

ORDINANCE NO. 21-3660

AN ORDINANCE AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO A REAL ESTATE CONTRACT TO PURCHASE 5965 STEWART ROAD

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 Hamilton County Land Reutilization Corporation ("Seller") expects to be the owner of approximately 0.574 +/- acres of real property situated in Silverton, located at 5965 Stewart Road, generally described as parcel number 602-0010-0037-00 (the "Property"); and

WHEREAS, Silverton wishes to purchase the Property from Seller once it obtains title under the terms of a Real Estate Conveyance Agreement ("Agreement"), for an amount not to exceed \$3,000.

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

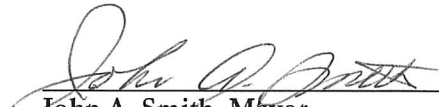
SECTION I. The Village Manager is hereby authorized to execute the Agreement in a form substantially similar to Exhibit A, a purchase and sales agreement attached hereto and made a part hereof, subject to contingencies and conditions in the Agreement, and approval by the Village Manager and Village Solicitor,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

SECTION II. The purchase of the Property will be beneficial to the Village as it will enable the Village to redevelop blighted property owned in the Highway Commercial zoning district and thus return underperforming property to its highest and best use.

SECTION III. Ordinance No. 21-3656 adopted on January 4, 2021 is hereby repealed in its entirety.

SECTION IV. This Ordinance shall take effect and be in force from and after its passage and approval at the earliest possible time.

Passed this 4th day of March 2021.




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. 21-3660 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 March 8, 2021.



Meredith L. George
Clerk of Council of Silverton, Ohio

SALE/PURCHASE AGREEMENT

THIS SALE/PURCHASE AGREEMENT (this "Agreement"), dated as of the latest date set forth on the attached signature page ("Effective Date"), is made by and between the **Hamilton County Land Reutilization Corporation**, an Ohio nonprofit community improvement corporation organized and existing under Ohio Revised Code ("R.C.") Chapters 1724 and 1702 ("Seller") and the **Village of Silverton**, an Ohio municipal corporation ("Purchaser") (jointly, the "Parties" or individually, a "Party").

Background

1. Purchaser is a political subdivision situated in Hamilton County, Ohio.
2. Seller is an Ohio non-profit, community improvement corporation organized pursuant to Ohio Revised Code Chapter 1724 and has been designated as Hamilton County's agent for the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, and other real property within Hamilton County.
3. Purchaser is interested in purchasing and developing the Property and, by way of this Agreement, is requesting that the Seller exercise its abilities under applicable law to attempt to acquire the Property.
4. Neither Seller nor Purchaser has had an opportunity to fully inspect the Property; therefore, the Parties seek to enter into this Agreement, with the eventual sale/purchase of the Property contingent upon the Seller's successful acquisition of the Property.

Therefore, the Parties agree as follows:

1. Agreement to Purchase and Sell. Seller shall sell to Purchaser and Purchaser shall purchase from Seller, for the price and on the terms and conditions set forth in this Agreement, that certain real estate located at **5965 Stewart Road, Silverton, OH 45227** and known as Hamilton County Parcel No. **602-0010-0037-00**, together with all improvements thereon and with all appurtenant rights, privileges and easements (the "Property").

2. Contingencies.

2.1 Seller's Acquisition Contingency: Seller does not, as of the Effective Date, have title to the Property. Upon mutual execution of the Agreement, Seller will attempt to acquire the Property through available statutory procedures involving tax-foreclosed real property. If Seller is not able to acquire the Property, then either Party may terminate this Agreement with five (5) business days' prior written notice to other Party and the Parties shall have no further obligations under this Agreement (except for those obligations which expressly survive termination). If Seller is able to acquire title to the Property, then Seller will provide written notice to Purchaser and, unless the Agreement is otherwise terminated, the Parties shall proceed with consummating the transaction as contemplated by the Agreement. Due to the nature of Seller's acquisition process, Purchaser understands that Seller's acquisition of the Property may be lengthy.

2.2 Purchaser's Closing Contingencies: Purchaser's performance under this Agreement is contingent upon the satisfaction of the following events, unless any such event is expressly waived by Purchaser by written notice to Seller:

- (i) Purchaser's approval of the terms and conditions of this Agreement via legislation passed by Silverton Village Council; and
- (ii) Seller's acquisition and subsequent delivery of transferable title to the Property by deed from the current owner in fee simple absolute; and
- (iii) The Parties' execution of any necessary closing documents as may be required by the Parties and the closing agent, as may be applicable and to the extent possible under the terms of this Agreement.

