

REQUESTED BY: CITY MANAGER, BILL KOCHER

DATE OF FIRST READING: 2-20-18

WAIVE RULES?        YES  NO

FINAL ACTION DATE: 3-6-18

VOTE:  YES        NO

SUSPENSION OF TWO READING RULE:

YES	NO
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ADOPTION OF ORDINANCE:

YES	NO
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<u>ABSENT</u>	<u>      </u>
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DENISE LINGO  
 JENNIFER MOODY  
 ROBERT PARSONS  
 JEANNE GEORGE  
 JUDY PETERSEN  
 JOE ROETTING  
 KISHA DOSA  
 TOTALS

ORDINANCE NO. 18-1847

**ORDINANCE AUTHORIZING THE CITY MANAGER TO SIGN CONTRACTS TO PURCHASE REAL PROPERTY (HAMILTON COUNTY AUDITOR PARCEL NUMBERS 593-0003-238-00 & 593-0003-0253-00)**

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MT. HEALTHY, STATE OF OHIO:

**Section 1.** That the City of Mt. Healthy is hereby authorized to purchase the real property located at 1730 & 1726 Hastings Ave. Hamilton County Auditors parcel number 593-0003-0238-00 & 593-0003-0253-00 (as described in the agreement to purchase attached hereto as Exhibit "A") at a price not to exceed \$1000.00 for each parcel, at a total price of \$2000.00 adjusted in accordance to the terms of the attached Agreement and at such terms, under such conditions, and in such a manner as he shall deem to be in the best interests of the City of Mt. Healthy and; the City Manager (Bill Kocher) is hereby authorized on behalf of the City of Mt. Healthy to sign, endorse, execute, and deliver, any and all documents necessary to effectuate the purchase described herein.

**Section 2.** That this Ordinance shall be in full force and effect from and after the first date provided by law.

Passed this 6 day of MARCH, 2018.

Ron Bitters  
President of Council

Attest: Marie Rutz  
Clerk of Council

## SALE/PURCHASE AGREEMENT

THIS SALE/PURCHASE AGREEMENT (this "Agreement"), dated as of the latest date set forth on the attached signature page ("Effective Date"), is made by and between the **Hamilton County Land Reutilization Corporation**, an Ohio nonprofit community improvement corporation organized and existing under Ohio Revised Code ("R.C.") Chapters 1724 and 1702 ("Seller") and the **City of Mount Healthy**, an Ohio municipal corporation ("Purchaser") (jointly, the "Parties" or individually, a "Party").

### **Background**

1. Purchaser is a political subdivision, or affiliated with a political subdivision, situated in Hamilton County, Ohio.
2. Seller is an Ohio non-profit, community improvement corporation organized pursuant to Ohio Revised Code Chapter 1724 and has been designated as Hamilton County's agent for the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, and other real property within Hamilton County.
3. Purchaser is interested in purchasing and developing the Property and, by way of this Agreement, is requesting that the Seller exercise its abilities under applicable law to attempt to acquire the Property.
4. Neither Seller nor Purchaser has had an opportunity to fully inspect the Property; therefore, the Parties seek to enter into this Agreement, with the eventual sale/purchase of the Property contingent upon the Seller's successful acquisition of the Property. Through this mechanism the Parties intend to share the risk of the Property's condition between the Parties.

Therefore, the Parties agree as follows:

1. **Agreement to Purchase and Sell.** The Seller shall sell to the Purchaser and the Purchaser shall purchase from the Seller, for the price and on the terms and conditions set forth in this Agreement, certain real estate located at **(i) 1726 Hastings Avenue, Mount Healthy, OH 45231**, known as Hamilton County Parcel No. **593-0003-0253-00**; and **(ii) 1730 Hastings Avenue, Mount Healthy, OH 45231**, known as Hamilton County Parcel No. **593-0003-0238-00** (jointly, the "Property").
2. **Acquisition Contingency.** The Seller does not, as of the Effective Date, have title to the Property. Upon mutual execution of the Agreement, Seller will attempt to acquire the Property through available statutory procedures involving tax-foreclosed real property. If, for any reason, Seller is not able to acquire the Property then Seller may terminate this Agreement at any time, effective immediately upon written notice to Purchaser. If for any reason Seller is unable to acquire any one or more parcels of the Property, then Seller may terminate this Agreement at any time with respect to that parcel or parcels only, effective immediately upon written notice to Purchaser, in which case this Agreement shall remain in full force and effect with respect to the remaining parcels. If Seller is able to acquire title to the Property then Seller will provide written notice to Purchaser and, unless the Agreement is otherwise terminated, the Parties shall proceed with consummating the transaction as contemplated by the Agreement. Due to the nature of Seller's acquisition process, Purchaser understands that that Seller's acquisition of the Property may be lengthy.
3. **Representation and Warranties.** Purchaser represents and warrants to the following:

3.1 Purchaser has the ability and intent to maintain the Property free of all nuisance conditions for the duration of ownership.

3.2 Purchaser has complied with all applicable law in regards to the transaction contemplated by this Agreement, including attaining any authorization required under controlling law. Further, the Purchaser represents that the execution of this Agreement will not violate any other agreement to which the Purchaser is bound.

3.3 Purchaser is acquiring the Property to further its economic development efforts and not primarily for the purpose of conferring a private benefit on a particular private party.

