

ORDINANCE NO. 2023-35

Introduced by Sam Artino

AN ORDINANCE RATIFYING THE CITY MANAGER'S EXECUTION OF A FIRST AMENDMENT TO REAL ESTATE PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS, AND AUTHORIZING THE CITY MANAGER'S EXECUTION OF A SECOND AMENDMENT TO THE REAL ESTATE PURCHASE AGREEMENT BY AND BETWEEN OSTER'S MHP, LLC AND THE CITY OF HURON, AS RATIFIED BY ORDINANCE NO. 2023-7 ADOPTED ON MARCH 28, 2023.

WHEREAS, the Huron City Council previous ratified a Real Estate Purchase Agreement by and between Oster's MHP, LLC and the City of Huron (hereinafter, the "Parties") with Ordinance No. 2023-7 adopted on March 28, 2023 for the purchase of the property located adjacent to Cleveland Road, West, currently known as Oster's Mobile Home Park (hereinafter, the "Agreement"), identified as Erie County, Ohio Permanent Parcel Number 43-00322.000, 43-00600.000, 43-00319.000, 43-00318.000, 43-00317.000, 43-00320.000 and 43-00321.000 (hereinafter, the "Property"); and

WHEREAS, a First Amendment to the Agreement was executed by the Parties on March 6, 2023, which amendment provided an extension of time until April 6, 2023 for any title objections; and

WHEREAS, the parties have been working collaboratively to relocate the residents and occupants living at the Property, including the City's efforts to identify and assist the residents and occupants to avail themselves of available resources for all such relocations; and

WHEREAS, the City has requested the Seller to temporarily delay commencement of legal proceedings against residents and occupants that are current on rent obligations to allow time for the City to assist the residents and occupants to avail themselves of available resources for relocation, and that as a result of Seller's compliance with the City's request, Seller has not failed to actively and continuously prosecute and/or defend claims of third parties; and

WHEREAS, the Second Amendment to the Agreement acts to approve the first Seller Vacation Period Extension of an additional sixty (60) days extension to the Seller Vacation Period, until January 29, 2024.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1. That the City Manager's execution of the First Amendment to Real Estate Purchase Agreement and Escrow Instruction dated March 6, 2023 is hereby ratified, a copy of which First Amendment is attached hereto as Exhibit "A" and made a part hereof by reference.

SECTION 2. That the City Manager be, and hereby is, authorized to execute the Second Amendment to Real Estate Purchase Agreement and Escrow Instruction, a copy of which Second Amendment is attached hereto as Exhibit "B" and made a part hereof by reference.

SECTION 3. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare and it is imperative this Ordinance be effective immediately, **WHEREFORE**, this Ordinance shall be in full force and effect from and immediately after its adoption.

ATTEST: Geni Welkenes
Clerk of Council

Monty Tapp
Monty Tapp, Mayor

ADOPTED: 26 SEP 2023



FIRST AMENDMENT TO
REAL ESTATE PURCHASE AGREEMENT AND ESCROW INSTRUCTION

This First Amendment to Real Estate Purchase Agreement and Escrow Instructions (herein called "Amendment") by and between **OSTER'S MHP LLC**, an Ohio limited liability company (which with its successors and assigns is herein called "Seller") and **THE CITY OF HURON**, an Ohio chartered municipality (which with its successors and assigns is herein called "Buyer") (with Seller and Buyer being individually referred to herein as "Party" and collectively referred to herein as "Parties"), is to EVIDENCE THAT:

WHEREAS Seller and Buyer entered into a certain Real Estate Purchase Agreement and Escrow Instructions dated January 30, 2023 (the "Agreement"), for the purchase and sale of certain Real Estate as defined therein; and

WHEREAS Seller and Buyer have agreed to amend the Agreement to address an extension of the time for title objections.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows effective as of March 6, 2023 (the "Effective Date"):

1. Capitalized terms not defined herein have the meanings given to them in the Agreement.
2. As of the Effective Date, Section 7 of the Agreement shall be eliminated in its entirety and replaced with the following:

"7. Title Commitment.

