

ORDINANCE NO. 16-3526

AN ORDINANCE AUTHORIZING THE VILLAGE MANAGER TO ENTER
INTO A REAL ESTATE CONTRACT TO PURCHASE 6846 STOLL LANE
AND DECLARING AN EMERGENCY

WHEREAS, Article X, §13 of the Charter of the Village of Silverton ("Silverton") provides that real property may be sold or traded "as provided by ordinance" and R.C. 715.01, and R.C. 715.21, and home-rule authorize Silverton to acquire real property;" and

WHEREAS, Anna Loren Cain is the owner of approximately 0.249 +/- acres of real property situated in Silverton, located at 6846 Stoll Lane, generally described as parcel number 602-0003-0213-00; and

WHEREAS, Silverton wishes to purchase said property owned by Anna Loren Cain inside the corporate limits of the Village of Silverton under the terms of a Real Estate Conveyance Agreement ("Agreement"), including a payment from Silverton for an amount not to exceed \$180,000.


NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Silverton, Ohio, that:

SECTION I. The Village Manager is hereby authorized to execute the Agreement in a form substantially similar to Exhibit A, a purchase and sales agreement attached hereto and made a part hereof, to procure property on behalf of the Village of Silverton.

SECTION II. The purchase of this property will be beneficial to the Village as it will enable the Village to expand a planned public park on Stoll Lane.

SECTION III. This Ordinance is declared to be an emergency measure necessary to preserve the public peace, health, safety and welfare of the citizens of the Village of Silverton; the reason for the emergency being the need to enter into a contract and acquire the property as soon as possible. Accordingly, this Ordinance shall take effect and be in force immediately from and after its passage and approval.


Passed this 3rd day of November, 2016.


John A. Smith, Mayor

ATTEST:

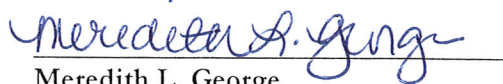

Thomas M. Carroll, Village Manager

Approved as to form:


Bryan E. Pacheco, Village Solicitor

CERTIFICATION:

I, Meredith L. George, Clerk of Council of the Village of Silverton, County of Hamilton, State of Ohio; do hereby certify that there is no newspaper published in said municipality and that publication of the foregoing Ordinance No. 16-3526 has been duly made by posting true copies in three (3) of the most public places in said municipality, as determined by Council as follows: 1) Parkview Lane at Railroad; 2) Silverton Municipal Building and 3) The Village of Silverton's Website. Said posting was for a period of fifteen days commencing Nov 4, 2016.


Meredith L. George
Clerk of Council of Silverton, Ohio

CONTRACT TO PURCHASE

This Contract to Purchase ("Contract") is dated and made effective this 21st day of October, 2016 ("Effective Date"), by and between the VILLAGE OF SILVERTON, OHIO, an Ohio municipal corporation ("Buyer"), and Anna L. Cain ("Seller"). Upon the terms and conditions hereinafter stated, Buyer and Seller hereby agree as follows:

1. Real Estate. Buyer agrees to purchase from Seller the real estate located at 6846 Stoll Lane, Silverton, Ohio, known as Hamilton County, Ohio tax parcel numbers 602-0003-0213-00, and as further described on Exhibit A attached hereto and made a part hereof, with all improvements and fixtures thereon and with all appurtenant rights, privileges, and easements, in an "as is" condition as of the Effective Date of this Contract (collectively, the "Real Estate").

2. Seller's Certifications. Seller certifies the following facts regarding the Real Estate:

(a) Seller is the sole owner of the entire undivided fee simple interest in the Real Estate;

(b) To the best of Seller's knowledge, no environmental contaminants are located on the Real Estate including, but not limited to, asbestos, PCB fluids, underground storage tanks, petroleum products, or other toxic, hazardous or contaminated substances or materials;

(c) The Real Estate is free from any and all city, county, state, federal, or other governmental authority orders, directives or charges;

(d) No commissions or other fees are due to any real estate broker or other third party as a result of the sale of the Real Estate.

