

DISPOSITION AGREEMENT

THIS AGREEMENT is made and executed this ____ day of _____, 2013, at Lorain, Ohio, by the City of Lorain, Ohio a municipal corporation duly organized and existing under and by virtue of the Constitution and laws of the State of Ohio, (which together with any successor or public officers hereinafter designated by or pursuant to law is hereinafter call "City") and the Lorain Port Authority, a Port Authority duly organized under the Constitution and laws of the State of Ohio, (hereinafter call "Port Authority")

WITNESSETH:

WHEREAS, pursuant to Ohio Revised Code Chapter 4582.38, the City is willing to transfer the real property described in Exhibit "A" attached hereto to the Port Authority upon the terms and conditions set for herein;

WHEREAS, the City acting through the City Council has by Ordinance No. _____, authorized the Director of Public Safety/Service to enter into Contracts for the Disposition of Land for the Property described in Exhibit "A" attached; and so forth

NOW, THEREFORE, in consideration of the Covenants and Agreement contained herein, the City and Port Authority agree as follows:

SECTION 1: AGREEMENT TO TRANSFER AND ACCEPT PROPERTY

The City agrees to transfer to the Port Authority and the Port Authority agrees to accept from the City the real property described in attached Exhibit "A". The property to be conveyed shall include the land, all appurtenant rights, privileges and easement (all of the foregoing hereinafter collectively called the "Property").

SECTION 2. CONVEYANCE OF PROPERTY

(a) Form of Deed. The City will convey on the closing date a marketable title to the Port Authority evidenced by a good and sufficient Limited Warranty Deed conveying good and indefeasible fee simple title to the Property, free and clear of all encumbrances whatsoever, except the following:

(i) The following easements:

Any easements of record and in addition thereto such easements are necessary for public utilities (including, but not limited to, sanitary and storm sewers, electric, telephone and other transmission lines, gas and water lines).

(ii) Taxes and assessments; and

(iii) Zoning ordinances.

(b) Closing Date. The closing date of this transaction shall be no later than _____, 2013 unless mutually extended by the parties.

(c) Escrow Agent. At the option of the City, this transaction shall be placed in escrow with Land America Lawyers Title Co. (formerly Lorain County Title Co.) at 424 Middle Avenue, Elyria, Ohio (hereinafter referred to as the "Escrow Agent"). An executed copy of the Agreement shall be deposited with the Escrow Agent by no later than _____, 2013. All other documents and funds necessary for the completion of this transactions shall be placed in escrow with the Escrow Agent on or before the Closing Date.

(d) Duties of Escrow Agent. If an Escrow Agent is selected by the City, then on the closing date the Escrow Agent shall file for record the Limited Warranty and this Disposition Agreement and any other instruments required to be recorded and shall thereupon deliver to each of the parties the funds and documents to which they shall be respectively entitled, together with its escrow statement, provided that the Escrow Agent shall then have on hand all funds and documents necessary to complete this transaction and provided the Escrow Agent has stated in writing that it shall be in a position to and will issue and deliver, upon the filing of the deed for record, the title insurance policy.

(e) Possession of the Property shall be delivered to the Port Authority upon filing of the Deed.

SECTION 4. CHARGES

In closing this transaction the City shall pay the following costs:

(a) The cost of Title Examination and any Title Insurance Commitment.

This transaction is exempt from the real property conveyance fee under 5(a) of the Statement of Reason for Exemption from Real Property Conveyance Fee. (Selling or purchasing from a State or government Agency.)

SECTION 5. BROKERS COMMISSION

The City and the Port Authority each represent and warrant to the other that neither party has had any dealings with any real estate agent or broker so as to entitle such agent or broker to any commission in connection with the transfer of the Property to the Port Authority. If for any reason any such commission shall become due, the party dealing with such agent shall pay any such commission and agrees to indemnify and save the other party harmless from any and all claims for any such commission and from any attorney's fees and litigation or other expenses relating to any such claims.