(a) Buyer shall cause Title Company to issue, within fourteen (14) days after the last of the Parties have executed this Agreement, a commitment for an ALTA Owner's Policy of Title Insurance (with said title policy of insurance being referred to herein as "Title Policy") in the amount of the Purchase Price, and, if requested by Buyer, a commitment for an ALTA Mortgagee's Policy of Title Insurance (with said policy of insurance being referred to herein as "Loan Policy") in an amount to be determined (collectively, the "Commitment"), together with legible copies of all instruments evidencing those matters listed as exceptions in the Commitment, setting forth the state of title to the Real Estate as of the effective date of the Commitment, the Title Company's requirements to delete the standard printed exceptions in the title policy(ies), the results of a special tax search and committing to issue those endorsements reasonably required by Buyer. The Title Company shall deliver a copy of the Commitment to Seller, Buyer, and Buyer's lender. Buyer is not required to object to any tax, judgment, mortgage or mechanics liens which may be shown on the Commitment (collectively "Monetary Liens"), all of which will be discharged at Closing at Seller's sole cost and expense.

(b) Buyer may provide written objections to Seller pertaining to exceptions contained in the Commitment no later than April 6, 2023. Upon receipt of such written objections, Seller shall have the right but not the obligation to use reasonable diligence to remove, discharge or correct such liens, encumbrances or objections and shall have a period of thirty (30) days after April 6, 2023 in which to do so. If Seller shall be unwilling or unable to remove or discharge such other liens, encumbrances or objections within such period, then Buyer may, at its option, no later than fifteen business (15) days after Seller notifies Buyer in writing of Seller's unwillingness or inability, either terminate this Agreement or accept title in its then-existing condition. If Buyer shall

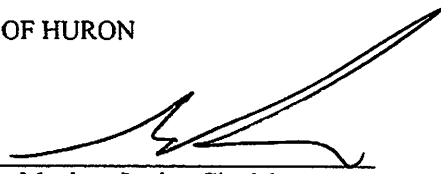
elect to terminate this Agreement, all deposit sums shall be returned to Buyer (including the Deposit and Additional Deposit, as applicable), and this Agreement shall promptly terminate, with Seller and Buyer having no further right or obligation hereunder to the other. If Buyer fails to give Seller written notice of objection to matters contained in the Commitment on or before April 6, 2023, all matters reflected on the Commitment shall be deemed to be accepted by Buyer.

(c) On or before the Closing Date, Buyer and/or Seller may cause the Title Company to update the Commitment. If the updated Commitment contains exceptions which are not acceptable to Buyer, Buyer in its reasonable discretion may file written objections thereto prior to the completion of Closing. If Buyer timely and properly files written objection to any such item, the same shall be treated in the same manner as a title defect pursuant to Section 7.1(a), above. If the updated Commitment contains no exceptions other than those reflected on the Commitment, or if Buyer fails to give written notice of new objections to Seller prior to completion of Closing, all matters reflected on the updated Commitment shall be deemed accepted by Buyer, and this Agreement shall remain in full force and effect and Buyer shall be obligated to complete the transaction as required by this Agreement.”

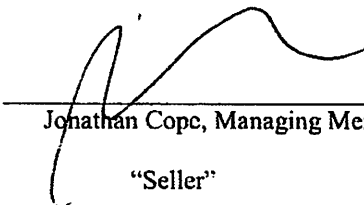
3. All provisions of the Agreement as amended not modified by this Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be effective as of the Effective Date.

