FOUNDATION RESOLUTION NO. R-13-02

A RESOLUTION TO AUTHORIZE THE EXECUTION OF A CONTRACT FOR THE PURCHASE OF PROPERTY LOCATED AT US HWY 166 AND CR 5300.

BE IT RESOLVED, by the Board of Commissioners of the City of Coffeyville, Kansas, that the Mayor and the City Clerk be and are hereby authorized to execute a contract and all other required documents for the purchase of property located at US Hwy 166 and CR 5300 in the amount of $257,000.

ADOPTED THIS 26th DAY OF NOVEMBER, 2013.

_____
David George, Mayor

ATTEST:

_____
Cindy Price, City Clerk

APPROVED AS TO FORM AND LEGALITY:

_____
Paul Kritz, City Attorney

CONTRACT OF SALE FOR REAL ESTATE

KANSAS

Listing Agency: Contract # _____

The undersigned ***BUYER*** offers to purchase the real property described herein from ***SELLER*** according to the terms and Conditions set forth below and under the standard terms attached hereto and shall become a binding contract upon acceptance by seller on or before said date. TIME IS OF THE ESSENCE

1. PARTIES: ***SELLER (S) Orange Development-Coffeyville LLC***

BUYER (S) **City of Coffeyville Foundation**

2. PROPERTY: (Street) US 166 & CR 5300 (City) **Coffeyville**

(County) **Montgomery** (State) **KANSAS**

Legal Description: LOT:1,4 SEC/TWN/RNG/MER:SEC 31 TWN 34S RNG 17E COFFEYVILLE CITY UNPLATTED, S31, T34, R17, ACRES 4.54, BEG NW COR LT 4, WAL-MART ADD, S ALG W LI SD LT 4 212.83', W ALG N LI MAP REF:MAP 209 and DIST:A2 SEC/TWN/RNG/MER:SEC 32 TWN 34S RNG 17E CHEROKEE TOWNSHIP, S32, T34, R17, 42815 SQUARE FEET, BEG 1719.84' S NW COR NW4, E 327' S 200' W 327' N TO POB, EX W 25' LYG MAP REF:MAP 209

PURCHASE PRICE INCLUDES all attached improvements, including, but not limited to the following items, if any: central gas Heaters, attic fan, central air conditioner, lighting, ceiling fans, heating, plumbing equipment and fixtures, bathroom mirrors, Window and porch shades, shutters, storm window-doors, screens, curtain rods, awnings, television antenna, antenna equipment, keys, water softener (if owned), gas grill (if attached) , gas lights, automatic garage door equipment including transmitters, attached and unattached wall to wall carpeting, built-in kitchen appliances , attached shelves, smoke alarms, propane tank (if owned) and storage shed.

3. PURCHASE PRICE: _____ **$ 257,000.00**

Payable as described under the standard terms attached hereto,

EARNEST MONEY of _____ $ 0.00

to be deposited in the trust account of **N/A**_____. Upon acceptances of this offer and held pursuant to the terms on the standard terms attached hereto.

4. FINANCING: This offer is contingent upon ***BUYER*** obtaining financing or loan commitment____ Yes __X__ No. Application shall be made within **5** days of acceptance hereof in the manner indicated below. All cost incurred in connection with obtaining such financing shall be paid by ***BUYER.*** Unless otherwise indicated. (Check and complete below if applicable).

() a. NEW First Mortgage loan to be negotiated between the ***BUYER*** and the lender from whom ***BUYER*** desires to secure a loan.

(**X**) b. CASH AT CLOSING ***SEE ADDITIONAL TERMS.

( ) c. OTHER (See additional terms)

5. **CLOSING AND POSSESSION:** Subject to all the terms and conditions of this agreement, final settlement will be on or before _Nov 27th, 2013_____. ***SELLER*** shall deliver possession of the property on closing.

6. ***SELLER*** and ***BUYER*** both agree, should there be a delay obtaining loan commitment, or financing due to appraisal, survey, title search, structural repair or any other requirement made of the ***SELLER*** and ***BUYER*** by the lender, that ***SELLER*** and ***BUYER*** hereby agree to extend this agreement for an additional ***30 days***.

