

AGENDA
SPECIAL MEETING OF THE BOARD OF TRUSTEES OF THE VILLAGE OF MORTON, ILLINOIS
7:00 P.M.
MONDAY, JULY 29, 2024
FIRE DEPARTMENT, 300 W COURTLAND, MORTON, ILLINOIS

- I. CALL TO ORDER**
 - II. ROLL CALL**
 - III. PLEDGE OF ALLEGIANCE TO THE FLAG**
 - IV. PUBLIC COMMENT**
 - V. RESOLUTION 16-25: A RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY FROM ACI EQUITIES, LLC KNOWN AS 191 E. QUEENWOOD ROAD**
 - VI. RESOLUTION 17-25: RESOLUTION OPPOSING AWARD OF SPECIAL USE PERMIT IN TAZEWELL COUNTY CASES 24-27-S, 24-28-S AND 24-29-S**
 - VII. ADJOURNMENT**
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RESOLUTION NO. 16-25

**A RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY FROM
ACI EQUITIES, LLC KNOWN AS 191 E. QUEENWOOD ROAD**

WHEREAS, the Village of Morton desires to purchase property commonly known as 191 E. Queenwood Road, Morton, Illinois to provide space for future development of municipal buildings by the Village of Morton; and

WHEREAS, the ACI EQUITIES, LLC has agreed to sell real property legally described in the Contract for Sale of Real Estate attached hereto as Exhibit A, and incorporated herein by reference thereto; and;

WHEREAS, the Village of Morton has determined that the purchase of the real property in accordance with the terms and conditions of the Contract For Sale of Real Estate attached hereto as Exhibit A is in the best interest of the Village of Morton.

NOW, THEREFORE, be it resolved by the President and Board of Trustees of the Village of Morton as follows:

1. The President and Board of Trustees of the Village of Morton find as facts the recitals hereinabove set forth.
2. The terms and conditions of the Contract for Sale of Real Estate are hereby approved and the President is authorized to execute said Contract.
3. The President and the Clerk are hereby authorized, respectively, to execute and attest such other documents as may be necessary to the purchase of real property herein authorized.

PASSED AND APPROVED at a special meeting of the President and Board of Trustees of the Village of Morton, Tazewell County, Illinois, this _____ day of _____, 2024; and upon roll call the vote was as follows:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAINING: _____

APPROVED this _____ day of _____, 2024.

President

ATTEST:

Village Clerk

REAL ESTATE ACQUISITION AGREEMENT
Commercial Building



THIS AGREEMENT made and entered into on the Execution Date, by and between **ACI EQUITIES LLC, an Illinois LLC**, (hereinafter referred to as "Seller") and **VILLAGE OF MORTON**, (hereinafter referred to as "Buyer")

1. **Description of Property.** Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller, upon the terms and conditions set forth herein, that real estate, hereinafter called the "Property," described on Exhibit A attached hereto and by this reference incorporated herein, and commonly known as 191 E. Queenwood Road, Morton, Illinois 61550. Also included in the sale price and within the definition of the Property used herein are all improvements including all fixtures and equipment, if any, located in, about and being appurtenant to the Property.
2. **Purchase Price.** The purchase price for the Property shall be FOUR HUNDRED FIFTY THOUSAND DOLLARS (\$450,000.00) and shall be paid at closing. Buyer shall deposit FORTY-FIVE THOUSAND DOLLARS (\$45,000.00) herewith referred to as earnest money, to be placed into escrow with McGrath Law Office, P.C. within Three (3) days of mutual execution of this contract.
3. **Evidence of Title.** Seller shall furnish Buyer, at Seller's expense, with an up to date commitment for title insurance issued by a reputable title company and reasonably acceptable to Buyer with respect to the Property in the amount of the full purchase price, and title will be conveyed subject only to the following (the "Permitted Exceptions"):
 - 3.1. The lien of general taxes not yet due;
 - 3.2. Building, use and occupancy restrictions, covenants and conditions of record, if any;
 - 3.3. Easements of record, if any; and
 - 3.4. Leases of existing tenants in the Property, subject to Buyer's approval as provided herein.
 - 3.5 Notwithstanding the foregoing, nothing in items (3.2) or (3.3) above or in any applicable building ordinance or any other applicable law shall prevent or unreasonably interfere with