SECTION 6. NOTICES

Unless otherwise expressly required by the terms of this Agreement, notice required or permitted to be given by the parties shall be delivered personally or served by certified for registered mail to the parties at the addresses set forth below, unless different addresses are given by one party or another:

AS TO THE CITY:

City of Lorain, Ohio
Director of Public Service/Safety
200 West Erie Avenue, 7th Floor
Lorain, Ohio 44052

Director of Law
City of Lorain, Ohio
200 West Erie Ave., 7th Floor
Lorain, Ohio 44052

AS TO THE PORT AUTHORITY:

Lorain Port Authority
Mr. Richard Novak, Executive Director
611 Broadway Avenue
Lorain, Ohio 44052

SECTION 7. BINDING EFFECT

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns; provided, however, that neither party shall assign this Agreement without the prior written consent of the other party.

SECTION 8. INTEGRATED CONTRACT/NO WARRANTIES PROVIDED

This agreement shall be deemed to contain all of the terms and conditions agreed upon, and City and the Port Authority agree that any modifications must be in writing and signed by all parties.

SECTION 9. SPECIAL PROVISIONS

(a) Approval of City. Any provision of the Agreement requiring the approval of the City, the satisfaction of the City, certificate or certification by the City shall be interpreted as requiring action by the Safety Service Director of the City of Lorain granting, authorizing or expressing such approval, satisfaction certificate, or certification, as the case may be, unless such provision expressly provided otherwise. The City agrees that any provision of this Agreement requiring the approval, satisfaction or certification of the City shall be deemed to have reference to approval, satisfaction or certification based on an objective, reasonable standard.

(b) Prohibition of mechanic's and Other Liens. The Port Authority shall not permit any mechanics' or other liens to be filed or exist against the Property or improvements by reason of work, labor, services or materials supplied or claimed to have been supplied to the Lorain Port Authority in connection with any improvements. If any such lien is at any time filed, the Port Authority shall give written notice thereof to the City and, within ninety (90) days after the notice of the filing thereof (subject to the right to contest hereinafter set forth), cause the same to be discharged of record by payment, deposit, bond, order of a Court or competent jurisdiction or otherwise. The Port Authority, after providing written notice to the City of such lien, shall have the right (in its name or, to the extent lawful, in the City's name, or both) to contest (at the Port Authority's expense) the validity or amount of any such lien by appropriate proceedings timely instituted, the Port Authority and the improvements will be endangered or the improvements or any part thereof will be subject to loss or forfeiture due to such refusal to discharge the lien; in such event, the Port Authority shall promptly cause such mechanics' or other liens to be discharged.

(c) Port Authority may convey said property to the Black River Historical Society (hereinafter Society) to be renovated by said Society and used for their purposes. Any deed conveying real property to the Society shall contain deed restrictions that the property shall only be used for its non profit purposes. Society shall not convey real property without the approved written consent of the Port Authority and City of Lorain. Any violation of said restrictions shall cause said property to revert back to the City of Lorain and the Port Authority.

SECTION 10. PROPERTY BEING CONVEYED IN PRESENT CONDITION

The Port Authority is accepting the Property in its present condition and with no warranties or representations that survive the closing as to the existence of any sub-surface, environmental, or any other conditions. The City agrees to provide all information and public records in its possession regarding the property. Port accepts this property in its as is condition.

IN WITNESS WHEREOF, the City and the Port Authority have caused this Agreement to be executed by duly authorized representatives as of the date first written above.

Signed and Acknowledged in the presence of:

CITY OF LORAIN, OHIO

By: _____

Signed and Acknowledged in the presence of :

By: _____

Richard Novak
Executive Director

STATE OF OHIO }
 SS
COUNTY OF LORAIN }

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named _____ of Lorain, Ohio, who acknowledged that he/she did sign the foregoing instrument and that the same is his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Lorain, Ohio
This _____ day of _____, 2013

Notary Public

STATE OF OHIO }
 SS
COUNTY OF LORAIN }

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named Richard Novak, Executive Director of the Lorain Port Authority, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Lorain, Ohio
This _____ day of _____, 2013

Notary Public

Approved as to Form:

Law Director's Office
City of Lorain, Ohio

Date: _____

EXHIBIT "A" LEGAL DESCRIPTION