(e) The only persons who either has a right to possession or is in possession of the Real Estate are Richard T. Evans and Caryl A. Evans (collectively, the "Tenant"). Seller has provided Buyer a copy of the current lease which lease expires on January 31, 2017, and there are no conditions relating to the Real Estate which (i) would make any portion of the Real Estate uninhabitable (e.g., inoperable sewer or water connection), or (ii) could be construed as a default under any of the Tenant's lease. It is agreed and understood by the parties that the Buyer may retain Tenant as a tenant after closing through March of 2017. Seller warrants Tenant has a security deposit of \$350 and Seller knows of no conditions as of the Effective Date which would lead Tenant to forfeit said security deposit.

3. Purchase Price and Terms. The purchase price shall be \$180,000, payable as follows:

(a) Buyer shall deposit with Mercantile Title Agency, Inc. ("Mercantile"), 255 East Fifth Street, Suite 1900, Cincinnati, Ohio 45202, the sum of \$2,000.00, which shall apply toward the purchase price at closing or otherwise be disbursed in accordance with this Contract; and

(b) The balance of the purchase price, subject to customary closing adjustments and other adjustments per this Contract, shall be paid by cash, certified or cashier's check on the date of closing.

4. Inspection Period. Buyer, at its sole cost and expense, shall have thirty (30) days after the Effective Date to conduct such inspections, investigations, title examinations, and verifications (collectively, the "Buyer's Due Diligence") regarding the Real Estate as are necessary to verify the condition of the Real Estate and to determine if the Real Estate is suitable for Buyer's intended use.

5. Conveyance and Closing. Seller shall convey transferable and marketable title to the Real Estate to Buyer by fiduciary deed in fee simple absolute, with release of dower, if any, on or before December 15, 2016. The title to the Real Estate shall be free, clear and unencumbered, excepting those restrictions, conditions and easements of record prior approved by Buyer's attorney. At closing, Seller shall pay for the satisfaction and removal of record of any and all liens out of the purchase price. Closing shall occur at the Silverton Memorial Municipal Building located at 6860 Plainfield Road at a mutually agreed upon time in the afternoon, unless otherwise agreed to by both Seller and Buyer.

6. Pro-rations. At closing, Seller shall credit to Buyer all unpaid real estate taxes and assessments which are a lien on the Real Estate through the date of closing. Buyer shall be responsible for all real estate taxes and assessments accruing after the date of closing. Any prepaid rent, unpaid utilities (e.g., water service), or other charges that may become a lien against the Real Estate shall be prorated and applied as a credit to Buyer as of the date of closing. In addition, any security deposits under the Tenants' leases shall be retained by Seller but deducted from the Purchase Price at closing as a credit to Buyer.

7. Condition of Improvements. Until Buyer has exclusive possession of the Real Estate, Seller shall maintain the Real Estate in the same condition as of the date of this Contract, reasonable wear and tear excepted. Also, Seller shall continue to insure the improvements until the date of closing. In the event of loss and if such loss is not repaired by and at the cost of Seller prior to the date of closing, Buyer may elect to (i) accept the Real Estate in its "as is" condition, in which case Seller shall promptly pay all insurance proceeds to Buyer or (ii) terminate this Contract. In the event of loss on or after closing where Seller has not completely vacated the Real Estate, Seller shall promptly pay all insurance proceeds to Buyer.

8. Possession. Exclusive possession of the Real Estate, subject to the Tenants' leases, shall be given to Buyer upon the date of closing free from any third party interest. Prior to closing, Seller shall permit access to the Real Estate by Buyer, its agents, employees or contractors, for inspection and testing of the condition of the Real Estate provided that Buyer gives Seller twenty-four (24) hour prior notice of such inspection time. Seller shall be responsible for all utility charges until and through the date that Seller completely vacates the Real Estate. Seller shall provide Buyer with accurate and complete copies of the Tenants' leases and any other documentation (e.g. equipment warranties) relating to the condition of the Real Estate within five (5) days of the Effective Date.

