

AGREEMENT TO PURCHASE

To: **Jill E. Hittle, Trustee** ("Seller")

Date: **March 25, 2020**

I/We the undersigned Buyer(s) ("Buyer") offer to purchase Tract(s) _____, being approx. _____ (±) acres of land in Preble County, Ohio, as identified by reference to the same tract number(s) in the attached **Exhibit A**, together with the improvements and permanent fixtures, if any, presently existing on said land (the "Property"), and being one or both of the tracts put up for bids at the public auction conducted on this date by Schrader Real Estate and Auction Company, Inc. ("Auction Company"). This offer incorporates the terms and conditions set forth herein, the Revised Auction Tract Map attached as **Exhibit A** and the auction announcements attached as **Addendum A** (collectively, this "Agreement").

1. **PURCHASE PRICE.** The purchase price is \$ _____, to be paid via wired funds at closing (plus expenses charged to Buyer, less applied Earnest Money and any other credits due Buyer, as provided in this Agreement). The purchase price shall be adjusted at closing if and only if an adjustment is applicable in accordance with the terms of Addendum A.
2. **EARNEST MONEY.** Upon Seller's acceptance of this offer, Buyer shall deliver to Auction Company the sum of \$ _____ (the "Earnest Money"), to be held in escrow, delivered to the closing agent at or prior to closing, and applied to the purchase price at closing. The Earnest Money must be received by Auction Company by **Friday, March 27, 2020**.
3. **PRO-RATED TAXES.** Property taxes shall be pro-rated to the date of closing using the local "short pro-ration" method.
4. **SURVEY.** A new survey shall be obtained if and only if obtained in accordance with the provisions of Addendum A.
5. **DEED; TITLE INSURANCE.** The Property shall be conveyed by Trustee's Deed (subject to the Permitted Exceptions), to be furnished at Seller's expense. Seller shall furnish a commitment, updated to a date after the Auction and prior to closing, for the issuance of a standard owner's title insurance policy in the amount of the purchase price insuring marketable title to the Property in Buyer's name, subject to standard exceptions, conditions and requirements and subject to the Permitted Exceptions (the "Final Title Commitment"). At closing, Seller shall pay for the cost of issuing a standard owner's title insurance policy in accordance with the Final Title Commitment.
6. **PERMITTED EXCEPTIONS.** Buyer agrees to accept the title, title insurance and any survey notwithstanding any of the following matters (the "Permitted Exceptions"): (a) existing roads, public utilities and drains; (b) visible and/or apparent uses and easements; (c) any variation between a deeded boundary line and a fence line, field line or other visible or apparent occupancy or occupancy line; (d) recorded easements, restrictions and other matters appearing of record (except liens); (e) current taxes and assessments; (f) any matter disclosed in Addendum A; and (g) any matter (except liens, if any) disclosed or listed in the preliminary certificate of title described in Addendum A.
7. **CLOSING.** Closing shall be held **on or before April 27, 2020** (or as soon as possible after said date upon completion of the survey, if applicable, the Final Title Commitment and Seller's closing documents). The closing shall be held at or administered through the office of **Southwestern Ohio Title Agency, 201 S. Barron St., Eaton, OH (Tel: 937-472-9015)**, or otherwise as mutually agreed. If Seller is unable to convey the Property in conformance with the requirements of this Agreement: (i) such inability shall constitute a failure of a condition but not a Seller default; (ii) either party may terminate this Agreement by written notice to the other; and (iii) in the event of such termination by either party, Buyer shall receive the Earnest Money as Buyer's sole and exclusive remedy; *provided, however*, prior to any such termination by Buyer, Buyer must give Seller sufficient written notice of the nonconformity to enable Seller to cure the nonconformity and Seller shall have the right to extend the date of closing for up to 30 days in order to cure such nonconformity.
8. **RISK OF LOSS.** The Property shall be conveyed at closing in substantially its present condition, normal wear and tear excepted. Seller assumes the risk of loss and damage until closing. Seller's insurance may be canceled as of the closing date.
9. **POSSESSION.** Possession shall be delivered in accordance with Addendum A. Seller shall pay for all utilities until possession is delivered.
10. **THE PROPERTY IS SOLD "AS IS, WHERE IS". ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE CONDITION OF THE PROPERTY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED. IN NO EVENT SHALL SELLER OR AUCTION COMPANY BE LIABLE FOR CONSEQUENTIAL DAMAGES.**
11. **REMEDIES; BUYER DEFAULT.** "Buyer Default" refers to nonpayment of the Earnest Money in accordance with this Agreement (including nonpayment or dishonor of any check delivered as Earnest Money) and/or the failure of this transaction to close due to nonperformance, breach and/or default with respect to the Buyer's obligation(s) under this Agreement. In the event of a Buyer Default, the following provisions shall apply:
 - a. Seller shall have the right to demand and recover liquidated damages in an amount equal to ten percent (10%) of the Purchase Price. Upon Seller's demand and receipt of such liquidated damages, this Agreement shall be completely terminated in all respects. Buyer acknowledges and agrees that, in the event of a Buyer Default, it would be impractical and extremely difficult to calculate the damages which Seller may suffer and that the liquidated damages amount provided above is a reasonable estimate of the total net economic detriment that Seller would suffer due to a Buyer Default. If this liquidated damages provision is adjudicated as unenforceable, all other remedies shall be available to Seller, in equity or at law, including the right to recover actual damages, plus attorney fees.
 - b. The Earnest Money shall be applied towards any sums that Seller is entitled to recover from Buyer and, upon Seller's demand, Buyer shall execute and deliver to the escrow agent or closing agent holding the Earnest Money ("Escrow Agent") an instrument authorizing the payment of such funds to Seller up to the amount due Seller. If Buyer fails to execute and deliver such authorization, the funds shall remain in escrow until properly adjudicated and Seller shall have the right to recover from Buyer, in addition to any other recovery, all expenses, including reasonable attorney fees, incurred by Seller in seeking to enforce any right or remedy.
 - c. Without limiting the foregoing provisions, Seller's remedies in the event of a Buyer Default shall include the right to terminate Buyer's right to acquire the Property under this Agreement (without prejudice to Seller's right to recover damages, including liquidated damages as provided above) by giving notice of such termination to Buyer. Any such termination shall be effective as of a date specified in a notice of termination from Seller to Buyer (but not earlier than the effective date of the notice). At any time after the effective date of such termination, Seller shall have the absolute and unconditional right to sell the Property free and clear of any right or claim of Buyer whatsoever.
12. **REMEDIES; SELLER DEFAULT.** If this transaction fails to close due to nonperformance, breach and/or default with respect to the Seller's obligation(s) under this Agreement: (a) Buyer shall have the right to demand and receive a full refund of the Earnest Money; (b) upon such demand and Buyer's receipt of the Earnest Money, this Agreement shall be completely terminated in all respects at such time; and (c) at Buyer's option, at any time prior to such termination, Buyer may elect instead to seek specific performance of Seller's obligations.
13. **REMEDIES; GENERAL.** If this transaction fails to close then, notwithstanding any other provision, Escrow Agent is authorized to hold the Earnest Money until it receives either: (a) written disbursement instructions signed by Buyer and Seller; (b) a written release signed by one party authorizing disbursement to the other party; or (c) a final court order specifying the manner in which the Earnest Money is to be disbursed. In the event of a lawsuit between the parties seeking any remedy or relief in connection with this Agreement and/or the Property, the prevailing party in such lawsuit shall be entitled to recover its reasonable attorneys' fees and expenses. **BUYER AND SELLER WAIVE ANY RIGHT TO A TRIAL BY JURY.**
14. **AGENCY. Auction Company and its agents and representatives are acting solely on behalf of, and exclusively as the agent for, the Seller. This Agreement is solely between Buyer and Seller. The Auction Company and its employees, representatives and independent agents shall not be liable for any existing or arising defects or deficiencies in any land, improvements, fixtures or equipment.**
15. **1031 EXCHANGE.** Each party shall reasonably cooperate if another party intends to structure the transfer or acquisition of the Property as part of an exchange under 26 U.S.C. § 1031 ("Exchange"). This Agreement may be assigned for purposes of an Exchange, but the assignor shall not be released from any obligation. A party is not required to assume or incur any additional obligation in connection with another party's Exchange.
16. **GENERAL PROVISIONS.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, personal representatives and successors. This Agreement constitutes the entire agreement between Buyer and Seller regarding the Property. Neither party is relying upon any other statement or promise and neither shall be bound by any purported oral modification or waiver. Time is of the essence. All terms and conditions of this Agreement (including Addendum A) shall survive the closing. This Agreement to Purchase and Addendum A shall be read and construed together as a harmonious whole. This Agreement may be executed in multiple counterparts, all of which together shall constitute the same instrument and, for such purposes, the electronic transmission of a signed counterpart via email, fax or a commonly-used electronic signature service such as DocuSign® shall have the same effect as the delivery of an original signature.
17. **ACCEPTANCE DEADLINE.** This offer shall be deemed automatically withdrawn and the Earnest Money shall be returned to Buyer if this offer is not accepted by Seller in writing on or before 11:59 pm on **March 25, 2020**.

