

**RESOLUTION NO. 2024-04**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LORAIN PORT AUTHORITY AUTHORIZING THE EXECUTIVE DIRECTOR OR HIS DESIGNEE TO ENTER INTO A REAL ESTATE PURCHASE AGREEMENT WITH LIBERTY DEVELOPMENT, SUBJECT TO LEGAL COUNSEL REVIEW.**

**WHEREAS**, the Lorain Port Authority has a mission to promote economic development opportunities; and

**WHEREAS**, the Oberlin City School District approved the transfer of 198 East College Street, Oberlin, Ohio to the Lorain Port Authority on December 12, 2023 which included the Disposition Agreement; and

**WHEREAS**, pursuant to Ohio Revised Code (ORC) Section 4582.22, the Lorain Port Authority is an instrumentality of the State of Ohio conferred with powers considered to be essential to government functions to further economic development.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Lorain Port Authority:

**SECTION I.** That the Board approves the sale of 198 East College Street to Liberty Development pursuant to the Real Estate Purchase agreement and further authorizes the Executive Director or his designee to execute all documents required for this transaction.

**SECTION II.** It is found and determined that all formal proceedings and actions of this Board concerning and relating to the passage of this resolution were adopted in an open meeting of this Board, and that all deliberations of this Board 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, including §121.22 of the Ohio Revised Code.

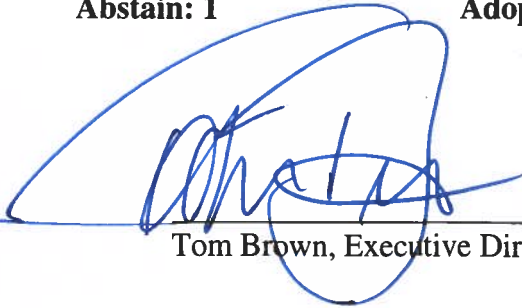
**Ayes: 8**

**Nays: 0**

**Abstain: 1**

**Adopted: 02/13/2024**

  
Brad Mullins, Chairman

  
Tom Brown, Executive Director

## REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT (“**Agreement**”) is made this \_\_\_\_ day of January, 2024 (“**Effective Date**”), by and between the Lorain Port Authority, a Port Authority duly organized under the Constitution and the laws of the State of Ohio (“**Seller**”), and Liberty Development Company, an Ohio limited liability company, or its nominee(s) (“**Buyer**”).

1. The Property. Seller hereby agrees to sell and convey to Buyer, and Buyer agrees to purchase from Seller, the six (6) parcels of real property owned by Seller commonly known collectively as the Eastwood Elementary School, located at 198 E. College Street, Oberlin, Ohio, and assigned Lorain County Permanent Parcel Nos. 09-00-086-109-014, 09-00-086-109-015, 09-00-086-109-017, 09-00-086-109-021, 09-00-086-109-048, 09-00-086-109-049, 09-00-086-109-050, and 09-00-086-109-051, consisting of approximately \_\_\_\_ total acres, and more fully described by the legal description set forth on Exhibit A, that is attached hereto and incorporated herein by reference, together with all buildings and other improvements located thereon, and all appurtenant rights, privileges and easements associated therewith (collectively, the “**Property**”).

2. Purchase Price; Title Company. Buyer is willing to take title to the Property and assume responsibility for its redevelopment, subject to sufficient opportunity to conduct its own due diligence review of the Property (the “**Redevelopment**”). In consideration of the foregoing, Seller hereby agrees to transfer the Property to Buyer upon the payment of Fifty Thousand Dollars (\$50,000.00) (the “**Purchase Price**”) payable in cash on the Closing Date (as defined below). Within five (5) days after the Effective Date of this Agreement, Buyer shall deposit Five Thousand Dollars (\$5,000.00) as earnest money (the “**Earnest Money**”) with the Title Company (as defined below), which such Earnest Money shall be fully-refundable to Buyer in the event that this Agreement is terminated prior to Closing Date for any reason, and shall otherwise be credited against the Purchase Price at Closing. North Star Title, a division of Stewart Title (the “**Title Company**”), shall serve as the title company and escrow agent for the transactions described herein.

3. Closing; Closing Date. The consummation of the transactions contemplated by this Agreement shall be referred to as the “**Closing**”. Closing shall occur within forty-five (45) days of expiration of the Due Diligence Period (as defined below), subject to Buyer being satisfied with its due diligence investigations and all closing conditions of the Seller and Buyer having been met or waived by Buyer in writing, such date being hereinafter referred to as the “**Closing Date**”.

