

RESOLUTION NO. 32-13
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER John Beals ON
THE 15th DAY OF July, 2013.

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE MONTGOMERY COUNTY LAND REUTILIZATION CORPORATION (MCLRC) TO FACILITATE THE RECLAMATION, REHABILITATION AND REUTILIZATION OF VACANT, ABANDONED, TAX-FORECLOSED OR OTHER REAL PROPERTY WITHIN THE CITY OF CENTERVILLE.

WHEREAS, Montgomery County, Ohio, has established the Montgomery County Land Reutilization Corporation (MCLRC) for the purpose of facilitating the reclamation, rehabilitation and reutilization of vacant, abandoned, tax foreclosed or other real property within the County; efficiently holding and managing vacant, abandoned or tax-foreclosed real property pending its reclamation, rehabilitation and reutilization; assisting governmental entities, such as the City, and other non-profit or for-profit persons to assemble, clear, and clear the title of vacant, abandoned, tax-foreclosed or other real property within the County in a coordinated manner; and promoting economic and housing development of the county; and

WHEREAS, the MCLRC may maintain, acquire, dispose of, rehabilitate and/or demolish properties within the City as it deems best constrained only by the City's applicable building, housing and zoning codes, and such other federal and state laws; the MCLRC and the City of Centerville nevertheless jointly desire to cooperate in the reclamation, rehabilitation and reutilization of vacant, abandoned, tax-foreclosed or other real property within the City's boundaries on the terms, conditions and provisions as enumerated in the Memorandum of Understanding, attached hereto as Exhibit "A"; and

WHEREAS, City Council recognizes that entering into this agreement with MCLRC is a positive step in helping the community move ahead in these difficult economic times; and

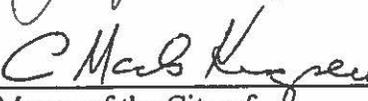
WHEREAS, the Memorandum of Understanding once agreed upon, may become the basis for the agreement between the parties, so that the City may begin the process of cleaning up blighted properties within the City;

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE
HEREBY RESOLVES:

Section 1. The City Manager is hereby authorized and directed to execute a Memorandum of Understanding with Montgomery County Land Reutilization Corporation (MCLRC) in substantial conformity to the document attached hereto, marked Exhibit "A" and incorporated herein.

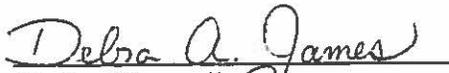
Section 2. This Resolution shall take effect at the earliest date allowed by law.

PASSED THIS 15th day of July, 2013.



Mayor of the City of
Centerville, Ohio

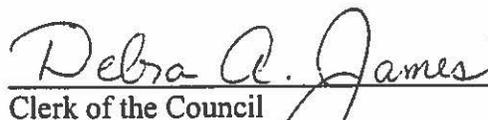
ATTEST:



Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 32-13, passed by the Council of the City of Centerville, Ohio on the 15th day of July, 2013.



Clerk of the Council

Approved as to form, consistency
with existing ordinances, the
charter & constitutional provisions
Department of Law
Scott A. Liberman
Municipal Attorney

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this "Memorandum") is made and entered into and is effective as of this ____ day of _____, 2013 (the "Effective Date"), by and between the MONTGOMERY COUNTY LAND REUTILIZATION CORPORATION (the "MCLRC"), and the CITY OF CENTERVILLE, OHIO (the "City"), under the following circumstances:

WHEREAS:

- A. The MCLRC has been organized for the purposes of exercising the essential governmental purposes provided for under the Chapters 1724 and 5722 of the Revised Code and any ancillary purposes for which statutory authority has been given to the MCLRC under the Revised Code within Montgomery County, Ohio (the "County"), including, but not limited to, the following purposes: (1) facilitating the reclamation, rehabilitation and reutilization of vacant, abandoned, tax-foreclosed or other real property within the county; (2) efficiently holding and managing vacant, abandoned or tax-foreclosed real property pending its reclamation, rehabilitation and reutilization; (3) assisting governmental entities, such as the City, and other non-profit or for-profit persons to assemble, clear, and clear the title of vacant, abandoned, tax-foreclosed or other real property within the County in a coordinated manner; and (4) promoting economic and housing development of the county.