Printed Name(s) of Buyer(s): _____

Signature(s) of Buyer(s): _____

Address: _____ Phone: _____

Deed to: _____ Lender/Contact: _____

ACCEPTED BY SELLER on this **25th** day of **March, 2020**: Sign: _____ (Jill E. Hittle, Trustee)

EARNEST MONEY of \$ _____ received on _____, 2020. Auction Company, by: _____

EXHIBIT A

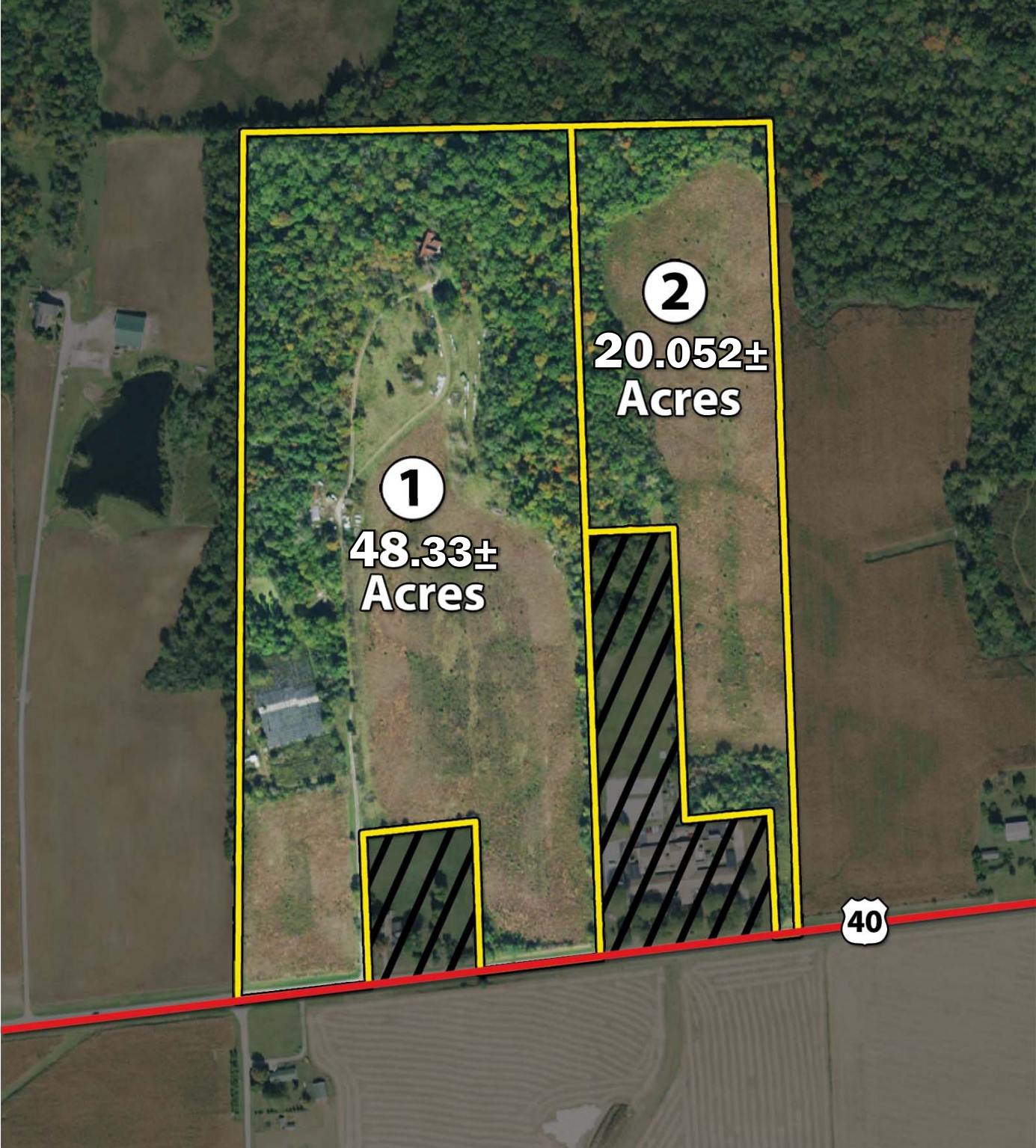
Revised Auction Tract Map

Buyer(s): _____

Seller: _____

Auction Date: 3/25/2020

Pt. NW4 Sec. 33-T9N-R1E (Jefferson Twp.) in Preble County, Ohio



Boundary lines and/or acreages depicted in the marketing materials and auction tract maps, including this Exhibit A, are approximations and are provided for identification and illustration purposes only. They are not provided or intended as survey products or as authoritative representations of property boundaries and/or acreages.

I/We have read this Addendum and agree to these auction conditions.

Buyer(s): _____

Seller: _____

ADDENDUM A

SCHRADER REAL ESTATE AND AUCTION COMPANY, INC.
Auction Marketing Specialists Nationwide

Date: March 25, 2020

Owner: Jill E. Hittle, Trustee

Sale Manager: Andy Walther

SCHRADER REAL ESTATE AND AUCTION COMPANY, INC. welcomes you to bid YOUR price on the real estate offered at this auction.

PART A - BIDDING PROCEDURES TO KEEP IN MIND:

1. Bidding is open to registered bidders who have made arrangements with the Auction Company to bid online or via telephone. Bidding is limited to online bidding and telephone bidding.
2. This is a multi-parcel auction. You may bid on either tract individually or the entire property as a whole. Bidding will remain open on the individual tracts and the entire property until the close of the auction.
3. The auction will be conducted by and at the direction of the auctioneer calling the bids. Bidding will be on a lump sum basis. Minimum bids and bidding increments are at the auctioneer's discretion.
4. Your bidding is not conditional upon financing, so be sure you have arranged financing, if needed, and are capable of paying cash at closing.
5. The final bid(s) are subject to the Seller's acceptance or rejection.

PART B - TERMS OF SALE OUTLINED:

6. 10% of the purchase price is due as an earnest money deposit upon Seller's acceptance of any bid. The earnest money deposit shall be delivered by check (payable to the Auction Company) or by wire transfer (to an account designated by the Auction Company). In any event, the earnest money deposit must be received by the Auction Company by **Friday, March 27, 2020**.