Buyer's intended use of the Property for commercial building purposes. Such title insurance commitment shall be delivered to Buyer not later than July 24, 2024. Buyer shall have until July 26, 2024, to examine the title and to make any objections thereto, including objections to any easements, restrictions, covenants, conditions or other matters of record, which materially interfere with Buyer's intended use of any part of the Property. Buyer shall submit all such title objections to Seller in writing before July 26, 2024. Any objections to title not made in writing to Seller before July 26, 2024, shall be deemed waived by the Buyer. Seller shall have until the Closing Date to cure same. In the event that Seller cannot cure the objections of Buyer before the Closing Date, Buyer may, at its option: (i) grant Seller additional time to cure the objections; or (ii) waive the objections and accept title as is; or (iii) elect to terminate this Agreement and receive back Buyer's earnest money.

4. Closing. Closing shall take place in escrow at the offices of the title company unless otherwise agreed to by the parties. In no event, however, shall the disbursement of any sale proceeds be made until after the title insurer makes a final search of the title and records all of the documents necessary to place insurable fee simple title to the Property in the Buyer. Closing of this transaction shall be held on or before August 1, 2024, unless otherwise agreed to in writing by both Seller and Buyer.

5. Seller's Deliveries. At Closing, Seller shall deliver, or cause to be delivered to Buyer, the following, each of which shall be in form and substance acceptable to counsel for Buyer and, in the case of documents of transfer or conveyance, shall be accepted or consented to by all parties required to make such transfer or conveyance effective:

5.1. A recordable Warranty Deed from Seller to Buyer subject only to the Permitted Exceptions;

5.2. Seller shall prepare and cause to be delivered to Buyer and Seller will execute a Seller's Affidavit, approved by Buyer's attorney prior to the date of closing;

5.3. Seller, at Seller's expense, shall provide any required Village zoning certificate demonstrating that the property is properly zoned for its current and intended uses.

5.4. A written certification ("FIRPTA Certificate") in form reasonably satisfactory to Buyer and dated no earlier than ten (10) days prior to the date of Closing, which certification shall be in compliance with The Tax Reform Act of 1984 (the "Act") and the regulations thereunder that are imposed by the Foreign Investment in Real Property Tax Act ("FIRPTA") and certifying that Seller is not a person or entity subject to withholding under

FIRPTA and the Act, and containing Seller's tax identification number and address.

5.5. State of Illinois and County of Tazewell documentary stamp and transaction declarations.

6. **Buyer's Deliveries.** At the Closing, Buyer shall cause to be delivered to Seller:

6.1. that portion of the Purchase Price required to be paid pursuant to Section 2 hereof; and

6.2. such other and further documents required by the title insurance company or reasonably necessary to close the transaction.

7. **Further Assurances.** Seller and Buyer will, at the Closing, or at any time or from time to time thereafter, upon request of either party, execute such additional instruments, documents or certificates as either party deems reasonably necessary in order to convey, assign and transfer the Property to Buyer hereunder.

8. **Possession.** Possession of the Property shall be delivered to Buyer at Closing, free and clear of any and all leasehold tenancies.

9. **Damage Prior to Closing.** If, prior to the delivery of the deed hereunder, any improvements on the Property, shall be destroyed or materially damaged by fire or other casualty which cannot be replaced or repaired by Seller prior to closing with improvements substantially identical to those existing prior to the casualty, Buyer shall have the option of declaring this Agreement null and void and receiving a refund of the earnest money paid hereunder, or of accepting the Property as destroyed or damaged together with the proceeds of any insurance payable as a result of the destruction or damage, in which latter case the Seller shall assign such insurance proceeds to the Buyer.