7. TITLE: ***SELLER*** shall deliver immediately upon brokers request a properly executed general warranty deed conveying Merchantable fee simple title to ***BUYER*** free and clear of all liens and encumbrances, except as herein provided, and subject to Covenants, declarations, restrictions, zoning laws, easements, party wall agreements, special assessments and community contracts of record at closing along with satisfactory evidence of title in the form of (check one):

(X) TITLE INSURANCE ( ) ABSTRACT (X) to be paid EQUALLY ( ) OTHER

8. CLOSING AGENT for this transaction to be: Kansas Secured Title. A closing fee may be charged by the closing agent for services associated in closing this transaction. Said fee to be paid: ( ) by ***SELLER*** ( ) by ***BUYER*** (x) Equally by ***SELLER*** and ***BUYER.***

INITIALS: ***BUYER*** _____ ***SELLER*** _____ ***DATE*** 11/20/13

1/2009

Approved by Counsel

9. AGENCY DISCLOSURE: ***SELLER*** and ***BUYER*** acknowledge that the real estate licensees involved in this transaction may be functioning as agent for the Seller, agents for the Buyer, or Transaction Brokers. Licensees functioning as an agent of the Seller have a duty to represent the Seller's interest and will not be the agent of the Buyer. Information given by the Buyer to an agent for the Seller will be disclosed to the Seller. Licensees functioning as an agent of the Buyer have a duty to represent the Buyer's interest and will not be the agent of the Seller. Information given by the Seller to an agent for the Buyer will be disclosed to the Buyer. A licensee functioning in the capacity of a Transaction Broker is not an agent for either party, so the Transaction Broker does not advocate the interest of either party. ***SELLER*** and ***BUYER*** acknowledge that the "REAL ESTATE BROKERAGE RELATIONSHIPS" Brochure was furnished to them prior to their execution of this contract.

Listing Broker/Licensee is functioning as a___ Seller's Agent _____Designated Seller's Agent(Supervising Broker acts as Transaction Broker)__x__Transaction Broker____ N/A. Seller(s) is (are) representing themselves
Selling Broker/Licensee is functioning as a____Seller's Agent _____Designated Seller's Agent (Supervising Broker acts as Transaction Broker) _x___Transaction Broker___Buyer's Agent____Designated Buyer's Agent (Supervising Broker acts as Transaction Broker) _____ N/A. Buyer(s) is (are) representing themselves.

10. HOME WARRANTY: ***SELLER*** _____agrees,___X___disagrees to purchase a One Year Home Warranty Plan from HMS at a cost not to exceed $490.00 to be paid at closing. The ***SELLER*** AND ***BUYER*** acknowledge George Realtors will receive a commission for the purchase of a Home Warranty Plan..

11. INSPECTIONS (APPLICABLE INSPECTIONS MUST BE CHECKED): ***BUYER*** and ***SELLER*** agree that the real estate licensees involved in this transaction are not experts regarding whether any environmental or health hazards, defects in mechanical equipment or systems, structural defects, or damage from wood destroying insects exist in and on the property. ***BUYER*** and ***SELLER*** should seek expert advice and obtain inspections to determine if hazards, defects or damage exist in and on the property. If inspections are not performed regarding all or part of the property, ***BUYER*** is bound by whatever information an inspection would have revealed, and waives any claim, right or cause of action relating to or arising from any condition of the property that would have been apparent had inspections been performed. Unless otherwise provided in paragraphs relating to specific inspections, ***BUYER*** accepts the property in it current condition.

ENVIRONMENTAL OR HEALTH: ***BUYER*** may at Buyer's expense, conduct inspections to determine the presence of any environmental or health hazards affecting the property. These inspections may cover, without limitation, the following: Radon Gas, asbestos, formaldehyde foam insulation, lead-based paint or any other environmental or health hazard.

__ **MECHANICAL/STRUCTURAL INSPECTIONS**: ***BUYER*** may at ***BUYER'S*** expense conduct inspections of the mechanical equipment and systems servicing the property. SELLER agrees that the following equipment and systems, if any, shall be in operating condition at the time of closing unless otherwise stated herein: all appliances, plumbing system (excluding septic system), electrical system, heating system, central air conditioning system, and all other mechanical equipment sold with the property. The mechanical inspection does not include the Septic Inspection which is defined in Paragraph 12.