7. The balance of the purchase price is due in cash at closing. The closing will be scheduled in accordance with the Agreement to Purchase in your Bidder's Packet. The targeted closing period is on or before April 27, 2020.

8. The closing agent's fee for administering the closing will be shared equally (50:50) between Buyer and Seller. Seller will pay the Ohio real estate conveyance fee and any county transfer taxes. Buyer will pay all costs of any loan obtained by Buyer.
9. Property taxes will be pro-rated to the date of closing using the local "short pro-ration" method.
10. The real estate has been taxed at a reduced Current Agricultural Use Value (CAUV). Buyer will be responsible for the payment of any CAUV recoupment taxes if Buyer converts the property to a non-agricultural use or if the property otherwise fails to qualify for CAUV due to any act or omission of Buyer.
11. At closing, Seller will furnish the deed and owner's title insurance at Seller's expense in accordance with the terms of Section 5 of the Agreement to Purchase.
12. Buyer agrees to accept the title and title insurance subject to all "Permitted Exceptions" as defined in Section 6 of the Agreement to Purchase.
13. A preliminary certificate of title dated February 14, 2020 has been prepared by the law firm of Charles D. Hubler and is available to review in the auction display area, along with the following documents:
 - a. A copy of a release of the mortgage referenced in the certificate of title, which release will be filed at the time of closing; and
 - b. A copy of the deed restrictions referenced in the certificate of title showing that these restrictions terminated by their terms on January 1, 1990.
14. A new survey shall be obtained if and only if: (a) the official(s) responsible for recording the deed will not accept the conveyance for recording without a new survey; or (b) Seller elects to obtain a new survey for any other reason in Seller's sole discretion.
15. If a new survey is obtained, the survey shall be ordered by the Auction Company and shall be sufficient for the purpose of recording the conveyance, but the type of survey shall otherwise be determined solely by the Seller. The cost of any survey obtained in accordance with this Addendum A shall be shared equally (50:50) by Seller and Buyer.
16. A revised auction tract map is included in your Bidder's Packet as **Exhibit A**. As shown in Exhibit A, the acre estimates have been revised for purposes of the auction as follows:

ACRE ESTIMATES (±)	Tract 1:	Tract 2:	Total:
Advertised / Brochure (±)	48	20	68
Revised / Exhibit A (±)	48.33	20.052	68.382

17. The acres shown in Exhibit A are approximate and have been estimated based on the acres shown in the property tax records and existing legal descriptions. No warranty or authoritative representation is made as to the number of gross acres or cropland acres included with either tract.

18. If a new survey of Tract 2 is obtained in accordance with the provisions of this Addendum A, the purchase price for Tract 2 shall be adjusted proportionately to reflect any difference between the acre estimate shown in Exhibit A and the gross acres shown in the survey. No such adjustment shall apply with respect to the purchase of Tract 1 or Tracts 1 and 2 combined.
19. No warranty or authoritative representation is made as to the length of road frontage included with any tract. However, as an update to the auction brochure, and without limiting the foregoing sentence, Tract 2 has approximately 51 feet of road frontage along US 40 according to the existing legal description.
20. Boundary lines and auction tract maps depicted in Exhibit A and the auction marketing materials are approximations provided for identification and illustration purposes only. They are not provided as survey products and are not intended to depict or establish authoritative boundaries or locations.
21. If any dispute arises prior to closing with respect to the location of any boundary, the Auction Company may (but shall not be required to) terminate the purchase contract by giving written notice of termination to Buyer, but only with the Seller's consent. In the event of such termination, the earnest money shall be refunded to Buyer and the property may be re-sold free and clear of any claim of Buyer. In lieu of consenting to such termination, Seller may elect instead to enforce the purchase contract according to its terms.
22. The sale of the auction property does not include any personal property. However, Seller shall have no obligation with respect to miscellaneous items of personal property, if any, that remain on the premises when possession of the real estate is delivered to Buyer.
23. A highly publicized event took place on the property in 2012 which resulted in death.
24. 5.7 acres of Tract 1 is subject to a Conservation Reserve Program (CRP) contract which expires on September 30, 2020. The Buyer of Tract 1 shall assume the CRP contract obligations and shall timely sign all documents required by the FSA office in connection therewith. Any penalty, repayment and/or interest assessed due to termination, non-compliance and/or owner-ineligibility after closing shall be the responsibility of the Buyer. Buyer shall receive the CRP payment due in 2020.
25. Your bids are to be based solely upon your inspection. All property is sold "AS IS" without any warranty. Without limiting the foregoing provisions, Seller and Auction Company and their respective agents and representatives make no warranty or authoritative representation as to: (a) zoning matters; (b) whether or not the property qualifies for any particular use; (c) the availability or location of utilities; (d) the availability of any building permit, driveway permit, septic permit or any other permit; or (e) the accuracy of any materials or information prepared or provided by any third party regarding the auction and/or the property.

26. At the close of the auction, each high bidder shall execute a purchase contract in the form provided in each Bidder's Packet, consisting of the Agreement to Purchase, Exhibit A and this Addendum A. The terms of these documents are non-negotiable.
27. You will be closing on the tract or combination of tracts on which you are the successful bidder in the manner in which you bid at the auction. Deeds shall be recorded in the order designated by the Seller.
28. Schrader Real Estate and Auction Company, Inc. and its agents and representatives are exclusively the agents of the Seller. The Ohio agency disclosure forms are available for your review in the auction display area, including the Consumer Guide to Agency Relationships (to be signed by each Buyer) and the Agency Disclosure Statement (to be signed by each Buyer and by Seller).

Thank you for your interest in this offering. If you have any questions, please feel free to talk to one of our representatives.

ANY ANNOUNCEMENTS MADE BY THE AUCTIONEER
TAKE PRECEDENCE OVER THIS PRINTED MATERIAL.