3. Representation and Warranties. Purchaser represents and warrants to the following:

- 3.1 Purchaser, its successors or assigns have the ability and intent to maintain the Property free of all nuisance conditions for the duration of ownership.
- 3.2 Purchaser represents that the execution of this Agreement will not violate any other agreement to which the Purchaser is bound as of the Effective Date.
- 3.3 Purchaser is acquiring the Property to further its economic development efforts and not primarily for the purpose of conferring a private benefit on a particular private party.

4. Purchase Price. The price for the Property shall be One Thousand Five Hundred and No/100 Dollars (**\$1,500.00**) (the "Purchase Price"), adjusted in accordance to the terms of this Agreement, paid in cash or certified funds by the Purchaser at closing. All checks shall be made payable to the Hamilton County Land Reutilization Corporation.

5. Earnest Money. Within five (5) business days following the Effective Date, Purchaser shall deliver to Seller a certified check for One Thousand Five Hundred and No/100 Dollars (**\$1,500.00**) ("Earnest Money"), which shall be applicable to the Purchase Price at closing. All checks shall be made payable to the Hamilton County Land Reutilization Corporation. The Parties agree the Earnest Money is not refundable under any circumstances.

6. Closing Date. If Seller acquires the Property as contemplated in **Section 2**, then Seller and Purchaser shall close on the sale of the Property from Seller to Purchaser within sixty (60) days from and after Seller's acquisition of the Property ("Closing Date"). Upon payment by Purchaser of the Purchase Price on the Closing Date, Seller agrees to deliver to Purchaser a quit-claim deed to the Property, in a form to be approved by Purchaser (the "Deed"). The Closing Date may be extended by mutual agreement of the Parties.

7. Closing, Conveyance, and Recording of Deed. On the Closing Date, Purchaser shall take exclusive possession of the Property. Within seven days of the Closing Date, the Parties shall cause the Property to be transferred into Purchaser's name, Purchaser shall record the deed for the Property and pay any associated fees or expenses. If the Parties elect to use a vendor offering closing services, then Purchaser shall pay all associated closing costs.

8. Property Taxes. Purchaser assumes responsibility for payment of all property tax bills due and payable after the Closing Date on the Property. For as long as Purchaser owns or maintains control of

the Property, Purchaser shall pay all property taxes and special assessments that become due in a timely manner.

9. Condition of Title. Purchaser acknowledges that the Property may have title defects or other conditions impacting the marketability of title and that Purchaser is accepting the Property via a quit-claim deed, without representation or warranty from Seller as to the condition of title, and in an as-is condition. Purchaser agrees Seller shall not be responsible for any claims arising from title defects. Seller shall not be required to cure any title defect after the Effective Date.

10. Possession. Purchaser shall not take possession or begin work, in any form, to the Property prior to the Closing Date, unless authorized in writing by Seller.

11. "AS IS" Condition. Purchaser agrees to purchase the Property "AS IS" and "WHERE IS" in its present condition without reliance on any warranties or representations of Seller and agrees to accept all risk of defects with the Property. The Property's "as is" condition may include both patent and latent defects, including, but not limited to, various outstanding building or housing code violations, structural instability, major systems defects (electrical, heating, plumbing), basement moisture, leaks or flooding, etc.

12. Hazards. The Purchaser shall be solely responsible for any and all claims, losses, actions or liabilities arising out of or associated with Purchaser's presence or work on the Property. Neither Seller, nor any of its agents and employees, makes any representations whatsoever regarding the existence of any potential hazards, environmental or other, on the Property. Purchaser accepts any risk, during inspection or otherwise, and waives any claims or liability against Seller for any harmful effects from potential hazards. These potential environmental hazards include, but are not limited to: Lead Based Paint, Asbestos, Urea-Formaldehyde Foam Insulation, Radon Gas, Mold or Black Mold, or any other potentially toxic substances. Potential other hazards include, but are not limited to, unsafe floors, roofs, stairs, walls, etc.

13. Personal Property. Purchaser acknowledges that any items of personal property are not included in the sale. If personal property is left on or about the Property, Seller makes no warranty, expressed or implied, as to its condition or title.

14. Compliance with Applicable Law. This Agreement does not act as an exemption from any federal, state, or local law. Purchaser shall comply with all applicable laws during Purchaser's ownership of the Property. This includes, but is not limited to, the following: building code requirements, zoning code compliance, historic preservation requirements, and procedures required by local government entities for ownership and maintenance of vacant or blighted properties.

15. Termination by Seller before Closing Date. If at any time before the Closing Date Purchaser breaches this Agreement or Seller becomes aware that Purchaser does not have the ability or intent to fulfill the terms of this Agreement or has made a misrepresentation to Seller, then Seller may terminate the Agreement. The termination is effective immediately upon written notice via e-mail to Purchaser.

