

CITY OF CLAYTON, OHIO

RESOLUTION NO. R - 04 - 22 - 33

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LISTING AGREEMENT WITH HENKLE SCHUELER & ASSOCIATES, INC.-CORFAC INTERNATIONAL RELATIVE TO SPECIFIC CITY OWNED REAL PROPERTY

WHEREAS, pursuant to Charter Section 8.02(C)(3)(g), City staff has recommended the City enter into a Listing Contract with Henkle Schueler & Associates, Inc.- CORFAC International in substantially the same form as appended hereto as *Exhibit A* with such modifications as recommended by the Law Director, to market City owned real property and bearing *Parcel I.D. Numbers M60-03210-0145, M60-03210-0035, and M60-03102-0112, M60-16312-0001, and M60-16312-0002* and no longer needed for municipal purposes; and

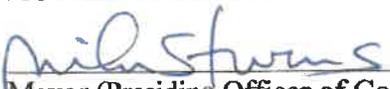
WHEREAS, *pursuant to Charter Section 4.02(A)(8) any sale or transfer of said real estate must be authorized and approved by additional legislation via Ordinance enacted by Council.*

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:

1. That the City Manager is authorized to enter into a Listing Contract with Henkle Schueler & Associates, Inc.-CORFAC International in substantially the same form as appended hereto as *Exhibit A* with such modifications as recommended by the Law Director, to market City owned real property and bearing *Parcel I.D. Numbers M60-03210-0145, M60-03210-0035, and M60-03102-0112, M60-16312-0001, and M60-16312-0002* and no longer needed for municipal purposes with the understanding and upon the further condition that *pursuant to Charter Section 4.02(A)(8), any sale or transfer of said real estate must be authorized and approved by additional legislation via Ordinance enacted by Council.*

ADOPTED BY COUNCIL ON APRIL 21, 2022.

AUTHENTICATION:


Mayor (Presiding Officer of Council)


Clerk of Council

APPROVED AS TO FORM:


Law Director

CERTIFICATION OF PUBLICATION

This shall certify that that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of newspaper

Brookville Star

Date of publication

April 27, 2022

Barbara Sin

CLERK

HENKLE SCHUELER & ASSOCIATES, INC.
3000 G Henkle Drive
Lebanon, Ohio 45036
Lebanon Tel: (513) 932-6010
Cincinnati Tel: (513) 621-7535
Dayton Tel: (513) 228-5362
Fax: (513) 932-1237

Exclusive Right to Sell Listing Contract
Commercial-Industrial-Investment

1 Henkle Schueler—CORFAC International, Lebanon, Ohio April 21, 2022
NAME OF LISTING REALTOR® FIRM DATE

2 APPOINTMENT OF REALTOR®: The undersigned Seller ("Seller") hereby employs the undersigned REALTOR® ("REALTOR®"), as Seller's sole exclusive agent and grants REALTOR® the sole and exclusive right to sell or exchange the following described Real Estate ("Real Estate") together with all improvements and fixtures thereon, and with all appurtenant rights, privileges and easements located in Clayton (City) Montgomery (County), Ohio (State), known as:

PARID M60 03210 0145 aka 7651 N Main Street, 1.35 ac zoned North Main Overlay \$119,000.00
PARID M60 03210 0035 aka 8243 N. Main Street, 1.2 ac zoned North Main Overlay \$129,000.00
PARID M60 03102 0112 National Road at Village of N. Clayton 3.78 ac zoned PUD-Village of N Clayton \$189,000.00
PARID M60 16312 0002 and M60 16312 0001 aka 8049 and 8051 N Main Street, .27 and .94 ac zoned North Main Overlay Call Broker

3 REALTOR® ACCEPTANCE: REALTOR® accepts employment and agrees, in consideration of the agreements by the Seller, to use its best efforts to sell the Real Estate.

4 INCLUDED IN THE SALES: The Real Estate shall include, without limitation, the following: all electrical, plumbing, heating and air conditioning equipment, if any, except:

5 PERSONAL PROPERTY: The following items of personal property shall be included:

6 SELLER'S CERTIFICATION: The Real Estate is zoned See above; is () is not (x) located in an Environmental Quality District; is () is not (x) located in a Historic District; and is () is not (x) located in a flood plain. Seller further certifies that there presently are no existing defects or conditions known to Seller which would adversely affect or materially impair the fitness of the real estate for the purpose of its intended use as presently zoned except. Seller agrees to disclose to REALTOR® and Buyer any and all information which Seller has regarding defects, adverse conditions, and the presence and location of asbestos, PCB transformers, and other toxic, hazardous or contaminated substances and/or underground storage tanks on or about the property. A Phase I Environmental Audit has () has not () been obtained by the Seller.

7 PRICE: The purchase price shall be \$ See above* payable as follows: Cash at closing
*If city of Clatvon incents or subsidizes the listing price more than 20% of asking price, commission will be due on the asking price.

8 CONVEYANCE: At the time of Closing ("Closing"), the Real Estate shall be free from any and all City, County, State and Federal orders. Title to the Real Estate shall be conveyed by deed of general warranty, in fee simple absolute, with release of dower, if any, on or before 30 days from the date of acceptance of an offer to purchase and, at Closing, title shall be marketable and free, clear and unencumbered excepting restrictions and easements of record and except:

9 POSSESSION: Possession shall be given, subject to tenant's rights, upon Closing.

10 PRORATIONS: Real estate taxes, installments of assessments, if any, rents and operating expenses shall be prorated as of the date of Closing.

11 REALTOR'S® FEE: In consideration of REALTOR'S® efforts and services to procure a Buyer for the Real Estate, Seller agrees to pay REALTOR® at Closing a Commission ("Commission") of 6 % of the gross selling price, regardless of agency relationships, for which the Real Estate may be sold or exchanged by REALTOR®. The Commission shall be deemed earned when a binding contract for sale has been executed and/or when REALTOR® has produced a Buyer, ready, willing and able to buy the Real Estate pursuant to the terms of this Contract. In the event the Seller enters into an agreement to lease the Real Estate during the term of this Contract, Seller agrees to pay REALTOR® a Commission of 6% of first five years of the gross aggregate rent and renewals, if any, when a binding lease has been executed.

12 TERM OF AGENCY: Seller agrees that REALTOR® shall have the exclusive right to sell or exchange the Real Estate until Midnight CINCINNATI TIME April 21, 2023, and REALTOR® shall be entitled to its Commission if the Real Estate is sold or exchanged by REALTOR® or by Seller or by any other person at a price acceptable to the Seller during the existence of this Contract.

13 **PROTECTION PERIOD:** The sale or exchange of the Real Estate to any person(s) to whom REALTOR® offered the same during the term of this Contract, if such contract for the sale or exchange is executed within 90 days from the termination of this Contract, shall be considered a sale effected by REALTOR® and shall entitle REALTOR® to the Commission herein agreed to be paid by Seller provided: (a) REALTOR® has furnished Seller a written list of such persons; (b) REALTOR® submits said list of such persons to Seller no later than 30 days after expiration of the term; and, (c) REALTOR® continues consistent written or verbal contact with such person(s) during the Protection Period. Seller acknowledges and understands that this list should be provided by the Seller to any other REALTOR® with whom Seller may enter into another Exclusive Right to Sell subsequent to the expiration of the term of this Contract. This clause shall remain in full effect in the event that Seller signs an Exclusive Right to Lease Listing Contract with another REALTOR®.

14 **EXTENSION:** If a purchase contract is signed before this Contract expires, the terms hereof shall continue until final disposition of the contract to purchase.

15 **SIGNS:** REALTOR® is authorized to place its sign(s) on the Real Estate and to promote its sale.

16 **LISTING SERVICE AUTHORITY:** REALTOR® is authorized to place information about the Real Estate in informational or listing service(s) at REALTOR's® discretion. The REALTOR® and the designated service(s) may disclose information pertaining to the Real Estate to other participants authorized to receive such information.

17 **COOPERATION WITH OTHER BROKERS:** The REALTOR® may cooperate with other brokers and their agents to procure a Buyer and, accordingly, the REALTOR® is authorized to offer compensation to cooperating brokers. Seller further authorizes REALTOR® to compensate Subagency () Buyer Agency () or both Subagency and Buyer Agency (x).

18 **KEY AUTHORIZATION:** Seller authorizes REALTOR® to conduct or allow cooperating REALTORS® to conduct key-entry showings of the Real Estate until acceptance of a purchase contract. Seller represents that adequate insurance will be kept in force to protect Seller in the event of any damage, losses or claims arising from entry to the Real Estate by persons through the above use of the key and hereby holds harmless the REALTOR®, its agents and employees, from any loss, claim or damage resulting therefrom.

19 **POSSIBLE DUAL AGENCY:** Under a dual agency relationship, REALTOR® can legally be the agent of both Buyer and Seller of the property in a purchase, lease, exchange or other transaction to acquire real property, but only with the knowledge and consent of both Buyer and Seller. A dual agency relationship would arise when Buyer wishes to purchase, lease, exchange or otherwise acquire on of the properties listed with REALTOR®, which property is owned by a person who is REALTOR'S® Client. Under a dual agency relationship, REALTOR®, with the agreement of both Buyer and Seller, limits the REALTOR'S® role by not disclosing any confidential information. For example, REALTOR® could not, without the express written permission of the respective party, disclose to Buyer that Seller will accept a purchase price or rent less than the listing price or rent. Nor could REALTOR® disclose to Seller that Buyer will accept a purchase price, different terms or rent greater than the initial offer. In the event of a possible dual agency relationship, Buyer and Seller are advised to seek independent legal counsel.

20 **EARNEST MONEY DEPOSIT:** REALTOR® is authorized to act as a trust agent to accept and deposit in a trust account upon acceptance of said offers, earnest money deposits from prospective Buyers making written offers to purchase the Real Estate. At closing, REALTOR® may apply as much of the earnest money deposit as may be necessary to pay the Commission specified. In the event that any contract to purchase does not close for any reason other than as agreed, the deposit shall be held by REALTOR® until Seller, Buyer and REALTOR® mutually agree in writing to its disposition or until such disposition is directed by a court of competent jurisdiction.

21 **ADDENDUM:** Additional terms and conditions are () are not (x) set forth as an Addendum attached hereto and made a part hereof.

22 **CIVIL RIGHTS:** The Real Estate is available to any person regardless of race, color, religion, sex, handicap, familial status, national origin or ancestry.

23 **SOLE CONTRACT:** This Contract constitutes the entire agreement between the parties hereto, and no oral or implied agreement, representation, or understanding shall cancel or vary the terms of this Contract. Seller acknowledges that Seller has read and received a completed copy of this Contract and the information contained herein is true and accurate to the best of Seller's knowledge.

24 **SIGNATURES:**

Accepted Mark R. Langdon, 20_____

SELLER

For: Henkle Schueler & Associates
(Listing REALTOR® Firm)

By: Mark R. Langdon
(Listing Agent)