

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2024, Legislative Day No. 19

Resolution No. 48-24

Introduced by Ms. Pickard, Chair
(by request of the County Executive)

By the County Council, October 21, 2024

1 RESOLUTION approving the terms and conditions of the acquisition of real properties
2 in Gambrills and Millersville, Maryland, from Millersville Partners LLC, utilizing funds
3 from the Advance Land Acquisition Capital Project

4
5 WHEREAS, § 8-3-101(a) of the County Code empowers the County Executive to
6 purchase real property by agreement or eminent domain if an adequate
7 appropriation has been made by the County Council; and

8
9 WHEREAS, § 8-3-101(d)(2) requires that each agreement for the purchase of real
10 property utilizing funds from the Advance Land Acquisition Capital Project,
11 Project No. C106700, shall be contingent upon approval of the purchase by
12 resolution of the County Council; and

13
14 WHEREAS, § 8-3-101(d)(2) further provides that, prior to approval of the purchase
15 by resolution, the County Council shall require an independent appraisal, an
16 environmental study, and a feasibility study for the real property being purchased;
17 and

18
19 WHEREAS, the County Executive is utilizing funds from the Advance Land
20 Acquisition Capital Project to purchase the following contiguous properties from
21 Millersville Partners LLC (the “Seller”): (i) 1699 Millersville Road, Millersville,
22 MD 21108, comprised of 7.05 +/- acres, and further described in a Deed recorded
23 in the Land Records of Anne Arundel County (“Land Records”) in Book 26194,
24 page 242 (hereinafter referred to as “Parcel 1”); and (ii) 679 MD Route 3 North,
25 Gambrills, MD 21054, comprised of 0.90 +/- acres, and further described in a Deed
26 recorded in Land Records in Book 29118, page 86 (hereinafter referred to as
27 “Parcel 2”) (Parcel 1 and Parcel 2 are hereinafter collectively referred to as the
28 “Property”); and

29
30 WHEREAS, the County’s independent real estate appraisal estimates the “as-is”
31 market value of the Property to be Three Million Two Hundred Ninety-Five
32 Thousand Dollars (\$3,295,000); and

33
34 WHEREAS, in accordance with § 8-3-101(d)(2), the Department of Public Works
35 conducted an environmental assessment and a feasibility study for the Property;
36 and

1 WHEREAS, the County Executive has determined that the Property is needed by
2 the Board of Education of Anne Arundel County for use as a transportation facility,
3 and that acquisition of the Property for the sum of Three Million Five Hundred
4 Thousand Dollars (\$3,500,000) to be paid from the Advance Land Acquisition
5 Capital Project pursuant to the terms and conditions of the Agreement of Sale, as
6 amended by the First Amendment to Agreement of Sale (collectively the
7 “Agreement of Sale”), attached hereto as Exhibit A, would be in the best interests
8 of the County; now, therefore, be it

9

10 *Resolved by the County Council of Anne Arundel County, Maryland,* That, in
11 accordance with § 8-3-101(d)(2), it approves the acquisition of the Property pursuant to the
12 terms and conditions as set forth in Exhibit A; and be it further

13

14 *Resolved,* That a copy of this Resolution be sent to County Executive Steuart Pittman.

AGREEMENT OF SALE

THIS AGREEMENT OF SALE, made this _____ day of _____, 2024, by and between **MILLERSVILLE PARTNERS LLC, a Maryland Limited Liability Company**, (hereinafter collectively "**Seller**") and **ANNE ARUNDEL COUNTY, MARYLAND**, a body corporate and politic of the State of Maryland (hereinafter called "**Purchaser**").

WHEREAS, the Seller is the owner of **ALL OF THOSE PIECES OR PARCELS OF LAND** situate, lying an being in Anne Arundel County, State of Maryland, identified as follows: (i) Anne Arundel County Tax Map ("**Tax Map**") 0030, Parcel 0353, comprised of 7.05 +/- acres and further described in a Deed recorded in the Land Records of Anne Arundel County ("Land Records") in Liber 26194, folio 242 (hereinafter referred to as "**Parcel 1**"); and (ii) Tax Map 0030, Parcel 0357, comprised of 0.90 +/- acres, and further described in a Deed recorded in Land Records in Liber 29118, folio 086 (hereinafter referred to as "**Parcel 2**") (Parcel 1 and Parcel 2 are hereinafter collectively referred to as the "**Property**"); and

WHEREAS, the funds for the acquisition of the Property will come from the Advanced Land Acquisition Capital Project No. C106700; and

WHEREAS, the Purchaser desires to acquire the Property for the purpose of conveying to the Anne Arundel County Board of Education to construct a transportation facility; and

WHEREAS, the Seller wishes to sell the Property and Purchaser wishes to purchase the same, subject to the terms and conditions set forth herein.