4. Due Diligence. Buyer shall have a period of one hundred eighty (180) days after the Effective Date (the “**Due Diligence Period**”) within which to examine the Property and perform all inspections and audits and obtain all reports with respect thereto, including, without limitation, structural, environmental, title review, zoning and other governmental approvals, economic incentives, and potential financing options, and any other due diligence items which Buyer deems necessary or advisable in its sole discretion. If additional time is needed for Buyer to complete its due diligence of the Property, the Due Diligence Period will be extended an additional thirty (30) days upon written notice from Buyer to Seller.

5. Deed; Title; Survey.

(a) Deed. Seller shall convey marketable fee simple title to the Property to Buyer by limited warranty deed (the “**Deed**”), free and clear of all liens and encumbrances except: (i) any easements of record and in addition thereto such easements as 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 not yet due and payable; and (iii) zoning ordinances (collectively, the “**Permitted Exceptions**”).

(b) Title. Seller shall obtain a commitment for title insurance from the Title Company. At the Closing Buyer shall be entitled to receive an ALTA Owner’s Fee Policy of Title Insurance (the “**Title Policy**”) issued by the Title Company insuring title to the Property to be good in Buyer as of the filing of the Deed for record, subject only to the Permitted Exceptions.

(c) Survey. Buyer, at its discretion and sole expense, may obtain a survey.

6. Closing Deliveries. On or before the Closing Date, Seller shall deposit or cause to be deposited with the Title Company: (i) the Deed; and (ii) such other funds, affidavits, documents and instruments, in recordable form or otherwise, as may be reasonably required by the Title Company as a condition of the closing of the escrow. On or before the Closing Date, Buyer shall deposit with the Title Company: (i) the balance of the Purchase Price; and (ii) such other funds, documents and instruments, in recordable form or otherwise, as may be reasonably required by the Title Company as a condition of the Closing of the escrow.

7. Prorations and Expenses. Any past due utilities and other expenses with respect to the Property shall be paid by Seller (or Seller shall cause them to be paid). Seller and Buyer shall cooperate to arrange for utilities to the Property to be transferred to Buyer at Closing. Other normally pro-rated items shall be pro-rated as of the Closing Date.

8. Transaction Fee / Closing Costs. The parties acknowledge and agree that: (i) Seller will receive a transaction fee of \$10,000.00 (the “**Transaction Fee**”) for its agreements hereunder, which such Transaction Fee shall be paid by Buyer at Closing; and (ii) the net proceeds from the Purchase Price, less the Seller closing costs set forth herein below, shall be paid to Oberlin City School District (“**Oberlin CSD**”) in accordance with that certain Disposition Agreement between Seller and Oberlin CSD of even date herewith (the “**Disposition Agreement**”).

Seller shall pay (or cause to be paid by Oberlin CSD) one-half, with Buyer responsible for the other one-half, of all of the following:

(a) The cost of any Title Insurance Commitments;

(b) The cost of the issuance of any Owner's Title Policy (except that the Buyer shall be solely responsible for the costs of endorsements to the Owner’s Title Policy);

(c) Any conveyance fees, documentary stamps or transfer taxes; and

- (e) The escrow fee charged by the Title Company.

At Closing, Seller shall pay (or cause to be paid by Oberlin CSD) the following:

- (a) The cost of the Title Examination;
- (b) The cost of preparing and recording the Deeds; and
- (c) To the extent there are any, the full cost for obtaining and recording releases of any liens or encumbrances on the Property to Buyer has objected and that Oberlin CSD has agreed in writing to release.

Each party shall be responsible for payment of its own attorneys' fees.

9. Possession. Seller shall deliver possession of the Property to Buyer on the Closing Date.

10. Closing.

(a) The obligations of Buyer hereunder are subject to the following conditions, any of which may be waived by Buyer in writing in Buyer's sole discretion:

(i) The representations and warranties of Seller set forth in paragraph 11 shall be true and correct in all material respects as of the date hereof and on the Closing Date;

(ii) Seller's ability to convey title to Buyer as required by this Agreement;

(iii) Buyer being satisfied with the results of its due diligence investigations, in Buyer's sole and absolute discretion; and

(iv) All obligations of Seller hereunder to be performed at or prior to the Closing Date have been or can and will be performed as of the Closing Date.