CITY OF HURON

By: 
Matthew Lasko, City Manager
“Buyer”

OSTER’S MHP LLC

By: 
Jonathan Copc, Managing Member
“Seller”

SECOND AMENDMENT TO
REAL ESTATE PURCHASE AGREEMENT AND ESCROW INSTRUCITON

This Second Amendment to Real Estate Purchase Agreement and Escrow Instructions (herein called "Amendment") by and between OSTER'S MHP LLC, an Ohio limited liability company (which with its successors and assigns is herein called "Seller") and THE CITY OF HURON, an Ohio chartered municipality (which with its successors and assigns is herein called "Buyer") (with Seller and Buyer being individually referred to herein as "Party" and collectively referred to herein as "Parties"), is to EVIDENCE THAT:

WHEREAS, Seller and Buyer entered into a certain Real Estate Purchase Agreement and Escrow Instructions dated January 30, 2023 (the "Agreement"), for the purchase and sale of certain Real Estate as defined therein; and

WHEREAS, Seller and Buyer have been working collaboratively to relocate the residents and occupants living at the Real Estate, including Buyer's efforts to identify and assist the residents and occupants to avail themselves of available resources for all such relocations; and

WHEREAS, Buyer has requested Seller to temporarily delay commencement of legal proceedings against residents and occupants that are current on rent obligations to allow time for Buyer to assist the residents and occupants to avail themselves of available resources for relocation, and that as a result of Seller's compliance with Buyer's request, Seller has not failed to actively and continuously prosecute and/or defend claims of third parties; and

WHEREAS, Seller and Buyer agree that Seller has, in light of Buyer's assistance to the residents and occupants, continued to use the most legally expedient means to remove any and all interests of third parties as reasonably determined by Buyer; and

WHEREAS, Buyer provided the contractual Additional Deposit on April 4, 2023, making the Seller Vacation Period end date November 30, 2023; and

WHEREAS, Seller and Buyer have agreed to amend the Agreement to approve the first Seller Vacation Period Extension of an additional sixty (60) days extension to the Seller Vacation Period, until January 29, 2024.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows effective as of August 23, 2023 (the "Effective Date"):

1. Capitalized terms not defined herein have the meanings given to them in the Agreement.
2. Buyer and Seller hereby approve the first Seller Vacation Period Extension of an additional sixty (60) days extension to the Seller Vacation Period, which shall now end on January 29, 2024, subject to the terms and conditions set forth in Section 6.1(e) of the Agreement.

Oster's MHP LLC-City of Huron
Second Amendment

3. The Parties desire to add the following as the last full sentence of Section 6.1(e) of the Agreement (added prior to the final phrase that states "Notwithstanding any contrary provision of this..."):

"Notwithstanding the foregoing, the Parties acknowledge and agree that they shall work collaboratively to ensure residents and/or occupants that are current on rent and lease-related obligations are afforded additional reasonable time within the Seller Vacation Periods (as may be extended) to permit relocation *provided* such tenants or occupants are also actively working on relocation as reasonably determined by Buyer. Notwithstanding any contrary provision of this Agreement (as amended):

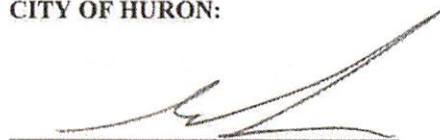
(i) nothing in the Agreement shall serve to delay or retard the filing of any legal action(s) against tenants and/or occupants that are not paying rent, that are engaging an unlawful activity, or otherwise in breach of their legal obligations; and

(ii) Seller's election not to undertake legal action (including but not limited to eviction) for those tenants and/or occupants not paying Rent but that are otherwise actively seeking new living arrangements shall not be considered a breach of this Agreement."

4. All provisions of the Agreement as amended not modified by this Amendment shall remain in full force and effect.

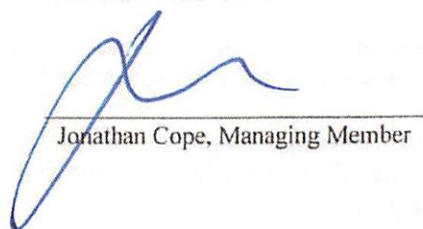
IN WITNESS WHEREOF, the Parties have caused this Amendment to be effective as of the Effective Date.

CITY OF HURON:



Matthew Lasko, City Manager

OSTER'S MHP LLC



Jonathan Cope, Managing Member