NOW THEREFORE WITNESSETH: That for and in consideration of mutual covenants and promises herein made by the parties, the above recitals which are incorporated herein by reference and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. Seller agrees to sell and convey to Purchaser and Purchaser agrees to buy and accept from Seller the Property under the terms and conditions set forth in this Agreement of Sale.

2. The total purchase price for the Property shall be Three Million, Five Hundred Thousand Dollars (\$3,500,000) with settlement on or before **October 15, 2024**, contingent on the following occurring no later than one hundred eighty (180) days from the execution of this contract:

a. Satisfactory results of the tests and studies, in Purchaser's sole determination, as outlined in paragraph 9 of this Agreement of Sale; and

b. Sufficient appropriation and authorization by Anne Arundel County for the purchase price of the Property and any deposits, including approval of the County Council (for funds from the Advanced Land Capital Acquisition Project) as may be required.

3. Seller shall execute this Agreement of Sale on or before **April 30, 2024** after which time, if execution does not occur, this offer to purchase made by Purchaser to Seller shall be null, void, and of no effect; however, this Agreement may be extended by mutual agreement in writing by both parties.

a. Settlement shall be held at a location in Anne Arundel County, Maryland designated by Purchaser. Purchaser shall give Seller at least fourteen (14) days written notice of the date and location of the settlement.

b. Real estate taxes, general special taxes and rents, annual front foot benefit charges, special assessment tax or other annualized charges of a like nature are to be adjusted to the date of settlement and thereafter assumed by Purchaser.

c. Settlement costs including any title examination, title insurance, tax certificates, recordation and transfer taxes, if any, are to be paid by Purchaser.

4. At the time of settlement, the Seller shall convey a 100% interest in the Property to Purchaser by a fee simple deed with covenants of special warranty and further assurances. Title to the Property shall be good and merchantable, and insurable at regular market rates with only such exceptions as expressly agreed to by Purchaser, and free and clear of all liens and encumbrances, except for all matters of public record, including recorded easements for public utilities and any other easements which may be observed by an inspection of the Property.

In the event that Seller is unable to convey such title to Purchaser at settlement as required herein (a "**Title Defect**"), Seller, at Seller's sole expense, shall forthwith, but in no longer than 60-days after the settlement date and provided Purchaser agrees to a like extension of the settlement date, take such action as is required in order to cure the Title Defect. In the event Seller is unable to do so within the 60-day period, Purchaser at Purchaser's sole option may purchase the Property at the consideration stated in Paragraph 2 with the title defect, may extend for a reasonable period, but no longer than

120 days, the necessary time to complete the action undertaken to clear the title as required by this paragraph, or may declare this contract null, void, and of no effect, and upon such declaration, the parties shall have no further legal rights, responsibilities, obligations, or duties to each other hereunder.

5. Time is of the essence as to this Agreement of Sale.

6. a. Seller and Purchaser represent and warrant to each other that the person or persons executing this Agreement on behalf of each of them possess full legal power to do so and to carry out each and every obligation of this Agreement of Sale, and that Seller is capable of transferring good, insurable, and merchantable title.

b. Seller further represents that there are no leases, licenses, agreements, covenants or restrictions, tenants or occupants that may or will impair or affect Seller's title to this Property or in any way affect or impair Seller's ability to convey this Property or that will affect any right by Purchaser to use and possess the Property after settlement. Should a title examination or investigation reveal the existence of any such documentation or restriction on Purchaser's use of the Property, then Purchaser may, at Purchaser's sole option, declare this Agreement of Sale void and of no further effect.

7. Until execution and delivery of the deed by Seller to Purchaser, the risk of loss or damage to the Property or any portion thereof shall be assumed by Seller.