__ **STRUCTURAL INSPECTIONS**: ***BUYER*** may at ***BUYER'S*** expense conduct inspections of all structural aspects of the property by qualified professionals to determine the existence of any structural defects. These inspections may cover, without limitation, the following: foundation slab, roof, fireplace, chimney, sliding windows or doors, ceiling, floors, the exterior, the interior, any wall or other structural aspect of the property.

____BUYER may at BUYER'S expense conduct inspections of all aspects of the property by qualified professionals to determine the existence of any defects. Results of said inspections shall be given in writing to SELLER within _10___ working days after the effective date of this contract unless extended by agreement of the parties. SELLER agrees to make repairs in the amount not to exceed $_0.00__. (This does not apply to septic repairs, which SELLER agrees to make in order to comply with Montgomery County Health Department requirements.) If deficiencies are found that exceed buyers expectations and a remedy cannot be negotiated the BUYER may cancel this contract and any earnest money shall be returned to the BUYER less any costs for inspections ordered by the Broker or Licensee on behalf of the BUYER. In the event no written statement is delivered to SELLER or Broker/Licensee as provided herein, SELLER'S obligation to make repairs shall be deemed satisfied. BUYER shall have the right to inspect any repairs made pursuant hereto prior to closing.

___ **WOOD INFESTATIONS**: ***BUYER*** may at ***BUYER'S*** expense arrange for an inspection by a licensed pest control firm to determine the presence of wood destroying insects in the accessible areas of the property. If the written inspection report reveals evidence of active infestation, or evidence of past untreated infestation, ***SELLER*** agrees to pay to have the property treated for control of infestation and to provide ***BUYER*** with a certificate evidencing treatment by a reputable licensed pest control firm of ***SELLER 'S*** choice, which certificate ***BUYERS*** agrees to accept. **THE INSPECTION AND TREATMENT SHALL BE COMPLETED NO EARLIER THAN THIRTY (30) CALENDAR DAYS PRIOR TO THE CLOSING DATE.** ***Initial if Waived: BUYER_____,_____SELLER_____,_____.***

12. SEPTIC AND RURAL WATER: SELLER'S with rural water rights agree to transfer their rights at the time of closing. ***SELLER'S*** with private water wells/ and or septic tanks, lagoons and lateral fields agree to provide ***BUYER*** with statement of approval from the county health department prior to closing. Any deficiencies found shall be corrected by the ***SELLER*** and the statement issued prior to closing.

INITIALS: ***BUYER*** _____ ***SELLER*** GP ***DATE*** 11-20-13

STANDARD TERMS

a. PARTIES: if two or more persons constitute either the BUYER or SELLER the words "BUYER" or "SELLER" shall be construed as if to read "BUYERS" or "SELLERS" whenever the sense of this agreement requires. Unless expressly identified as BUYER or SELLER , LISTING BROKER, and any cooperating broker (hereinafter collectively referred to as BROKER) are acting as agents only and are not parties to this agreement nor are they responsible to either party for the performance of any term or condition hereof.

b. PURCHASE PRICE: The purchase price, adjusted by proration's as herein provided, shall be paid to the SELLER at the closing with credit to the BUYER at the closing for (1) the earnest money deposited herewith; (2) the amount of any existing mortgage or lien indebtedness assumed by BUYER; (3) the amount of any loan to be carried by SELLER, if applicable; and (4) the balance by CASHIER'S CHECK or CERTIFIED FUNDS.

c. EARNEST MONEY DEPOSIT: The Earnest Money will be deposited within the forenamed trust account within 5 working days of acceptance of this offer. Interest earned on escrow funds, if any, shall be retained by the escrow agent as consideration for maintaining said account. Any time this agreement is canceled pursuant to the terms hereof and/or the earnest money deposit is to be forfeited or refunded, the amount to be distributed shall first be reduced by any unpaid charges for credit reports, appraisals, surveys, inspections and title investigation fees, if any, incurred by lender, broker or escrow agent on behalf of BUYER and/or SELLER.