10. **Seller's Warranties and Representations.** Seller hereby expressly warrants to Buyer that on the date hereof and as of closing (unless otherwise disclosed by Seller to Buyer in writing prior to closing and accepted by Buyer):

10.1. that Seller has not received any notice of any pending eminent domain proceedings against all or any part of the Property;

10.2. that Seller has not received any notices relating to fire, zoning, building, environmental or health violations with respect to the Property; that there are no suits or judgments relating to fire, zoning, building, environmental or health violations with respect to the Property which are actually known to Seller nor are there any existing conditions actually known to Seller which could form the basis of any such suit or judgment; nor are there any threats thereof which are actually known to Seller;

- 10.3.** that there are no outstanding contracts to purchase, except with Buyer, options to purchase or rights of first refusal with respect to the Property which have not been waived;
- 10.4.** that other than lease agreements there are no management, maintenance, service or other contracts affecting the Property at time of closing that cannot be lawfully terminated by the Seller or Buyer within thirty (30) days of closing.

11. Buyers Inspections and Contingencies. Buyer or its representatives shall be afforded reasonable access to the Property from and after Seller's acceptance of Buyer's offer embodied in this Agreement in order to inspect the same for compliance with the terms hereof. Seller shall provide Buyer, free of charge, with complete copies of all building plans and specifications for the Property in its possession. Buyer's obligation to close this transaction is expressly subject to and conditioned upon, but not limited to, all of the following:

- 11.1.** Buyer performs a physical inspection of the Property and all improvements thereon, at Buyer's sole expense, and Buyer concludes in its opinion that such property and/or improvements are acceptable to Buyer;
- 11.2.** Buyer, at its option and expense, performs an environmental inspection of the Property, including but not limited to testing for asbestos, mold, radon, formaldehyde and other environmental defects, the findings of which are in its opinion acceptable to Buyer;
- 11.3.** Buyer performs such physical inspections, and such financial, business and economic analyses as it deems appropriate to evaluate the feasibility and advisability of purchasing the Property as it relates to its short- and long-term business plans, and Buyer concludes in its opinion that the purchase is both feasible and advisable. Seller shall cooperate with Buyer and shall make available to Buyer rent rolls, utility bills and building repair and maintenance expenses;
- 11.4.** Buyer, at its option and expense, obtains a satisfactory termite report on the Property.
- 11.5.** The Village Board of the Village of Morton adopt such ordinances or resolutions as may be required to authorize this purchase.

12. Buyer's Notice of Contingencies. In connection with the Buyer's contingencies set forth above, if Buyer informs Seller on or before July 26, 2024, that any of the above conditions precedent have not been satisfied, in Buyer's sole discretion, this Agreement will terminate without any liability of Buyer to Seller, and Buyer shall be entitled to an immediate full refund of Buyer's earnest money deposit (except for the cost of the Title Commitment, which shall be deducted therefrom). If Buyer does not timely notify Seller in writing in each instance with respect to each contingency of Buyer's intent to terminate on the basis of any of these conditions precedent to Buyer's obligation to complete the purchase hereunder, then such conditions are waived and Buyer shall accept the premises in "AS IS" condition without warranty except as specifically set forth elsewhere in this Agreement.

13. Inspection Indemnification. Buyer agrees to protect, indemnify, defend and hold Seller and its officers, directors, employees, agents and their successors or assigns and their property harmless from all costs, damages, liens and expenses (including reasonable attorney's fees), including those to the person and property of the Buyer, its employees, agents, invitees, licensees and others arising out of or in connection with the performance of any inspection, work or activity by Buyer or Buyer's contractors or agents in or about the Property necessitated by the inspection activities by Buyer or Buyer's contractors. This agreement of indemnification shall apply and survive any termination of this Agreement by Buyer for any reason other than default by Seller.

14. Earnest Money. Upon written request by Buyer or Seller for return or delivery of the earnest money, the holder shall promptly give the other party a copy of the request, and provide both parties a statement of how the holder proposes to distribute the earnest money. If the holder does not receive written objection to the proposed distribution from Buyer or Seller within thirty (30) days from the service of the request and statement, the holder may proceed to distribute the earnest money in accordance with the proposed distribution. The Buyer and Seller instruct the holder of the earnest money that in the event of any dispute regarding the right to the earnest money, the holder shall retain the funds until receipt of joint written instruction from both Seller and Buyer or Order of Court. Alternatively, the holder may interplead any funds held into the Court for distribution after resolution of the dispute between the Seller and Buyer.

15. Payment of Expenses. All title work expense, state and city revenue stamps and recording fees on all instruments required to clear title shall be paid in full by Seller at or before closing. The recording fees on the deeds conveying title to Buyer shall be paid by Buyer.

16. Warranties as to Condition of Property. Buyer is purchasing the Property in "AS IS" condition. Seller makes no warranties as to the condition of the Property or the plumbing, heating, electrical, air conditioning systems or appliances included as part of the purchase price. Seller's only warranty as to the condition of the Property is that Seller shall not remove or alter, or allow any other party to remove or alter any of the existing improvements on the Property without the prior written consent of the Buyer.

17. Prorations and Adjustments.

17.1. Taxes. All real estate taxes, charges and assessments affecting the Property shall be

prorated on a per diem basis as of midnight of the Closing Date. If any of the same have not been finally assessed or payable as of the date of Closing of the taxing authority, then the same shall be adjusted at Closing based upon the most currently available information.

17.2. Utilities. Charges of water, electricity, sewer rental, gas, and all other utilities, and charges under all Service Contracts shall be prorated on a per diem basis as of midnight of the Closing Date, disregarding any discount or penalty and on the basis of the fiscal year or billing period of the authority, utility or other person levying or charging for the same. If the consumption of any of the foregoing is measured by meters, then in lieu of apportionment as aforesaid, Seller shall, not earlier than the day preceding the date of Closing, obtain a reading of each such meter and Seller shall pay all charges there under through the date of the meter readings. If there is no such meter or if the bills for any of the foregoing have not been issued prior to the date of Closing, the charges therefore shall be adjusted at the Closing on the basis of the charges for the prior period for which bills were issued and shall be further adjusted when the bills for the current period are issued. Seller and Buyer shall cooperate to cause the transfer of the Property's utility accounts from Seller to Buyer.

18. Default. If either party does not perform any obligation under this Contract (a default), the non-defaulting party shall give written notice of the default to the defaulting party. If the defaulting party does cure the default within 10 days of the notice, the non-defaulting party may pursue any remedy available at law or equity, including specific performance. In the event of litigation, the defaulting or losing party shall pay upon demand the reasonable attorney's fees and court costs (if any) incurred by the prevailing party.

19. Default Fees and Costs. In the event either Seller or Buyer defaults under the terms hereof making it necessary for the other party to incur attorney's fees in enforcing the terms of this Agreement through litigation, the successful party to the litigation shall be entitled to be reimbursed by the unsuccessful party to the litigation for the expenses and costs of litigation, including reasonable attorney's fees incurred by the successful party, and shall be entitled to a judgment for said expenses, costs and attorney's fees against the unsuccessful party to the litigation.

20. Merger. The representations and warranties contained herein shall survive the closing and not be merged in the deeds to be delivered hereunder.

21. Additional Documents and Actions. Each of the parties agree to execute any and all other documents or documentation as may be reasonably necessary to effectuate the intent hereof and to complete the performance of the covenants contained herein.