8. The Seller makes no representations or warranties as to the physical condition of the real property or any improvements thereon, and the Purchaser will be

receiving the real property "as-is, where-is, and subject to all faults," with all defects which may exist, except as otherwise may be provided in this Agreement of Sale.

9. During the term of this Agreement of Sale, Purchaser, at its own expense, shall have the right to cause surveys, title abstracts, boring tests, environmental studies or tests, feasibility studies, and such other studies with respect to the Property. In connection with the performance of its surveys, tests, abstracts, and studies conducted by the Purchaser, if the surveys, tests, abstracts, and studies conducted by Purchaser do not permit or warrant in the sole discretion of the Purchaser, or its engineers, attorneys, surveyors, architects or consultants, the acquisition and development of the Property for the Purchaser's purposes, the Purchaser shall have the right, exercisable by written notice given to Seller within one hundred twenty (120) days from the date of execution of this Agreement ("**Study Termination Date**") to terminate the Agreement. In that event, Purchaser shall be relieved from further liability hereunder for remainder of Property, at law or in equity, except that Purchaser's indemnification and restoration obligations set forth in this paragraph shall survive the termination. Notwithstanding anything contained above, if Purchaser determines that a Phase 2 Environmental Study is needed, the Study Period shall be extended by a period of thirty (30) days. To the extent permitted by law and subject to appropriation and availability of funds, the Purchaser shall indemnify and hold Seller harmless against any damages, liabilities and claims incurred by Seller as a result of Purchaser's activities upon or with respect to the Property. If the Purchaser terminates this Agreement pursuant to the provisions of this paragraph or any other provision of this Agreement of Sale, Purchaser, at its own

expense, shall (i) restore any damage to the Property caused by Purchaser making boring tests and other tests and studies, and immediately thereafter vacate. Nevertheless and notwithstanding the foregoing, Seller represents that it has no actual knowledge of any environmental physical condition or dumping on or in the Property rendering the Property un-useable or materially lowering its market value. If dumping or environmental conditions are found by the tests and studies, Seller may, in its sole discretion, mitigate and perform the clean-up at its sole cost and expense, the Purchaser and Seller may amend the purchase price to reflect this diminution of value based on the cost to cure or clean-up costs, or the Purchaser may determine in its sole discretion that the site does not warrant use for its facility and declare this Agreement null and void and of no effect with no further rights or obligations of the parties hereunder.

10. It is understood and agreed that the Purchaser shall not have any obligation or liability for the payment of any real estate brokerage commission nor the Seller's brokerage or legal expenses. Should any claim for a commission be established by any broker, agent, consultant or attorney on behalf of Seller, Seller expressly agrees to hold Purchaser harmless with respect thereto.

11. All notices under this Agreement of Sale shall be in writing and shall be deemed to be duly given if hand delivered or mailed by registered or certified mail, return receipt requested, as follows:

IF TO SELLER:

Millersville Partners, LLC
c/o Reliable Real Estate Services, LLC
2568A Riva Road, Suite 300
Annapolis, MD 21401

Attn: John Dixon

WITH A COPY TO:

KatzDay, LLC
2410 Evergreen Road, Suite 105
Gambrills, MD 21054
Attn: Ryan C. Day, Esq.

IF TO PURCHASER:

Chief, Right of Way Division
2662 Riva Road
Annapolis, MD 21401

Office of Law
2660 Riva Road
Annapolis, MD 21401

The parties shall be responsible for notifying each other of any change of address.

12. This Agreement of Sale contains the complete and entire agreement between the parties relating to the Property and no agreement or understanding whether written or oral, not herein contained shall be considered part of this Agreement unless set forth in writing between the parties.

13. The terms and provisions of this Agreement shall survive settlement and the execution and delivery of a deed from Seller to Purchaser shall not merge therein.

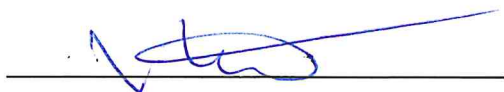
14. If any term, condition or covenant of this Agreement of Sale shall be declared invalid or unenforceable the remainder of the Agreement shall not be affected.

15. This Agreement of Sale shall be governed by Maryland law and be subject to the exclusive jurisdiction of the courts of Anne Arundel County, Maryland.

16. This Agreement shall inure to the benefit of the parties hereto, their heirs, personal representatives, legal representatives, successors and assigns as appropriate.