Notwithstanding other terms of this contract providing for the forfeiture or refund of the earnest money deposit, the parties understand that the applicable Kansas real estate laws prohibit the escrow agent from distributing the earnest money, once deposited, without the consent of all the parties to this agreement. BUYER and SELLER agree that failure by either to respond in writing to a certified letter from broker or escrow agent within seven (7) days of receipt thereof or failure to make written demand for return or forfeiture of an earnest money deposit within thirty (30) days of notice of cancellation of this agreement shall constitute consent to distribution of the earnest money deposit as suggested in any such letter or demanded by the other party hereto. In the event of a dispute over the disposition of the earnest money deposit resulting in litigation, the parties agree that any cost or attorney fees incurred by the escrow agent or broker shall be reimbursed from the deposit.

d. FINANCING: If this agreement is contingent upon BUYER'S obtaining financing, BUYER shall within **five (5) days** of the acceptance hereof, make application for the indicated financing, if required by lender, and promptly furnish the proposed lender with all information requested, and:
1. In the event BUYER, after good faith effort, is unable to obtain the indicated financing within the period provided, Buyer shall immediately notify Seller and this agreement shall be canceled and the earnest money shall be refunded to BUYER.

e. EVIDENCE OF TITLE: SELLER shall within seven (7) days after loan approval or request from broker or escrow agent, deliver to who directed, an updated abstract of title or a commitment for a title policy, whichever is applicable. BUYER shall have ten (10) days from the receipt thereof to notify SELLER of any legal, lawful objections to the title, SELLER shall have a reasonable time thereafter to correct any valid objections to the title.

f. PRORATIONS: SELLER shall pay all taxes, general and special, special assessments, and home association dues, if any, for the years prior to the current calendar year. General taxes, special assessments installments, and home association dues, maintenance fees, rental from the property if any, insurance if assumed, and interest on existing loans to be assumed by BUYER shall be prorated between BUYER and SELLER to the date of possession. If the amount of such taxes and/or assessments cannot be ascertained, proration's shall be computed on the amount thereof for the preceding calendar year unless the preceding years' taxes were based upon a lesser improved property, in which event, taxes shall estimated on the basis of preceding years' mill levy. BUYER shall assume all general and special taxes and special assessments other than those paid by SELLER as described herein.

g. SURVEY: BUYER may, at BUYER'S expense, obtain a survey of the property before the closing date to assure that there are no defects, encroachments, overlaps, boundary line or acreage disputed or any other matter that would be disclosed by a survey. The parties agree that the results of the survey may be the basis for a timely objection to the title to the property. A mortgage inspection report, loan survey or a boundary survey may or may not be a complete survey.

h. CASUALTY LOSS: If before delivery of possession any of the improvements on said property or any personal property to be conveyed hereunder are destroyed or damaged by any casualty, SELLER may repair, replace or rebuild without notice, if the damage is minor and can be completed prior to closing. Otherwise SELLER shall notify BUYER in writing of any such occurrence. Subsequent to the receipt of such notice, BUYER may elect to either enforce the contract without reduction of the purchase price in the property's "as is" condition at the said time and with full assignment of the proceeds of SELLER'S fire and extended coverage insurance, if any; or BUYER may cancel the contract and be entitled to a refund of the earnest money deposit. BUYER shall notify the SELLER in writing of BUYER'S election within ten (10) days of receipt of the notice of casualty loss. SELLER agrees to maintain current insurance policies in effect through date of BUYER'S closing.

i. REPRESENTATION AND RECOMMENDATIONS: It is hereby agreed and acknowledged by the parties hereto that neither the SELLER, the LISTING BROKER, the SELLING BROKER, or their escrow agents, or associates have made, on their own behalf, any warranties, expressed or implied with the respect to any element of the subject property. Any statements made on herein have been made by the listing/selling brokers based on information supplied by sources believed to be reliable, and brokers and their associates have not assumed any responsibility, directly or indirectly, with respect to any representation or warranties which have been made that are not set forth specifically in the printed form of this contract, they must be set forth specifically and in writing herein to be effective or enforceable.