9. Contingencies. Buyer's performance under this Contract is contingent upon satisfaction of the following events, unless any such event is expressly waived by Buyer (in Buyer's sole and absolute discretion) by providing written notice to Seller:

- (a) Buyer reviewing and approving the title to the Real Estate;

(b) Buyer's satisfactory completion of the results of Buyer's Due Diligence as determined by Buyer in its sole and absolute discretion; and

(c) Authorization of this Contract by ordinance passed by the Village of Silverton Council of Buyer.

In the event that any contingency under this Contract is not satisfied or waived, in Buyer's sole and absolute discretion, Buyer may terminate the Contract without further obligation or liability and all Earnest Money shall be promptly returned to Buyer after written instruction is provided to Mercantile from Buyer.

10. Written Notice. Any notice required or permitted under this Contract shall be in writing and deemed to have been given upon (a) the date of recipient's signature if sent by certified mail, postage prepaid, return receipt requested, (b) the next day if given by Federal Express/Next Day Delivery service or (c) date of delivery if given by hand delivery to the parties at the following addresses:

Buyer:

Attention: Tom Carroll
Village Manager
Village of Silverton, Ohio
6860 Plainfield Road
Silverton, OH 45236

Seller:

Attention: Anna L. Cain

11. Sole Contract. The parties agree that this Contract constitutes their entire agreement and that no oral or implied agreement exists. Any amendments to this Contract shall be made in writing, signed by both parties, and copies shall be attached to the original Contract. This Contract shall be binding upon the parties, their respective heirs, assigns and successors. Buyer may freely assign this Contract, without limitation, to a business entity to be created or in existence prior to closing. This Contract may be executed in separate counterparts, each of which shall be deemed an original, but all of such counterparts, taken together, shall constitute one and the same agreement. This Contract shall be governed by Ohio law without regard to conflict of laws principles. Neither party shall be deemed the drafter of this Contract.

12. Construction of Agreement. This Agreement shall be construed in accordance with the laws of the State of Ohio.

13. Expiration and Approval. This offer shall remain open for acceptance until 11:59 A.M. Cincinnati time on the 24th day of October, 2016. A signed copy shall be returned to Seller or Buyer, as the case may be, after acceptance.

14. Seller's Right to Remove Certain Item. Buyer and Seller agree that Seller shall have the right but not the responsibility to remove certain landscape and appliances from the property after the Tenants have vacated the structure and before the Buyer razes the home. These items include and are limited to: Hydrangeas that line the side of the garage, and the Lilac tree, peonies if in bloom, a washer, dryer, dishwasher, stove and oven, and refrigerator.

IN WITNESS WHEREOF, Buyer and Seller have hereby executed this Contract as of the Effective Date.

Approved as to form:

Buyer:

VILLAGE OF SILVERTON, OHIO,
an Ohio municipal corporation

Bryan E. Pacheco, Village Solicitor

By: *Tom M. Carroll*
Name: Thomas M. Carroll
Its: Village Manager

STATE OF OHIO)
)ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this 21st day of October, 2016 by Thomas M. Carroll, the Village Manager of the VILLAGE OF SILVERTON, OHIO, an Ohio municipal corporation, on behalf of such entity.



Alycia Boggs
Notary Public, State of Ohio
My Commission Expires 02-10-2016

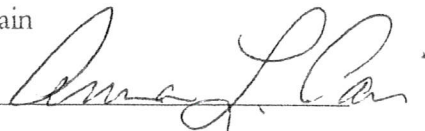
Alycia Boggs

Alycia Boggs
Notary Public - State of Ohio

Seller:

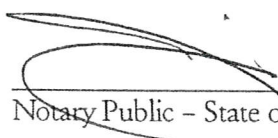
Anna L. Cain

By:



STATE OF TEXAS)
)ss:
COUNTY OF HARRIS)

Oct. The foregoing instrument was acknowledged before me this 21 day of 2016 by Terr Rodriguez, the owner of Anna L. Cain.



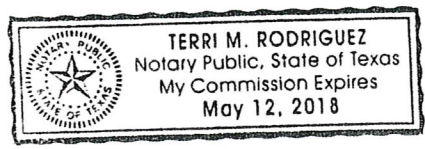
Notary Public - State of Texas

Exhibit A

Legal Description

[Village of Silverton to Provide at Silverton's cost by closing]