

CITY OF OBERLIN, OHIO

ORDINANCE No. 21- 47 AC CMS

AN ORDINANCE TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR THE PURCHASE OF REAL PROPERTY LOCATED AT 138 EAST LORAIN STREET, OBERLIN, OHIO AS AN EMERGENCY MEASURE

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio:

SECTION 1: The City Manager is hereby authorized and directed to enter into an agreement with Keith Delong and Pamela Delong as Sellers and the City of Oberlin as Buyer for the purchase of 138 East Lorain Street being Lorain County Auditor's Permanent Parcel No. 14-00-076-104-043 for a purchase price of Eighty Thousand Eight Hundred Twenty Five Dollars (\$80,825.00) in substantially the form attached hereto as Exhibit A and to execute any and all other documents or instruments and to take such other actions as may be necessary or convenient to discharge the City's obligations under said Agreement.

SECTION 2: It is hereby found and determined that all formal action of this Council concerning or related 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 committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including 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 and safety of the citizens of the City of Oberlin, Ohio or to provide for the usual daily operation of a municipal department, to wit: to satisfy the purchase agreement contingency requiring Council approval to enable sufficient time to conduct due diligence inspections as provided in said agreement and provided that it is elevated to emergency status by the affirmative vote of at least five members of Council and receives the affirmative vote of at least five members of Council upon final passage, it shall go into full force and effect from and immediately after its passage; otherwise, it shall take effect at the earliest period allowed by law.

PASSED: 1st Reading: July 6, 2021

2nd Reading: _____

3rd Reading: _____

ATTEST:



BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL



LINDA SLOCUM
PRESIDENT OF COUNCIL

POSTED: 07/07/2021

EFFECTIVE DATE:07/06/2021

REAL ESTATE PURCHASE AGREEMENT

(138 East Lorain Street, Oberlin OH 44074)

THIS REAL ESTATE PURCHASE AGREEMENT ("Agreement") is made and entered into as of the 7 day of July, 2021, ("Effective Date") by and between **KEITH DELONG and PAMELA DELONG**, (collectively "Seller"), and the **CITY OF OBERLIN**, an Ohio Chartered Municipal Corporation and Political Subdivision of the State of Ohio, ("Buyer").

In consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

1. **Purchase And Sale:** Upon and subject to the terms and conditions hereinafter set forth, Seller agrees to sell and Buyer agrees to buy the real estate ("Premises") consisting of one (1) parcel of land in the City of Oberlin having an address of 138 East Lorain Street, Oberlin, Ohio being Lorain County Auditor's Permanent Parcel No. 09-00-076-104-043 described on **Exhibit A** attached hereto and made a part hereof, including such improvements presently existing thereon and all personal property located thereon as of the date of Closing as is defined below together with all right, title and interest of Seller in and to any land lying in the right of way of any street in front of or adjoining the Premises. Prior to closing, Seller shall remove all fixtures and personal property, including but not limited to washers and dryers as Seller may desire.

2. **Purchase Price.** The purchase price for the Premises (the "Purchase Price") shall be Eighty Thousand Eight Hundred Twenty-Five Dollars (\$80,825.00) which amount shall be payable as follows:

Five Thousand Dollars (\$5,000.00) Earnest Money payment to Seller upon execution of this Agreement;

Seventy-Five Thousand Eight Hundred Twenty-Five Dollars (\$75,825.00) deposited in Escrow prior to closing.

3. **Contingencies.**

3.1 Buyer shall have a period of one hundred and twenty (120) days following the Effective Date (the "First Due Diligence Period") to investigate and evaluate the Premises as Buyer may deem necessary. Such investigations may include but not be limited to a boundary survey, a determination that the condition, soils, environmental conditions, wetland status, utilities, drainage, access, applicable zoning regulations and any and all other matters for

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which Buyer deems inspections to be necessary or satisfactory to Buyer in its sole discretion, all at Buyer's cost and expense. Seller shall cooperate with and provide any and all information in its possession to Buyer and Buyer's agents with regard to Buyer's inspections of the Property, including, but not limited to, surveys, Phase I and Phase II or other environmental inspection reports that Seller may have.