INITIALS: BUYER _____ SELLER GP DATE 11-20-13

13. LEAD BASED PAINT DISCLOSURE: ***SELLER*** and ***BUYER*** acknowledge that the real estate licensees involved in this transaction have informed them that dwellings built prior to 1978 may present exposure to lead based paint. ***BUYER*** further acknowledges receipt of a booklet provided by the EPA titled PROTECT YOUR FAMILY FROM LEAD IN YOUR HOME.

14. Kansas Law requires persons who are convicted of certain crimes, including certain sexually violent crimes, to register with the sheriff of the county in which they reside. If you as the buyer, desire information regarding those registrants, you may find information on the homepage of the Kansas Bureau of Investigation (KBI) at http://www.Kansas.gov/kbi or by contacting the local sheriff's office.

15. RADON GAS: Every Buyer of residential real property is notified that the property may present exposure to dangerous concentrations of indoor radon gas that may place occupants at risk of developing radon-induced lung cancer. Radon, a class-A human carcinogen, is the leading cause of lung cancer in non-smokers and the second leading cause over all. Kansas law requires sellers to disclose any information known to the seller that shows elevated concentrations of radon gas in residential real property. The Kansas Department of Health and Environment recommends all home-buyers have an indoor radon test performed prior to purchasing or taking occupancy of residential real property. All testing for radon should be conducted by a radon measurement technician. Elevated radon concentrations can be easily reduced by a radon mitigation technician. For additional information go to http://www.kansasradonprogram.org.

16. DEFAULT: In the event ***SELLER*** has complied with the terms of this agreement and ***BUYER*** fails to comply or close prior to the possession date or other date for closing stated herein, except by reason of the failure of an expressed contingency hereof, the earnest money deposited shall be forfeited to ***SELLER. SELLER*** may agree to pay LISTING BROKER fifty percent of the earnest money. ***SELLER/BUYER*** may exercise any and all remedies available at law or in equity to recover any damage, direct or consequential, resulting from ***BUYER 'S/SELLER'S*** breach. **If, upon default, either Seller or Buyer determines to pursue Seller's or Buyer's legal remedies, and the non-defaulting party is successful in enforcing his or her remedy, then, unless otherwise provided by law, the party who defaulted on the contract will pay the non-defaulting party's attorney fees, costs, and/or expenses incurred in enforcing the non-defaulting party's remedy**

17. ADDITIONAL TERMS: The Agent is a licensed Real Estate Broker and a member of the Coffeyville City Commission. This offer is contingent upon approval of the City of Coffeyville Foundation.

18. ***SELLER*** directs the closing agent to deduct from the proceeds of this sale a real estate commission of __6 %__ (minimum of $1,000.) of the total consideration expressed within this agreement for professional services and to make payable to **George Realtors.**

19. HEIRS AND ASSIGNS: This contract constitutes the entire agreement between the parties and supersedes any previously executed Contracts, representations, verbal or written, to buy and/or sell the Property and cannot be changed except by their written agreement. Neither this Contract, nor any interest herein, shall be transferred or assigned by ***BUYER*** without the written consent of SELLER. This Contract shall be fully binding upon the parties, their heirs, executors, administrators, successors and assigns except as limited herein. No assignment shall serve to release or relieve the party assigning from any responsibilities or obligations hereunder. This Contract and its validity, construction and performance shall be governed by the laws of Kansas.

20. This contract has been approved as a form contract by attorneys for the Coffeyville Board of REALTORS® for use by its members. This is a legal binding contract when the blanks are completed and the contract is signed by SELLER and BUYER. If not understood, the listing and selling brokers recommend both SELLER and BUYER seek the advice of an attorney before signing the completed contract. SELLER and BUYER hereby acknowledge receipt of the separate expense itemizations estimating approximate costs to be incurred in acquiring or disposing of this property.

Buyer _City of Coffeyville Foundation_____ Date

Seller _____ 11-20-2013 Date

Buyer_____ Date

Seller _____ Date

The date of final acceptance, the "EFFECTIVE DATE" IS_____

Selling Firm: George Realtors
Agent: David L George
Phone – Office:
Phone – Cell:
Fax # :
e-mail:

Listing Firm: George Realtors
Agent: David L George
Phone –
Phone – Cell:
Fax #
e-mail: