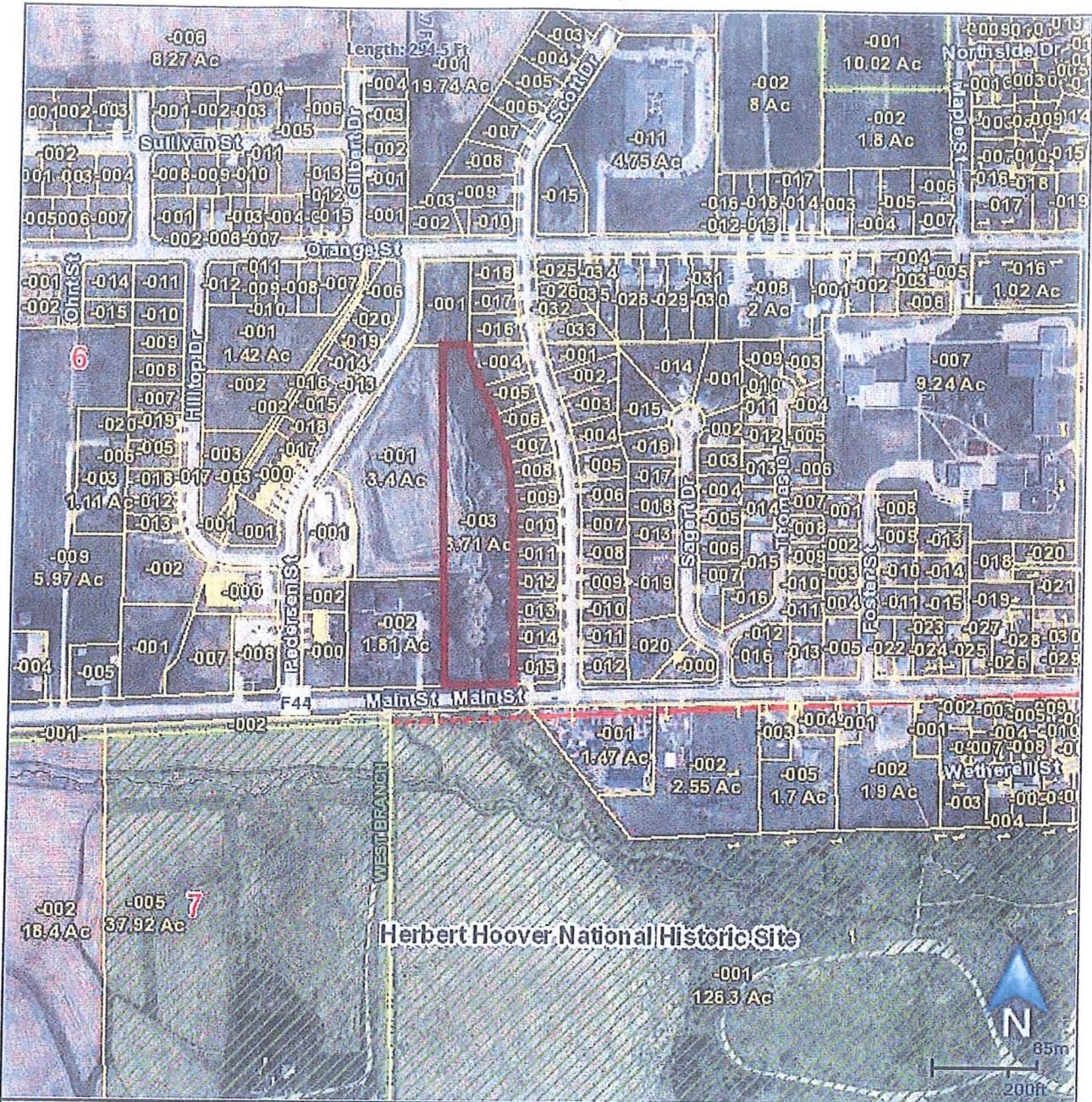
By:  _____
Jerry Strawn, Vice President, PV Properties, LLC



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Cedar County, IA



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