22. Notices. All notices with reference to this Agreement shall be delivered to the parties by mail effective upon deposit in the U.S. Mail, certified, return receipt requested, or via fax machine transmission as follows:

If to Buyer:

Village of Morton
P.O. Box 28
Morton, IL 61550
Phone: 309-266-5361
Email: jkaufman@morton-il.gov

With a Copy to:

Attorney: McGrath Law Office, P.C.
Address: 1600 S. Fourth Ave.
Suite 137
Morton, IL 61550
Phone: 309-266-6211
Email: pmcgrath@mcgrathpc.com

If to Seller:

ACI Equities, LLC
4655 W Chase Ave
Lincolnwood, IL 60712
Phone: 847-262-3800
Email: ymeystel@kesser.com

With a Copy to:

Kesser Group
c/o Frederick Frankel, General Counsel
4655 W Chase Ave
Lincolnwood, IL 60712
Phone: 847-262-3800
Email: ffrankel@kesser.com

Applicable Law. This Agreement and the rights and obligations of the parties hereto shall be governed by the laws of the State of Illinois.

23. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and to their respective successors and assigns. Buyer may assign its rights under this Agreement by written instrument delivered to Seller.

24. Time for Performance. Time is of the essence for this Agreement.

25. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

26. Section 1031 Exchange. If either party elects to use the sale or purchase of this Property as part of a like-kind exchange under IRC Section 1031, the other party shall cooperate without incurring any additional liability or financial obligation.

IN WITNESS WHEREOF, this Agreement has been duly executed by Buyer and Seller on the last date noted below (the "Execution Date").

THIS IS INTENDED TO BE A LEGAL DOCUMENT. AN ATTORNEY AT LAW SHOULD BE CONSULTED PRIOR TO THE EXECUTION OF THIS DOCUMENT.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands and seals to several counterparts of this Agreement, of equal effect.

BUYER:

VILLAGE OF MORTON

By: _____
JEFFREY L. KAUFMAN, Village President

Date: _____

Attest:

Zo M. Evans, Village Clerk

Date: _____

[The remainder of this page is intentionally left blank]

**THIS IS INTENDED TO BE A LEGAL DOCUMENT. AN ATTORNEY AT LAW
SHOULD BE CONSULTED PRIOR TO THE EXECUTION OF THIS DOCUMENT.**

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands and seals to several counterparts of this Agreement, of equal effect.

SELLER:

ACI Equities, LLC,

An Illinois limited liability company

By: _____ Date: _____
_____, _____

[The remainder of this page is intentionally left blank]

Exhibit A

Legal Description

A part of the Southeast Quarter of the Northwest Quarter of Section 29, Township 25 North, Range 3 West of the Third Principal Meridian, more particularly described as follows:

Commencing at the Southeast corner of the Northwest Quarter of said Section 29; thence North 89 degrees 45 minutes West, along the South line of the Northwest Quarter of said Section 29, a distance of 244.14 feet to the point of beginning of the tract to be described;

From the Point of Beginning, thence North 0 degrees 06 minutes East along the West line of Brown and Harrison Subdivision Extension #2, a subdivision of part of the Northwest Quarter of said Section 29, a distance of 422.35 feet; thence North 89 degrees 54 minutes West along the South line of Brown and Harrison Subdivision Extension #5, a subdivision of part of the Northwest Quarter of said Section 29; a distance of 415 feet; thence South 0 degrees 06 minutes West a distance of 420.45 feet to the South line of the Northwest Quarter of said Section 29; thence South 89 degrees 45 minutes East along the South line of the Northwest Quarter of said Section 29, a distance of 415 feet, to the point of beginning, situated in Tazewell County, Illinois.

TAX ID No. 06-06-29-115-003

**THE EXACT LEGAL DESCRIPTION SHALL BE FURNISHED AFTER
TITLE COMMITMENT IS RECEIVED AND WILL BE BASED UPON
TITLE COMMITMENT.**

RESOLUTION NO. 17-25

**RESOLUTION OPPOSING AWARD OF SPECIAL USE PERMIT IN TAZEWELL
COUNTY CASES 24-27-S, 24-28-S AND 24-29-S**

WHEREAS, Unsicker Sun 1, LLC has petitioned Tazewell County for a special use permit to allow the construction of a 5 megawatt commercial solar farm on a part of PIN 05-05-24-400-014;

WHEREAS, the aforescribed petition has been assigned Case No. 24-27-S;

WHEREAS, Unsicker Sun 2, LLC has petitioned Tazewell County for a special use permit to allow the construction of a 5 megawatt commercial solar farm on a part of PIN 05-05-24-400-014;

WHEREAS, the aforescribed petition has been assigned Case No. 24-28-S;

WHEREAS, Unsicker Sun 3, LLC has petitioned Tazewell County for a special use permit to allow the construction of a 5 megawatt commercial solar farm on a part of PIN 05-05-24-400-014;

WHEREAS, the aforescribed petition has been assigned Case No. 24-29-S;

WHEREAS, for purposes of this Resolution the three cases heretofore described shall be called the “Unsicker Cases”;

WHEREAS, if a special use is awarded in the Unsicker Cases, approximately 51.38 acres of land being a part of PIN 05-05-24-400-014 (the “Subject Property”) would be committed to use as a commercial solar farm;

WHEREAS, the Subject Property is immediately contiguous to the corporate limits of the Village of Morton;

WHEREAS, the Village of Morton has adopted a comprehensive plan to provide for the orderly development of land within the Village of Morton;

WHEREAS, the comprehensive plan of the Village of Morton calls for the Subject Property to be zoned industrial;

WHEREAS, the Village of Morton has invested \$1.25 million to date on improvements to increase water capacity to facilitate industrial growth West of Interstate 155 along Birchwood Road/Route 98;

WHEREAS, the Village is investing millions more in infrastructure improvements to further encourage industrial growth in the vicinity of the Subject Property, including but not limited to the extension of Flint Avenue northerly to connect to Agriculture Drive, and adding a signalized intersection at Erie Avenue and Birchwood Road;

WHEREAS, by reason of the combination of existing utilities and new investments in infrastructure, the Subject Property is a part of a corridor of properties adjacent to the Village which the Village believes is most well suited for industrial development in accordance with the comprehensive plan in the near future;

WHEREAS, by reason of the foregoing, the development of a commercial solar farm at the Subject Property is incompatible with the Comprehensive Plan of the Village of Morton, in a way that other similar sites South, North or East of Morton would not be;

WHEREAS, the Village of Morton has seen a substantial increase in demand for buildable industrial sites within the Village of Morton in recent years, which has resulted in new industrial development in the area including the development of the Precision Planting site on Erie Avenue;

WHEREAS, the Corporate Authorities of the Village of Morton believe that the combination of increased demand plus substantial new infrastructure investments have created a corridor positioned for rapid industrial growth;

WHEREAS, commercial solar farms have a life expectancy of twenty five (25) years or more;

WHEREAS, the Village of Morton believes it is probable that opportunities to develop the Subject Property which would be in harmony with the Comprehensive Plan of the Village of Morton will be presented for the Subject Property during the life of the commercial solar farm; and

WHEREAS, in order to facilitate the industrial growth for which the Village has invested and will continue to invest millions of taxpayer dollars, in order to facilitate orderly development in accordance with the Village's comprehensive plan; and in order to maximize the utilization of the Subject Property, the Village of Morton opposes the award of the requested Special Use in the Unsicker cases

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MORTON, Tazewell County, Illinois, as follows:

1. The Corporate Authorities of the Village of Morton hereby find the recitals contained in the preamble to this resolution to be true and correct, and incorporate the same into this resolution by reference as if the same were fully set forth in this Section 1.
2. The Village of Morton strongly opposes the award of a special use permit in Tazewell County Cases 24-27-S, 24-28-S, and 24-29-S.
3. The Village of Morton urges Tazewell County to deny the award of special use permits in the Unsicker cases.

BE IT FURTHER RESOLVED that this resolution shall be in full force and effect upon its passage and approval.

PASSED AND APPROVED at a regular meeting of the President and Board of Trustees of the Village of Morton, Tazewell County, Illinois, this _____ day of _____, 2024; and upon roll call the vote was as follows:

AYES:

NAYS:

ABSENT:

ABSTAINING:

APPROVED this _____ day of _____, 2024.

President

ATTEST:

Village Clerk