- B. Notwithstanding that the MCLRC may maintain, acquire, dispose of, rehabilitate and/or demolish properties within the City as it deems best constrained only by the City's applicable building, housing and Zoning Codes, and such other federal and state laws, the MCLRC and the City nevertheless jointly desire to cooperate in the reclamation, rehabilitation and reutilization of vacant, abandoned, tax-foreclosed or other real property within the City's boundaries on the terms, conditions and provisions herein.

NOW THEREFORE, the MCLRC and the City each agrees as follows:

ARTICLE I

DEFINITIONS; INTERPRETATION

Section 1.1. Short Title. This Agreement, together with any and all Supplements hereto, are hereinafter sometimes referred to as the "Agreement".

Section 1.2. Definitions. In addition to the words and terms defined above, the following words and terms will have the meanings given such words and terms in this Section:

"Acquisition Protocols" mean the mutually agreed-upon procedures, as set forth in Exhibit A to this Agreement, to be followed by the MCLRC and the City in connection with the acquisition of properties by either the MCLRC or the City.

"Demolition Protocols" mean the mutually agreed-upon procedures, as set forth in Exhibit A to this Agreement, to be followed by the MCLRC and the City in connection with the demolition of abandoned and vacant structures within the City.

"Disposition Protocols" mean the mutually agreed-upon procedures, as set forth in Exhibit A to this Agreement, to be followed by the MCLRC and the City in connection with the disposition of properties within the City.

"Maintenance Protocols" mean the mutually agreed-upon procedures, as set forth in Exhibit A to this Agreement, to be followed by the MCLRC and the City in connection with the maintenance of properties within the City.

"Protocols" mean, collectively, the Acquisition, Demolition, Disposition, Maintenance and Rehabilitation Protocols, and any Protocols that are required to be established pursuant to Article II hereof.

"Rehabilitation Protocols" mean the mutually agreed-upon procedures, as set forth in Exhibit A to this Agreement, to be followed by the MCLRC and the City in connection with the rehabilitation of properties within the City.

"Statutory Protocols" means the acquisition protocols created pursuant to Ohio Revised Code Section 5722.02(D).

ARTICLE II

STATUTORY PROTOCOLS

Pursuant to Ohio Revised Code Section 5722.02(D) the MCLRC and the City acknowledge that certain statutory preemptory rights apply to City as it pertains to properties acquired by the MCLRC.

ARTICLE III

LAND REUTILIZATION PROGRAM

Establishment of Acquisition, Demolition, Maintenance, Rehabilitation and Disposition Protocols. The MCLRC and the City may jointly develop: (a) Acquisition Protocols for the purposes of acquisition of properties within the boundaries of the City by either the MCLRC or the City under this Agreement; (b) Demolition Protocols for the purpose of demolition of any abandoned vacant structures within the City; (c) Maintenance Protocols for the purpose of maintaining properties within the City during the period of ownership by the MCLRC or the City; (d) Rehabilitation Protocols for the purpose of rehabilitating properties within the City during the period of ownership by the MCLRC or the City; and (e) Disposition Protocols for the purposes of disposing of properties within the City, all as set forth in Exhibit A.

ARTICLE IV

ALLOCATION OF COSTS OF PROTOCOLS

Each of the MCLRC and the City shall bear the costs of any of the Protocols utilized hereunder in accordance with the provisions set forth in each such Protocol.

ARTICLE V

OTHER PROTOCOLS REGARDING LAND

Nothing in this Memorandum shall prohibit the parties hereto from establishing from time to time or at any time additional Protocols regarding properties that come into the possession of either of the parties. In connection with the establishment of such other Protocols, the Protocols shall be attached to this Memorandum and shall be designated as Exhibit A-J, A-2, etc.