(b) The obligations of Seller hereunder are subject to the following conditions, any of which may be waived by Seller in writing:

(i) The representations and warranties of Buyer set forth in paragraph 12 shall be true and correct in all material respects as of the date hereof and on the Closing Date; and

(ii) All obligations of Buyer hereunder to be performed at or prior to the Closing Date have been or can and will be performed as of the Closing Date.

(iii) All obligations of Buyer hereunder to be performed after the Closing Date shall survive the Closing and shall be fully enforceable by Seller or the Board of Education of the Oberlin City School District (the "Oberlin CSD"), as applicable.

11. Seller's Representations and Warranties. Seller represents, warrants and covenants to Buyer that:

(a) Seller has been duly authorized to execute, deliver and perform its obligations under this Agreement and all documents to be executed by Seller pursuant hereto.

(b) This Agreement is a legal, valid, and binding obligation of Seller and is enforceable against Seller in accordance with its terms.

12. Buyer's Representations and Warranties. Buyer hereby represents and warrants to Seller as follows:

(a) Buyer has been duly authorized to execute, deliver and perform its obligations under this Agreement and all documents to be executed by Buyer pursuant hereto.

(b) This Agreement is a legal, valid, and binding obligation of Buyer and is enforceable against Buyer in accordance with its terms.

(c) Buyer will redevelop the Property for mixed-use purposes (with at least one of the mixed uses being residential housing units) or for residential housing units. Subject to Force Majeure (as defined below), Buyer will have up to twelve (12) months following the Closing Date to commence construction of the redevelopment of the Property. Commencement of construction shall mean the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities have taken place. For purposes of this Agreement, "Force Majeure" shall mean delay(s) caused by fire, catastrophe, strikes or labor trouble, pandemic/epidemic, acts of war, terrorism, and/or civil commotion, acts of God, governmental prohibitions or regulation, acts or omissions of unaffiliated third-parties, inability or difficulty obtaining materials/supplies, and/or other causes beyond Buyer's reasonable control. If a Force Majeure event delays Buyer's redevelopment of the Property, then the period of such delay shall be added to the time for performance hereunder.

13. Removal of Personal Property and Any Stored Materials. Prior to the Closing Date, Seller shall have caused Oberlin CSD to remove from the Property any personal property and/or other materials stored on or within the Property in accordance with Section 8(b) of the Disposition Agreement, which is hereby incorporated by reference.

14. Default/Remedies. If Buyer fails to close through no fault of Seller, or defaults in the performance of any covenant or agreement herein contained, after written notice from Seller to Buyer and sixty (60) days to cure, then Seller may terminate this Agreement and retain the deposit as its Deposit as its sole and exclusive remedy. If Seller defaults or fails to perform any obligation imposed by this Agreement, after written notice from Buyer to Seller and sixty (60) days to cure, then Buyer's

remedies shall be limited to (i) terminating this Agreement, and/or (ii) suing Seller for specific performance and damages.

15. Risk of Loss. Risk of loss to the Property or any part thereof shall remain with Seller until the Closing. In the event that the Property is damaged or destroyed by casualty prior to the Closing Date, Buyer may terminate this Agreement by written notice.

16. Eminent Domain. In the event the Property or any part thereof shall be appropriated or taken by the exercise of the power of eminent domain (or the equivalent thereof) or Seller shall receive notice or threat thereof prior to the Closing Date, Seller shall so notify Buyer and the Title Company in writing and Buyer shall have the option, exercisable by written notice to Seller and the Title Company within thirty (30) days following such notice, either to (a) terminate this Agreement and all other funds previously paid, deposited or advanced by Buyer, including, without limitation, the Earnest Money, the Title Company shall return all documents previously deposited in escrow to the parties, and neither party hereto shall thereafter be under any further liability to the other, and in which event Seller shall be entitled to receive and retain the entire proceeds awarded in the proceedings relating to such taking, or (b) accept the remaining Property not so taken and proceed to Closing, in which event Buyer shall be entitled to receive and retain the entire proceeds awarded in the proceedings relating to such taking. Buyer shall be entitled to notice of and to participate in any proceeding or negotiations and to retain its own counsel, at its sole expense, until such time as it elects option (a) above.

17. Further Assistance; Cooperation. Seller and Buyer agree, at any time and from time to time, to execute any and all documents reasonably requested by the other party or the Title Company to carry out the intent of this Agreement.

18. Assignment; Binding Agreement. This Agreement may not be assigned without the other party's prior written consent; provided, however, that Seller acknowledges and agrees that Buyer may form and nominate a special purpose entity (SPE) to take/hold title to the Property. The terms and conditions of this Agreement shall survive Closing and be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns.