If Buyer, in its sole discretion, determines that the Premises is not suitable for Buyer's purposes for any reason, then Buyer may terminate this Agreement by notifying Seller in writing of such election not later than five (5) days prior to the expiration of the First Due Diligence Period, or five (5) days prior to the expiration of the Second Due Diligence Period defined below, as the case may be. In such event both parties hereto shall be relieved of all further obligations hereunder, and Seller shall return Buyer's Earnest Money Purchase Deposit to Buyer. Buyer shall have the right to extend the First Due Diligence Period for up to an additional ninety (90) days (the "Second Due Diligence Period") for the purpose of any additional investigations as Buyer may deem desirable by notifying Seller in writing of its election five (5) days prior to the expiration of the First Due Diligence Period.

3.2 During the period that this Agreement is in effect, and until the transfer of title, Buyer and Buyer's agents shall have the right of ingress and egress over and through the Premises for the purposes of inspections, surveys, engineering and/or architectural drawings, and other such observations as are desired by Buyer.

3.3 In addition to the foregoing contingencies, Buyer's obligations to perform pursuant to this Agreement are contingent upon the approval of the Oberlin City Council, by ordinance, and upon Buyer's satisfaction with the condition of title as provided in Paragraph 7 below.

4. **Closing:** The deed and all other funds and documents pertaining to the purchase of the Premises shall be deposited in escrow with Fidelity National Title Company, 5340 Meadow Lane Court, Sheffield Village, Ohio 44035, as escrow agent ("Escrow Agent"), within three (3) business days prior to the closing date as defined herein. Closing of this transaction shall take place, provided all the terms and conditions of this Agreement have been satisfied as provided for in this Agreement. The term "Closing" means the date upon which the funds shall be transferred and the deed of title to the Premises is recorded. Seller shall have thirty (30) days following transfer of title to Buyer to remove Seller's tangible personal property off the premises.

5. **Escrow Instructions:** This Agreement shall serve as escrow instructions, subject to Escrow Agent's standard conditions of acceptance, with Buyer's indemnity provisions deleted, and otherwise not contrary to any of the terms hereof. Escrow Agent is hereby authorized to close the transaction and to make all prorations and allocations which, in accordance with this Agreement, are to be made between the parties hereto.

6. **Deed of Conveyance:** Seller shall deposit in escrow a general warranty deed, (prepared by Buyer), conveying to Buyer the absolute fee simple ownership of the Premises, free and clear of all liens, conditions, easements, claims, restrictions and encumbrances of record

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whatsoever, except real estate taxes and assessments not then due and payable and those easements and restrictions of record disclosed in the Commitment (hereinafter defined) or the Survey and which do not affect the marketability of title or are acceptable to Buyer. The obligation to obtain any governmental approvals of the deed shall be solely that of Buyer.

7. **Evidence of Title & Title Insurance:** At Closing, Seller shall furnish to Buyer a fee policy of title insurance ("Title Policy") issued by Fidelity National Title Company ("Title Company") in an amount equal to the aforesaid purchase price, assuring that title to the Premises is in the condition required by Section 6 hereof, with, at Buyer's option, all so-called "survey exceptions" and/or "mechanic's lien" exceptions deleted. In the event Buyer shall desire coverage beyond that contained in the fee policy of title insurance, then Buyer shall be responsible for the cost of such additional coverage. The Title Policy shall identify, by recording information, all covenants, conditions, restrictions and easements of record encumbering the Premises (a general exception for covenants, conditions, restrictions and easements of record, or similar language, shall not be acceptable). Prior to Closing, Buyer shall obtain a commitment ("Commitment") for the Title Policy from Title Company, including the exact language of all covenants, conditions, restrictions and easements of record. Buyer shall have fifteen (15) business days after Buyer's receipt of the Commitment to advise Seller in writing that Buyer either accepts the condition of title as disclosed therein [except for monetary liens (which Seller shall be obligated to discharge at or prior to closing)] or that the condition of title is unacceptable to Buyer for any reason in Buyer's sole discretion. If Buyer notifies Seller that the condition of title is unacceptable, then Seller shall have thirty (30) days after such notice from Buyer to remedy such defects or remove any condition to which Buyer may object. If Seller fails to remedy or remove such conditions within such period, then (i) Buyer may elect to terminate this Agreement or (ii) Buyer may accept such title as Seller is able to convey without reduction of the purchase price. Without the advance written consent of Buyer, the Title Policy may not contain any exception to title not disclosed in the Commitment. Prior to the Closing, Seller shall furnish to Title Company such affidavits as Title Company may require in order to delete any mechanic's lien exceptions from the Title Policy.

