

ORDINANCE NO. 2010- 49

**AN ORDINANCE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO AN AGREEMENT BETWEEN HOMESTEPS AND THE CITY OF KENT TO PURCHASE 527 FAIRCHILD AVENUE, KENT, OHIO FOR \$19,800.00 USING NSP FUNDS AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Kent wishes to enter into an agreement with Homesteps to purchase 527 Fairchild Avenue for purposes of demolition using NSP funding; and

**WHEREAS**, Homesteps has agreed to said sale in the amount of \$19,800.00; and

**WHEREAS**, time is of the essence as the City only has a short time period to use the NSP funding.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

**SECTION 1.** That Council does hereby authorize the City Manager, or his designee, to enter into a Purchase Agreement with Homesteps to purchase 527 Fairchild Avenue in the amount of \$19,800.00 for demotion purposes and is more fully described in Exhibit "A" attached hereto and incorporated herein.

**SECTION 2.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

**SECTION 3.** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City, for which reason and other reasons manifest to this Council, this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: 06/16/2010  
DATE

\_\_\_\_\_  
MAYOR AND PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
CLERK OF COUNCIL

I hereby certify that Ordinance No. 2010-49 was duly enacted this 16 day of  
June, 2010, by the Council of the City of Kent, Ohio.

\_\_\_\_\_  
CLERK OF COUNCIL

EXHIBIT "A"

**PURCHASE AGREEMENT**

THIS PURCHASE AGREEMENT (the "Agreement") is made and is effective as of the date of the execution hereof by the last party to sign by and between the CITY OF KENT, Ohio, 215 E. Summit Street, Kent, Ohio 44240 (hereinafter referred to as "Purchaser") and HOMESTEPS, with a mailing address of 5000 Plano Parkway, Carrollton, TX 75010 (hereinafter referred to as "Seller").

**WITNESSETH:**

WHEREAS, the Seller owns a certain real property located in Kent, Portage County, Ohio, which is more fully described in Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, the Seller desires to sell to Purchaser and Purchaser desires to buy from Seller such real estate upon and subject to the terms, provisions and conditions set forth herein below.

NOW, THEREFORE, in consideration of the above Recitals and covenants and promises hereinafter set forth, and for other good and sufficient consideration, the Seller and Purchaser covenant and agree as follows:

1. **AGREEMENT TO SELL** Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller the property known as 527 Fairchild Avenue, including all appurtenances, fixtures and hereditaments, situated in Kent, County of Portage, which is described in attached Exhibit "A", which is incorporated hereby by reference (hereinafter referred to as "the Property").

2. **PURCHASE PRICE**. The Purchaser agrees to pay to the Seller the sum of Nineteen Thousand Eight Hundred Dollars (\$19,800.00) for the Property which sum shall be payable in full at the closing date with the funds to be delivered to the Escrow Agent, \_\_\_\_\_, (hereinafter referred to as the "Escrow Agent").

3. **CONVEYANCE**. The Property shall be conveyed to Purchaser by General Warranty Deed conveying marketable title to Purchaser free and clear of all encumbrances and liens whatsoever, except easements, restrictions, reservations and conditions of record that do not, in the Purchaser's opinion, affect the use of the Property for Purchaser's intended use.

4. **TITLE COMMITMENT**. Within thirty (30) days after the date hereof, Seller shall obtain from the Escrow Agent and deliver to Purchaser a commitment to issue Purchaser an ALTA title insurance policy in the amount of the purchase price hereunder, together with a complete description of all easements, covenants, conditions, reservations and restriction of record. Purchaser shall have thirty (30) days after Purchaser's receipt of said commitment to advise Seller in writing that Purchaser either accepts the condition of title as reflected in said commitment (except for liens, if any, to be discharged by Seller at Closing) or that the condition of title is unacceptable to Purchaser. If Purchaser advises Seller that title is unacceptable due to identified exceptions to title, then Seller shall remove such exceptions from title within thirty (30) days, failing which Purchaser shall within fourteen (14) days thereafter either (a) elect to terminate the Purchase Agreement and receive the prompt return of all funds deposited hereunder by Purchaser and either party shall be liable for damages hereunder to the other, or (b) accept such title as Seller is able to convey, without any reduction in the purchase price hereunder.

5. **TITLE INSURANCE**. Seller shall furnish to Purchaser an owner's title insurance policy in the amount of the purchase price, showing title to the Property to be good in Purchaser and subject only to the approved exceptions set for in Articles 3 and 4 herein. Said title insurance shall be issued to the Escrow Agent.