ARTICLE VI

MISCELLANEOUS

Section 5.1. Term of Memorandum. This Memorandum may be terminated by either of the parties hereto upon sixty (60) days' prior written notice of the terminating party to the other party; provided, however, that such a termination shall not be of any force and effect as to any monetary obligations of either of the parties hereunder or of any third party in effect at the time of such termination pursuant to any other agreement executed in connection with, but separate from this Memorandum. In the event the parties dispute any amounts owing one to another at the time of the termination, then the parties shall work in good faith to provide one another with sufficient documentation to reasonably identify and resolve any remaining obligations.

Section 5.2. Amendment of Memorandum. This Memorandum, including the Protocols attached hereto, may be amended from time to time and at any time provided that such amendment is in writing and is executed by both of the parties hereto.

Section 5.3. Notices. All notices hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand or mailed by certified mail, postage prepaid and addressed as follows:

If to the MCLRC: Montgomery County Land Reutilization Corp.
451 West Third Street – 2nd Floor
Dayton, OH 45422
Attention: Carolyn Rice

If to the City: City of Centerville
100 West Spring Valley Road
Centerville, OH 45458
Attention: Greg Horn

Section 5.4 Effective Date; Counterparts. This Memorandum shall take effect immediately upon delivery of an executed copy hereof to each of the parties hereto. This Memorandum may be simultaneously executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

IN WITNESS WHEREOF, each of the MCLRC and the City has executed this Memorandum as of the date first set forth above.

MONTGOMERY COUNTY LAND REUTILIZATION CORPORATION

By: _____

Title: _____

CITY OF CENTERVILLE, OHIO

By: _____
City Manager

Approved as to form:

Scott A. Liberman
Municipal Attorney

Scott A. Liberman
Altick & Corwin Co., L.P.A.
One South Main Street, Suite 1590
Dayton, Ohio 45402
(937) 223-1201
(937) 223-5100 (Fax)
liberman@altickcorwin.com

**EXHIBIT A
TO THE MEMORANDUM OF UNDERSTANDING
BETWEEN THE MONTGOMERY COUNTY LAND REUTILIZATION CORPORATION
AND
CITY OF CENTERVILLE**

ACQUISITION PROTOCOLS

As to real estate tax foreclosures, the City shall have priority to obtain such properties over the MCLRC for any property in the City for which the City has provided statutory notice pursuant to Chapter 5722 ORC. The City and the MCLRC hereby agree that unless otherwise separately agreed between the parties, this Agreement shall serve as notice to the MCLRC of the City's intent and claim to acquire all vacant parcels acquired by tax foreclosure.

DEMOLITION PROTOCOLS

As to properties in the City acquired via tax foreclosure whether by direct transfer to the MCLRC, at Sheriff's sale or Judicial Sale through the Clerk's office of the Southern District of Ohio, by a mortgagee or successor institution or assignee of the foreclosing mortgagee and/or servicer, and other properties in the City that the MCLRC Program may be interested in acquiring, or that the MCLRC does acquire:

- A. The MCLRC agrees that it shall not acquire any property in the City for which the City has provided prior written notice of its interest to acquire.
- B. The MCLRC agrees that no property acquired in the City shall be demolished without a proper demolition permit from the City. Within five (5) business days of any such application by the MCLRC, the City shall give written notice to the MCLRC that the City does not wish to have such property demolished. The MCLRC shall be entitled to demolish such property if, after such five (5) day period the City does not provide a request in writing by email (or other convenient written manner as the parties shall agree) to withhold such demolition.

If within such five (5) day period the City elects not to have such property demolished, then within thirty (30) days thereafter the City shall acquire such property from the MCLRC by quit claim deed for the out-of-pocket acquisition expenses of the MCLRC consisting of actual out-of-pocket bidding costs, transactional costs and costs of acquisition. Upon any demolition within the City, the MCLRC shall convey the property to the City at a price equal at least to the MCLRC's out-of-pocket costs (consisting of foreclosure costs, transaction costs, and other related permit costs, conveyance costs, etc.) but which, unless otherwise agreed by the MCLRC and the City in writing, shall not include costs incurred in demolition. This provision shall not compel the City to acquire property demolished by the MCLRC.