19. Counterparts. This Agreement may be executed in any number of counterparts, including electronic signatures included in a pdf file each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument. This Agreement shall become effective when counterparts have been signed by each party and delivered to the other parties, it being understood that the parties need not sign the same counterpart.

20. Brokers. Each party represents to the other party that neither party has dealt with a real estate broker in connection with this transaction.

21. Entire Agreement. This Agreement shall be deemed to contain all of the terms and conditions agreed upon, it being understood that there are no outside representations or oral agreements.

22. Escrow Conditions. This Agreement shall serve as escrow instructions for the Title Company, and may be supplemented by additional escrow instructions from the parties prior to the Closing, so long as such additional instructions do not conflict with this Agreement.

23. Notices. Any notice request, information, or other communication to be given hereunder to either of the parties by the other shall be in writing and shall be deemed to have been delivered upon personal delivery and receipt, or on the next business day after being deposited with a nationally recognized overnight delivery service, or upon first attempted delivery after being deposited in the first class U.S. mail, postage prepaid, registered or certified mail, return receipt requested, as follows:

If to Buyer: Liberty Development Company  
Attn: Dru Siley  
28045 Ranney Parkway, Unit E  
Westlake, OH 44145

With a copy to:

Matthew J. McCracken, Esq.  
Kaufman, Drozdowski & Grendell, LLC  
29525 Chagrin Blvd., Ste. 250  
Pepper Pike, OH 44122

If to Seller: Lorain Port Authority  
Attn: Tom Brown, Executive Director  
319 Black River Lane  
Lorain, Ohio 44052

or such other addresses as Buyer or Seller may advise each other in writing.

24. Access to Real Property. From and after the date of this Agreement, Seller agrees to permit Buyer and Buyer's designees reasonable access to the Property, upon 24-hour notice, for the purpose of making reports, surveys, tests, measurements, investigations and inspections as contemplated by this Agreement. Buyer shall indemnify, defend and hold harmless Seller from and against any liability, loss, damage, claim, fee, cost or expense, including reasonable attorney's fees which may have resulted or may result from any such entry upon or inspection of the Property and Buyer shall restore the Property to its condition existing prior to such entry or inspection.

25. Section Headings. All section headings and other titles and captions herein are for convenience only, do not form a substantive part of this Agreement, and shall not restrict or enlarge any substantive provisions of this Agreement.

26. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Ohio.

27. Time of Performance. With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.

28. AS-IS PROVISION. Buyer agrees and acknowledges that the Property is being conveyed AS-IS, WHERE-IS, WITH ALL FAULTS, and that, Seller has not made any representations or warranties, either express or implied, regarding the condition the Property. Buyer acknowledges that it will have sufficient access to the Property during the Due Diligence Period to fully inspect the Property and is relying solely on such inspection(s) regarding the condition of the Property.

29. Survival. If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the Closing, it shall survive the Closing and remains binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

[Signature page to immediately follow]



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth in the preamble.

SELLER:

Lorain Port Authority

By: \_\_\_\_\_  
Tom Brown, Executive Director

BUYER:

Liberty Development Company

By: \_\_\_\_\_  
Thomas J. Kuluris, President

## EXHIBIT A

### TRACT 1:

Situated in the City of Oberlin, County of Lorain and State of Ohio:

And being a parcel of land 82.5 feet wide running from East to West and 165.7 ft. deep running from North to South in Original Russia Township Lot No. 86 and further bounded and described as follows:

On the East by property formerly owned by Either or both Elmer K. Hamlin or/and Lola Hamlin and new owned by the Oberlin Board of Education; on the South by property formerly owned by T. N. Hange and new owned by the Oberlin Board of Education; on the West by property of either or both Edward J. Cargill or/and Mayera Cargill; and on the North by property of the Grantor herein.

### TRACT 2:

Situated in the City of Oberlin, County of Lorain and State of Ohio:

And being part of Original Russia Township Lot No. 86 and bounded and described as follows:

Beginning at the Southwest corner of land conveyed by Grantors herein to the Oberlin City Board of Education under date of October 2, 1954 which deed is recorded in Volume 610, Page 198 of Lorain County Deed Records; thence northerly along the westerly line of Grantor's land to a point in the South line of East Lorain Street; thence easterly along the southerly line of East Lorain Street a distance of 15 feet to a point; thence southerly in a line parallel with the easterly line of land owned by Grantors herein and 15 feet easterly therefrom to a point on the northerly line of land so conveyed by Grantors herein to the Oberlin City Board of Education as aforesaid; thence westerly along the northerly line of land so conveyed to the Oberlin City Board of Education on as aforesaid a distance of 15 feet to the place of beginning.