16. General Provisions.

16.1 Notices. Any notice to be given under this Agreement shall be in writing, which shall include electronic mail, shall be addressed to the party to be notified at the address or e-mail address set forth below or at such other address as each party may designate for itself from

time to time by notice hereunder, and shall be deemed to have been given upon the earliest of (i) three days following deposit in the U.S. Mail, with proper postage prepaid, certified or registered, with return receipt requested, or (ii) the next business day after delivery to a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement, satisfactory with such carrier, made for the payment of such fees, or (iii) receipt of notice given by email or personal delivery:

If to Purchaser: Village of Silverton
6943 Montgomery Road, Silverton, OH 45236
Attn: Tom Carroll
Email: Email: t.carroll@silvertonohio.us
Phone: 513-792-6560

With copy to: Dinsmore & Shohl LLP
255 E. Fifth Street, Suite 1900
Cincinnati, Ohio 45202
Attn: Bryan E. Pacheco, Esq.
Email: bryan.pacheco@dinsmore.com
Phone: 513-977-8247

If to Seller: Hamilton County Land Reutilization Corporation
3 East 4th Street, Suite 300, Cincinnati, OH 45202
Attn: Kelley Allesee
Email: kallesee@cincinnatiport.org
Phone: 513-632-3769

16.2 Governing Law and Venue. This Agreement is governed under Ohio law, and any claim arising from this Agreement shall be brought in the appropriate Hamilton County, Ohio Court.

16.3 Assignment and Delegation. The Purchaser may not assign any rights or delegate any performance under this Agreement without the prior written consent of Seller, whose consent shall not be unreasonably withheld. The Seller may assign any rights or delegate any obligations under the Agreement.

16.4 Successors and Assigns. This Agreement binds and benefits the Parties and their respective permitted successors or assigns.

16.5 Risk of loss. Risk of loss shall remain on Seller until the earlier of the Closing Date or Purchaser's possession.

16.6 Severability. If any provision of this Agreement is illegal or unenforceable, the other provisions of this Agreement remain in effect. The unenforceable provision shall be revised to reflect the original intent of the Parties to the maximum extent permitted by law.

16.7 Entire Agreement. This Agreement contains the complete and final understanding of the Parties and supersedes all other previous agreements between the Parties.

16.8 No Merger. This Agreement shall not be merged into the deed for the Property and will survive the delivery of that deed.

16.9 Amendment. Any amendments made to the terms contained within this Agreement must be in writing and executed by both parties.

16.10 Counterparts. This Agreement may be executed in counterparts, each shall be regarded as an original and all of which shall constitute but one and the same Agreement.

16.11 Affidavit of Title. The Seller may, in its own discretion, record an affidavit of title with the Recorder of Hamilton County, Ohio stating the Purchaser's contractual obligations under the Agreement.

16.12 Evidence of Value in Board of Revisions. Since this transaction includes non-monetary consideration to the Seller, Purchaser shall not use the Purchase Price as evidence of the Property's fair market value to contest the Property's value in front of the Hamilton County Board of Revisions.

16.13 Lead-Based Paint Disclosure. If applicable, the Seller has attached, as Appendix A, a Lead-Based Paint Disclosure form and information pamphlet *Protect Your Family from Lead in Your Home*.

16.14 Evidence of Authority. If Purchaser's signatory of this Agreement is not accepting title in an individual capacity, upon request of Seller, Purchaser shall provide to Seller, prior to the Closing Date, adequate evidence that Purchaser is acting with proper authority to complete the transaction contemplated by this Agreement.

16.15 OFAC Compliance. Purchaser and Seller represent and warrant to one another that neither is a party with whom the other is prohibited from doing business pursuant to the regulations of the Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury, including those parties named on OFAC's Specially Designated Nationals and Blocked Persons List. Seller and Purchaser are currently in compliance with, and shall at all times remain in compliance with, the regulations of OFAC and any other governmental requirement relating thereto.

16.16 Waiver. The Parties agree that the failure by either party to enforce any term or provision of this Agreement against the other shall not be deemed a waiver of the Party's right to enforce such term or provision against the other Party.

[Signature page follows]

Intending to be legally bound, the Parties have entered into this Agreement as of the Effective Date.

SELLER:

Hamilton County Land Reutilization Corporation,
an Ohio nonprofit, community improvement corporation

By: Port of Greater Cincinnati Development Authority
Its: Management Company

By: _____

Printed Name: _____

Title: _____

Date: _____

PURCHASER:

Village of Silverton,
an Ohio municipal corporation

By: _____

Tom Carroll, Manager

Date: _____

Appendix A
Lead Based Paint Disclosure

(INSERT LEAD-BASED PAINT DISCLOSURE)