MAINTENANCE PROTOCOLS

The MCLRC and the City hereby agree on asset management and operational protocols with respect to the maintenance of MCLRC properties consisting of clearly identifying, at all times, MCLRC properties, and timely responses to citizen complaints. The MCLRC shall maintain its own vendors, maintenance contracts and maintenance standards provided the same comply with City building and housing ordinances, i.e. board-up, and weed/vegetation control. It is understood that the MCLRC shall be receiving, as part of its public mission, properties from tax foreclosure and financial institutions that are deteriorated and in various states of decay. It is understood that the purpose of the MCLRC is mandated by the Agreement and Plan adopted by the Montgomery County Commissioners, to which the MCLRC must adhere. Accordingly, the MCLRC will keep these properties boarded-up, free from overgrown vegetation and maintains the properties so that they are not open, vacant and vandalized (OVV) consistent with City ordinances.

REHABILITATION PROTOCOLS

The MCLRC shall make programs available consistent with its mission, and shall require all of its contractors to execute agreements requiring them to adhere to City building, housing and zoning laws of the City. The MCLRC and the City will also cross-inform each other and each prospective rehabber purchaser of MCLRC properties of available City and MCLRC assistance programs. The MCLRC shall also adhere to the City's planning areas and employ properly licensed and qualified general contractors and subcontractors.

DISPOSITION PROTOCOLS

The MCLRC shall give written notice to the City at least five (5) business days before making any binding commitment of sale or transfer to a third party of a property located in the City, giving the City the right to purchase the property on the same terms, conditions and price as such commitment of sale or transfer. If the City does not provide written notice of its desire to purchase the property on said same terms and conditions within said five (5) days, then such right shall automatically expire and the MCLRC is free to transfer the property on substantially same terms and conditions. If the City wishes to acquire the property, then the City shall notify the MCLRC in writing within said five (5) days from the date of said notice, and it shall close such acquisition within 30 days of its written notice of its intent to acquire. Notwithstanding the foregoing, it is understood by the MCLRC and the City that as part of its public mission, the MCLRC necessarily holds properties either in a moth-balled state, or in furtherance of promoting home ownership and/or home occupancy via lease-option programs, land contracts or rental arrangements whereby the MCLRC continues to have responsibility for the property during the time it holds title. In such cases and in furtherance of such programs, properties that the MCLRC rehabilitates (directly or through the engagement of contractors) or is an equity partner with any rehabber or has a relationship with any such third party to receive a distributive share of profits or agreed-upon fees as part of any such programs shall not be subject to this provision. Notwithstanding the foregoing, to the extent provided in other Memorandums of Understanding with other municipalities and Cities, the MCLRC shall provide the City the net proceeds of the MCLRC sales within the City in the same percentage amount the MCLRC offers any other jurisdiction in Montgomery County.

MISCELLANEOUS PROTOCOLS

To the extent reasonably feasible and practical for both entities, the MCLRC and the City will devote financial and staff resources to develop separate but compatible databases for tracking:

- A. Properties held in MCLRC and City land banks; and
- B. Public records regarding vacant, abandoned, and at-risk properties including ownership, tax status, utility disconnections, parties in interest, contact information, code enforcement status, tax or mortgage foreclosure filings and status, and other pertinent information.
 - 1. The MCLRC and the City will work cooperatively to develop separate but compatible online services to the public with bilateral links, interactive mapping capabilities, and direct access to assistance programs.
 - 2. The City will provide to the MCLRC a summary of neighborhood and economic development plans as may be in existence now or as may be established from time to time by the City, as found in the City's Comprehensive Plan, together with identification of future land use preferences embodied in those plans. Except as otherwise provided herein or as the parties may agree from time to time, the MCLRC will dispose of MCLRC properties in a manner consistent with those land use preferences.

Subject to the provisions in the Maintenance Protocols, the MCLRC shall comply with all applicable local ordinances, rules and regulations, including but not limited to those relating to the maintenance, repair, securing, sale and/or demolition of properties it owns within the City.