### TRACT 3:

Situated in the City of Oberlin, County of Lorain and State of Ohio:

And being a part of Original Russia Township Lot No. 86 and bounded and described as follows:

Beginning at the southeast corner of Grantors' premises; thence northerly along the easterly line of Grantor's land a distance of 165.4 feet to a point; thence westerly in a line parallel with the southerly line of Grantor's land a distance of 82.5 feet to a point on the westerly line of Grantor's land; thence southerly along the westerly line of grantors' land a distance of 165.4 feet to the southwest corner of Grantors' land; thence easterly along the southerly line of American Land Title Association Commitment for Title Insurance Adopted 08-01-2016 ALTA Commitment for Title Insurance 06/01/2017) Copyright 2006-2016 American Land Title Association. All rights reserved. Page 6 of 12 Grantors' land a distance of 82.5 feet to the place of beginning and containing within said bounds about .315 an Acre of land.

### TRACT 4:

Situated in the City of Oberlin, County of Lorain and State of Ohio:

And known as being parts of Lots Nos. Ten (10), Twenty-five and Twenty-six (26)

PARCEL NUMBER 1: That part in Lot Ten (10) in the southwest part thereof and is bounded South and West by lot lines; North by lands sold by Esther N. Peck to C. Lissenhoff, L. M. Edwards and Harriet Mason, said North boundary being a line 16 rods South of the South line of East Lorain Street and East by land is said Lot formerly owned by M. Goosland.

PARCEL NUMBER 2: That part in Lot No. Twenty-five (25) is a gore piece from the East side thereof, being 10 feet in width upon the center line of East College Street, and with its apex resting at the Northeast corner of said Lot 25.

PARCEL NUMBER 3: That part in Lot No. Twenty-six (26) being the West part thereof and is bounded South, West and North by lot lines, and East by land once owned by H. D. Wood in same Lot.

TRACT 5:

Situated in the City of Oberlin, County of Lorain and State of Ohio:

And known as being a part of Village Lot No. 25 in the Original Plat of Oberlin of a part of Original Russia Township Lot No. 86, and other lots as recorded in Volume 5, Page 30 of Lorain County Record of Plats.

Said part of said Village Lot No. 25 is bounded and described as follows:

Beginning in the center line of East College Street at the Southeasterly corner of land conveyed to Eli C. Hull and Anna G. Hull by Deed dated May 8, 1920, and recorded in Volume 168, Page 569 of Lorain County Deed Records; thence Northerly along the Easterly line of land conveyed to Eli C. Hull and Anna G. Hull to the North line of Lot No. 25; thence Easterly along the North line of Lot No. 25 to the Northwesterly corner of land conveyed to Barbara L. Shreiner by Deed dated January 3, 1925, and recorded in Volume 211, Page 130 of Lorain County Deed Records; thence Southerly along the Westerly line of land conveyed to Barbara L. Shreiner to the center line of East College Street; thence Westerly along the center line of East College Street to the place of beginning, and containing about 0.87 acres of land, be the same more or less, but subject to all legal highways.

TRACT 6:

Situated in the City of Oberlin, County of Lorain and State of Ohio:

And known as being part of Original Oberlin Village Outlet No. 25 of part of Original Russia Township Lot No. 86, as shown by the recorded Plat in Volume 5 of Maps, Page 30 of Lorain County Records, and bounded and described as follows:

Beginning on the northerly line of East College Street at the Southeast corner of land conveyed to Gilbert W. Turner by deed dated September 22, 1896, and recorded in Volume 78, Page 398 of Lorain County Deed Records; thence Easterly along the northerly line of East College Street about 80.5 feet to the Southwest corner of land conveyed to David P. Simpson by deed dated July 20, 1918, and recorded in Volume 150, Page 567 of Lorain County Deed Records; thence northerly along the Westerly line of said land so conveyed to David P. Simpson as aforesaid, about 435 feet to the northerly line of said Original Lot No. 25; thence Westerly along the Northerly line of said Original Lot No. 25 to the Northeast corner of land conveyed to Gilbert W. Turner as aforesaid; thence southerly along the easterly line of said land so conveyed to Gilbert W. Turner as aforesaid to the place of beginning, be the same more or less, but subject to all legal highways.