Purchaser may not assign this Agreement of Sale without the prior written consent of Seller, which may be withheld its sole and absolute discretion.

Witness:



Seller:


Millersville Partners, LLC,
A Maryland Limited Liability Company



By: _____ (Seal)
Print Name: Joseph C. Baldwin
Title: Manager

Attest:

Purchaser:
Anne Arundel County, Maryland

DocuSigned by:



Christine Anderson (Seal)
Chief Administrative Officer for
Anne Arundel County

REVIEWED AND APPROVED AS TO TERMS:

DocuSigned by:


5/7/2024 | 10:00 PDT

Director, Department of Public Works

DocuSigned by:

5/7/2024 | 12:53 EDT

Central Services Officer

Approved for sufficiency and availability of funds:

DocuSigned by:

5/9/2024 | 13:57 EDT

Controller Date

Approved as to form and legal sufficiency:

DocuSigned by:

5/7/2024 | 06:37 PDT

Christine Neiderer, Esq.
Senior Assistant County Attorney Date

Real Estate Division
2660 Riva Road
Annapolis, MD 21401

C106700
1699 Millersville Road

FIRST AMENDMENT TO AGREEMENT OF SALE

THIS FIRST AMENDMENT TO AGREEMENT OF SALE (“First Amendment”), made this ____ day of _____, 2024, by and between **MILLERSVILLE PARTNERS LLC** (hereinafter "Seller") and **ANNE ARUNDEL COUNTY, MARYLAND**, a body corporate and politic of the State of Maryland (hereinafter called "Purchaser").

WHEREAS, the Purchaser and Seller executed an Agreement of Sale dated March 9, 2024 (“AOS”) whereby the County agreed to purchase, and the Seller agreed to sell, certain properties identified as follows: (i) Anne Arundel County Tax Map (“Tax Map”) 0030, Parcel 0353, comprised of 7.05 +/- acres and further described in a Deed recorded in the Land Records of Anne Arundel County (“Land Records”) in Liber 26194, folio 242 (hereinafter referred to as “Parcel 1”); and (ii) Tax Map 0030, Parcel 0357, comprised of 0.90 +/- acres, and further described in a Deed recorded in Land Records in Liber 29118, folio 086 (hereinafter referred to as “Parcel 2”) (Parcel 1 and Parcel 2 are hereinafter collectively referred to as the “Property”); and

WHEREAS, the County and Seller agreed to settle on or before October 15, 2024 contingent upon 1) satisfactory results of environmental tests and studies as set forth in the Agreement; and 2) approval of the County Council by resolution; and

WHEREAS, the Phase I Environmental Assessment revealed evidence of environmental conditions that require remediation work to be completed by the Seller; and

WHEREAS, the parties wish to extend the settlement date to allow additional time for: 1) the Seller to complete the remediation work; and 2) the County to obtain approval by the County Council.

NOW THEREFORE WITNESSETH: That for and in consideration of mutual covenants and promises herein made by the parties, the above recitals which are incorporated herein by reference and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. The settlement date is hereby extended until December 31, 2024 to allow the Seller additional time to complete all necessary remediation work to resolve environmental conditions and for the County to obtain Council approval.
2. This First Amendment may be executed in counterparts. Electronic signatures hereon shall be deemed valid to the same extent as originals.
3. Except as modified or as set forth herein, the Agreement shall remain in full force and effect.

Witness:

Seller:

Millersville Partners, LLC, a Maryland
Limited Liability Company

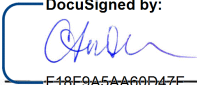
(Seal)

Print Name: JOSEPH G. BALDWIN

Title: MANAGER

Attest:

Purchaser:
Anne Arundel County, Maryland

By:  (Seal)
F18F8A5AA60D47F...
CHRISTINE ANDERSON,
Chief Administrative Officer for
Anne Arundel County


NOTED:


991874E9C597467...
Controller

9/16/2024 | 16:42 EDT
Date

REVIEWED AND APPROVED AS TO TERMS:


ED136CBAD3C8477...
Director, Department of Public Works


339D066A03774E8...
Central Services Officer

APPROVED FOR FORM AND LEGAL SUFFICIENCY:


1D8E737E8AE14BD...
Christine B. Neiderer, Senior Asst. County Attorney

9/16/2024 | 10:15 PDT
Date