6. INSPECTION OF PREMISES. Within thirty (30) days from the date hereof, Purchaser is granted the right to conduct inspections of the Property, including without limitation, an environmental assessment. If it should be determined by Purchaser, in Purchaser's sole judgment, that the Property is not in satisfactory condition, Purchaser may terminate this Agreement by written notice to the Seller within sixty (60) days after the date hereof and this Agreement shall be null and void, and neither party shall be liable for damages hereunder to the other and all money therefore paid by the Purchaser shall be returned to the Purchaser. If such written notice from Purchaser to Seller is not given with sixty (60) days after date hereof, the condition of the Property shall have been accepted by the Purchaser and any objection thereto shall be deemed to have been waived.

7. SELLER'S WARRANTIES. Seller hereby represents and warrants to Purchaser as follows:

(1) That it is the fee simple owner of the Property and is fully authorized and empowered to convey the Property as provided here;

(2) That to the best of Seller's knowledge, there are no claims or unpaid bills for labor or material furnished for repair or improvement of the Property.

8. PURCHASER'S WARRANTIES. Purchaser hereby represents and warrants to Seller that they are purchasing the Property based only upon their own inspections of the Property.

9. POSSESSION OF PREMISES. Purchaser shall be entitled to exclusive possession of the Property on the Closing Date.

10. NON-MERGER AND RELEASE OF SELLER FROM WARRANTIES. All the terms, agreements, covenants, warranties and representations contained in this Agreement shall be deemed to have been made on the date hereof and at Closing and shall survive the Closing and the filing of the General Warranty Deed.

11. ESCROW AGENT. An executed copy of this Agreement shall be delivered to the Escrow Agent to serve as its escrow instructions. The Escrow Agent is authorized to attach hereto its standard form of acceptance of escrow without further signatures, provided, however, that where said standard form is inconsistent with the provisions of this Agreement, this Agreement shall be paramount. All funds and documents pertaining to this Agreement shall be deposited with the Escrow Agent not less than five (5) days prior to Closing.

12. CLOSING. Unless the parties or their respective counsel on their behalf, otherwise agree in writing, this transaction shall close in escrow:

(A) When the Escrow Agent has received all of the funds and documents to be deposited with it hereunder and the Escrow Agent can record the General Warranty Deed and can issue an owner's title insurance policy in the full amount of the purchase price in favor of the Purchaser in accordance with provisions of Article 5 hereof.

Upon Closing, the Escrow Agent:

(A) File the Grantee Statement, pay the Ohio State property transfer tax on the conveyance fee and charge the cost thereof, if any, to Seller;

(B) File the General Warranty Deed for record, charge the cost of recording to Purchaser and deliver the General Warranty Deed to Purchaser when available;

(C) Cause the title insurance to be issued and charge the cost of such examination, title commitment and the premium to the Seller;

(D) Charge the cost of the survey, if any, to Seller;

(E) Charge one-half (1/2) of its escrow fee to Seller and one-half (1/2) of its escrow fee to Purchaser;

(F) Pro-rate real estate taxes between the parties as of the date of closing;

(G) Disburse the balance of funds and documents in escrow to Seller and Purchaser as the respective interest appear.

(H) Purchaser shall be responsible for any costs associated with the preparation and filing of any mortgage deed.

13. PLACE/TIME OF CLOSING. The delivery of all papers and funds and the place of closing of this transaction shall be at the offices of the Escrow Agent.

14. BROKERAGE COMMISSION. Each party represents and warrants to the other party that the warranting party has not had any contract or dealing regarding the Property, nor any communication in connection with the subject matter of this transaction, through or with any licensed real estate broker or other person who can claim a right to a commission or to a finder's or similar fee as a procuring cause of the sale contemplated herein.

15. ENTRY OF PURCHASER PRIOR TO CLOSING. Prior to Closing, Purchaser, its agents and employees shall have the right to go upon the Property to make such inspections and surveys as Purchaser shall deem advisable upon reasonable advance notice to Seller.

16. NOTICES. The Parties may contact each other at the following addresses:

:	TO SELLER:	HomeSteps 5000 Plano Parkway Carrollton, TX 75010	
	TO PURCHASER:	City Manager City of Kent 215 E. Summit Street Kent, Ohio 44240	Finance Director City of Kent 325 S. Depeyster Street Kent, Ohio 44240
	WITH COPY TO:	James R. Silver Law Director City of Kent 215 E. Summit Street Kent, Ohio 44240	

The above addresses may be changed from time to time by giving written notice thereof as herein provided.

17. CONSTRUCTION. This Agreement shall be interpreted under and in accordance with the laws of the State of Ohio.

18. INTEGRATED AGREEMENT. This Agreement represents the entire, complete and exclusive understanding by and between the parties and reduces to writing all prior oral agreements and negotiations of the parties and may not be altered, amended or otherwise changed unless in writing signed by both parties.

19. HEADNOTES. The headnotes are inserted only as a matter of convenience and as a matter of reference and in no way define, limit or describe the scope or intent of this Agreement nor in any manner affect this Agreement.

20. BINDING EFFECT. All covenants and conditions herein contained shall extend to and be binding upon the heirs, successors, assigns and legal representatives of the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hand with the intent to be legally bound as of the date set below their respective signatures.

SIGNED IN THE PRESENCE OF:

SELLER: HomeSteps

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Name Title

Date: \_\_\_\_\_

PURCHASER: CITY OF KENT

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

Dave Ruller, City Manager  
Name Title

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
James R. Silver, Law Director  
City of Kent

STATE OF OHIO )  
 ) SS  
PORTAGE COUNTY )

BEFORE ME, a Notary public in and for said County, personally appeared the above-named City of Kent through DAVID RULLER, its City Manager, who acknowledged that he did sign the foregoing Purchase Agreement and that the same is his free act and deed and the free act and deed of the City of Kent.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at Kent, Ohio, which \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Notary Public

STATE OF TEXAS )  
 ) SS

\_\_\_\_\_ COUNTY )

BEFORE ME, a Notary public in and for said County, personally appeared the above-named \_\_\_\_\_, who acknowledges that they did sign the foregoing Purchase Agreement and that the same is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at \_\_\_\_\_, Texas, which \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Notary Public

#### Addendum to Agreement to Purchase Real Estate

This form is intended for use only in connection with the acquisition of abandoned and foreclosed upon homes and residential properties. The buyer hereunder is a subrecipient of federal funds from the Neighborhood Stabilization Program (NSP) under Title III of Division B of the Housing and Economic Recovery Act, 2008. Such funds shall hereinafter be referred to as "NSP funds."

This is an addendum ("Addendum") to the Agreement to Purchase Improved Real Estate of even date herewith (the "Agreement"), wherein the \_\_\_\_\_ ("Seller") agreed to sell to \_\_\_\_\_ ("Buyer"), a Subrecipient of NSP funds, certain residential real estate located at \_\_\_\_\_ (the "Real Estate").

1. Seller acknowledges that federal financial assistance will be used in this transaction. If the contingencies in the Agreement and this Addendum are not met, the Buyer will not be the Subrecipient of NSP funds from Portage County, Ohio ("Grantee"), in which event this Agreement will terminate, Seller will refund the full amount of the earnest money deposit and the Buyer will have no obligation to acquire the Real Estate.

2. In addition to foregoing, Buyer's obligation to purchase the Real Estate shall be further conditioned on the following:

- (a) The Purchase Price shall be equal to or less than ninety-nine percent (99%) of the current appraised market value of the Real Estate, as established by an appraisal of the Real Estate that conforms with the requirements of the Uniform Relocation Assistance Real Property Acquisition Policies Act of 1970 (URA) set forth at 49 CFR 24.103 completed within sixty (60) days of the date of this Purchase Agreement.
- (b) Approval of the purchase of the Real Estate by the Grantee as part of the State of Ohio's Neighborhood Stabilization Program.
- (c) Financing of the Purchase Price by the Grantee from NSP funds.
- (d) Approval of the Buyer's plan and specifications by the Grantee for the Housing/Residential Redevelopment of the Property (the "Redevelopment Plan").
- (e) Financing by the Grantee of all the costs associated with the Housing/Residential Redevelopment of the Property from NSP funds in accordance with the "Redevelopment Plan."
- (f) The completion of an environmental review that conforms with the requirements of the National Environmental Policy Act of 1969 set forth in 24 CFR 58 ("Environmental Review") of the Real Estate by the Buyer, which Environmental Review shall be acceptable to the Grantee, in its sole discretion.

(g) The completion of a historic review that conforms with the requirements of Section 106 of the National Historic Preservation Act of 1966 set forth in 36 CFR Part 800 ("Historic Review") of the Real Estate by the Buyer, which Historic Review shall be acceptable to the Grantee, in its sole discretion.

(h) Compliance with the requirement set forth in the URA

3. To the extent any provision of this Addendum is inconsistent with the Agreement, this Addendum shall control.

4. Timing for Closing: On or before July 15, 2010

5. Preliminary Agreement: N/A

IN WITNESS WHEREOF, the Parties execute this Addendum No. 1 to Agreement to Purchase Real Estate this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Seller Date

By: \_\_\_\_\_  
Buyer Date

By: \_\_\_\_\_  
Seller Date

By: \_\_\_\_\_  
Buyer Date