8. **Apportionment of Taxes:** On the closing date, all real estate taxes and assessments shall be apportioned as of the date of transfer of title according to the calendar year, using the last available County Treasurer's tax duplicate for the purpose of closing the escrow. When the actual amount of such taxes becomes known, the parties shall adjust such proration outside of escrow.

9. **Responsibility for Claims Arising from Buyer's Inspections.** Buyer shall be responsible for all damage or injury to any Person or property to the extent caused directly by the actions or omissions of Buyer or any of its Representatives or Agents in connection with conducting Inspections at the Real Property. Buyer's obligations under this Section shall survive the Closing and any termination of Agreement. After any entry upon the Real Property by Buyer or its Representative or Agents, buyer shall promptly restore the Real Property as applicable, substantially to its prior condition, if its condition was changed by such entry.

10. **Possession:** Full and exclusive possession of the Premises shall be delivered by

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Seller to Buyer upon transfer of title, except as provided for in Paragraph 4 herein.

11. **Closing:** Escrow Agent shall cause title to the Premises to be searched by Title Company, and if and when Title Company will issue the Title Policy in the form required herein and Escrow Agent has received all funds and documents to be deposited hereunder, Escrow Agent shall cause the deed to be filed for record and the funds to be disbursed in accordance with this Agreement.

12. **Seller's Representations and Warranties:** Seller hereby warrants and represents to Seller's best knowledge that: (i) Seller is the owner of the Premises in fee simple; (ii) Seller has full right and authority to convey the Premises to Buyer; (iii) there are no gas wells or other wells (whether or not capped) on or about the Premises; (iv) neither improvements made to nor the activities conducted on the Premises have violated any laws or governmental regulations pertaining to wetlands; (v) there are no hazardous, toxic or dangerous wastes, materials or substances in, on or about the Premises; and (vi) Seller has not engaged in or permitted any disposal or dumping of any hazardous, toxic or dangerous waste, material or substance on or about the Premises, nor engaged in or permitted the illegal or unauthorized storage of any hazardous, toxic or dangerous waste, material or substance on or about the Premises.

13. **Brokers:** Each party represents to the other that there is no broker or other person entitled to a commission or similar fee in connection with this transaction.

14. **Notice:** Any notification provided for herein must be in writing and shall be deemed to have been given when mailed, postage prepaid, by registered or certified mail, addressed as follows:

To Seller: Keith DeLong
Pamela DeLong
152 East College Street
Oberlin, OH 44074

To Buyer: City of Oberlin
C/o Rob Hillard, City Manager
69 S. Main Street
Oberlin OH 44074

15. **Costs of Closing:** Escrow Agent shall charge Seller with transfer taxes, any amounts due Buyer on account of prorations, the cost of discharging all mortgages and other monetary liens encumbering the Premises, one-half (1/2) the escrow fees, one half (1/2) of the premium for the Title Policy and one half (1/2) of the cost of the commitment. Escrow Agent shall charge Buyer with one-half (1/2) the escrow fee, the premium for the Title Policy, one half (1/2) of the cost of the commitment and the cost of recording the deed of conveyance.

16. **Status of Seller:** Seller hereby certifies that Seller is not a "nonresident alien", "foreign corporation", "foreign partnership", "foreign trust" or "foreign estate" within the meaning of the Internal Revenue Code of 1986, as amended, and the regulations thereunder.

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17. **Parties:** The terms "Buyer" and "Seller" shall include all parties designated and their respective successors and assigns, and wherever the singular is used, it shall include the plural, and wherever the masculine gender is used, it shall include the neuter and feminine as the context requires. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective assigns, heirs, personal representatives, or nominees.

18. **Entire Agreement:** This Agreement contains the entire agreement between Seller and Buyer and the parties hereto are not bound by any agreements, understandings or conditions except those stipulated herein.

IN WITNESS WHEREOF, the parties hereto have affixed their hands as of the date first set forth above.

SELLER:


Keith DeLong


Pamela DeLong

BUYER:

City of Oberlin

By: 
Robert Hillard, City Manager

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APPROVED AS TO FORM

Date: 7/21/21


Jon D. Clark, Oberlin City Law Director

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