

ORDINANCE NO. 16-3527

AN ORDINANCE AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO A REAL ESTATE CONVEYANCE AGREEMENT WITH THE COMMUNITY IMPROVEMENT CORPORATION OF SILVERTON FOR 6860 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, the Village is the owner of approximately 0.138 acres of real property situated in the Village of Silverton, Hamilton County, Ohio, with such property being generally described as parcel number 602-0003-0170-00 in the Hamilton County, Ohio Auditor's; and

WHEREAS, the Village acquired 6860 Stoll when it was listed for sale on the open market for \$139,900 on May 29, 2015 to preserve options for a larger redevelopment project the Village had underway adjacent to 6860 Stoll centered around the former Silverton Paideia School site; and

WHEREAS: the Village sold approximately 10 acres of real estate to JRA MVG Silverton Land, LLC on October 26, 2016 to redevelop the area around the former Silverton Paideia School site; and

WHEREAS: the Village of Silverton no longer wishes to contemplate the inclusion of 6860 Stoll Lane in the redevelopment plans of the redevelopment site sold to JRA MVG Silverton Land, LLC.

WHEREAS, the Village of Silverton and the Community Improvement Corporation of Silverton ("CIC") entered into an economic development agreement approved by ordinance on September 1, 2016 and by resolution on August 23, 2016, respectively; and

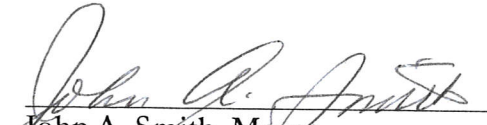
WHEREAS, The CIC and Village believe that the sale of 6860 Stoll on the open market on the eve of a redevelopment project adjacent to the property may not be optimal for resale value, and indeed believe the property will increase in value after the adjacent redevelopment is completed.

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 attached hereto and made a part hereof as exhibit A.


SECTION II. 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 sell the property to the CIC in early December. Accordingly, this Ordinance shall take effect and be in force immediately from and after its passage and approval.

Passed 17th day of November, 2016.




John A. Smith, Mayor

ATTEST:



Thomas M. Carroll, Village Manager

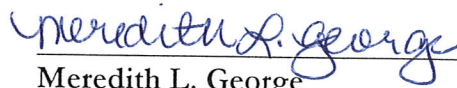
Approved as to form:



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. 16-3527 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 18, 2016.



Meredith L. George
Clerk of Council of Silverton, Ohio

CONTRACT TO PURCHASE

This Contract to Purchase (“**Contract**”) is dated and made effective this 17 day of Novmeber, 2016 (“**Effective Date**”), by and between the COMMUNITY IMPROVEMENT CORPORATION OF SILVERTON, OHIO, a 501 (c) (3) Ohio corporation (“**Buyer**”), and VILLAGE OF SILVERTON, OHIO, an Ohio municipal corporation (“**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 6860 Stoll Lane, Silverton, Ohio, known as Hamilton County, Ohio tax parcel numbers 602-0003-0170-00, 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 person who either has a right to possession or is in possession of the Real Estate are Ross Haber (the “**Tenant**”). Seller has provided Buyer a copy of the current lease which lease expired on September 3, 2016, and Tenant has continued leasing the Property on a month-to-month basis. Further, Seller warrants 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. Seller warrants Tenant has a security deposit of \$1,250 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 \$69,950, 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 \$0.00, 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 Seller.

(d) Buyer obtaining financing of no less than \$69,950 by December 1, 2016.

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
CIC Executive Director
6860 Plainfield Road
Silverton, OH 45236

Seller:

Attention: Meredith George
Clerk of Council
Village of Silverton, Ohio
6860 Plainfield Road
Silverton, OH 45236

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 18th day of November, 2016. A signed copy shall be returned to Seller or Buyer, as the case may be, after acceptance.

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

Approved as to form:

Seller:

VILLAGE OF SILVERTON, OHIO,
an Ohio municipal corporation

Bryan E. Pacheco, Village Solicitor

By: _____
Name: Thomas M. Carroll
Its: Village Manager

STATE OF OHIO)
)ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016 by _____, the _____ of the VILLAGE OF SILVERTON, OHIO, an Ohio municipal corporation, on behalf of such entity.

Notary Public - State of Ohio

Buyer:

By: _____

STATE OF OHIO)
)ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016 by _____, the _____ of the VILLAGE OF SILVERTON, OHIO, an Ohio municipal corporation, on behalf of such entity.

Notary Public - State of Ohio

Exhibit A

Legal Description

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

DRAFT