**4. Purchase Price.** The price for the Property shall be \$1,000.00 per parcel, for a total purchase price of \$2,000.00 (the "Purchase Price"), adjusted in accordance to the terms of this Agreement, paid in cash or certified funds by the Purchaser at the closing. All checks shall be made payable to the Hamilton County Land Reutilization Corporation.

**5. Closing Date.** If Seller is able to acquire the Property as contemplated in Section 2, then Seller and Purchaser shall schedule a day, within a reasonable amount of time from acquisition to accommodate each party's needs, to consummate the transaction ("Closing Date"). Upon payment by Purchaser of the Purchase Price on the Closing Date, Seller agrees to deliver to Purchaser a quit-claim deed to the Property. The Closing Date may be extended by mutual agreement of the parties.

**6. Closing, Conveyance, and Recording of Deed.** Within seven days of the Closing Date, the Purchaser shall transfer the Property into the Purchaser's name, record the deed for the Property, pay any associated fees or expenses, and take possession of the Property. If the Parties elect to use a vendor offering closing services, then the Purchaser shall pay all associated closing costs.

**7. Property Taxes.** The Purchaser assumes responsibility for property taxes incurred after the Closing Date on the Property. For as long as the Purchaser owns or maintains control of the Property, Purchaser shall pay all property taxes and special assessments that become due in a timely manner.

**8. Condition of Title.** Purchaser acknowledges that the Property may have title defects or other conditions impacting the marketability of title and that Purchaser is accepting the Property via a quit-claim deed, without representation or warranty from Seller as to the condition of title, and in an as-is condition. Purchaser shall rely on Purchaser's own diligence and investigation in regards to the condition of title and hold the Seller harmless from any and all claims arising from title defects. If Purchaser gives notice to Seller of an objection to the condition of title prior to the Closing Date, then Seller shall have a reasonable amount of time to cure such defect and the Closing Date shall be rescheduled accordingly. If Seller is not able to cure said defect after a reasonable amount of time, then Purchaser may terminate this Agreement with respect to the parcel of the Property encumbered by the defect.

**9. Possession.** Purchaser shall not take possession or begin work, in any form, to the Property or its grounds, prior to the Closing Date in the Agreement, unless specifically authorized in writing by the Seller.

**10. "AS IS" Condition.** Regardless of Purchaser's decisions regarding inspection, Purchaser agrees to purchase the Property "AS IS" and "WHERE IS" in its present condition without reliance on any

warranties or representations of Seller and agrees to accept all risk of defects with the Property. Property's "as is" condition may include both patent and latent defects, including, but not limited to, various outstanding building or housing code violations, structural instability, major systems defects (electrical, heating, plumbing), basement moisture, leaks or flooding, etc.

**11. Waiver and Indemnity.** The Purchaser agrees to indemnify, hold harmless from any claims, losses, actions or liabilities arising out of or associated with Purchaser's presence or work on the Property. Neither Seller, nor any of its agents and employees, makes any representations whatsoever regarding the existence of any potential hazards, environmental or other, on the Property. Purchaser accepts any risk, during inspection or otherwise, and waives any claims or liability against Seller for any harmful effects from potential hazards. These potential environmental hazards include, but are not limited to: Lead Based Paint, Asbestos, Urea-Formaldehyde Foam Insulation, Radon Gas, Mold or Black Mold, or any other potentially toxic substances. Potential other hazards include, but are not limited to, unsafe floors, roofs, stairs, walls, etc.

**12. Personal Property.** Purchaser acknowledges that the items of personal property are not included in the sale. If personal property is left on or about the Property, Seller makes no warranty, expressed or implied, as to its condition or title.

**13. Compliance with Applicable Law.** This Agreement does not act as an exemption from any federal, state, or local law. Purchaser shall comply with all applicable laws during Purchaser's ownership of the Property. This includes, but is not limited to, the following: building code requirements, zoning code compliance, historic preservation requirements, and procedures required by local government entities for ownership and maintenance of vacant or blighted properties.

**14. Termination by Seller before Closing Date.** If at any time before the Closing Date Purchaser breaches this Agreement or Seller becomes aware that Purchaser does not have the ability or intent to fulfill the terms of this Agreement or has made a misrepresentation to Seller, then Seller may terminate the Agreement. The termination is effective immediately upon written notice via e-mail to Purchaser.

**15. General Provisions.**

**15.1 Notices.** Any notice to be given under this Agreement shall be in writing, which shall include electronic mail, shall be addressed to the party to be notified at the address or e-mail address set forth below or at such other address as each party may designate for itself from time to time by notice hereunder, and shall be deemed to have been given upon the earliest of (i) three days following deposit in the U.S. Mail, with proper postage prepaid, certified or registered, with return receipt requested, or (ii) the next business day after delivery to a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement, satisfactory with such carrier, made for the payment of such fees, or (iii) receipt of notice given by email or personal delivery:

If to Purchaser: City of Mount Healthy  
Attn: Bill Kocher  
7700 Perry Street, Cincinnati, OH 45231  
Email: bkocher@mthealthy.org  
Phone: 513-931-8840

If to Seller: Hamilton County Land Reutilization Corporation  
3 East 4<sup>th</sup> Street, Suite 300, Cincinnati, OH 45202  
Attn: Megan K. Meyer  
Email: mmeyer@cincinnatiport.org

**15.2 Governing Law and Venue.** This Agreement is governed under Ohio law, and any claim arising from this Agreement shall be brought in the appropriate Hamilton County, Ohio Court.

**15.3 Assignment and Delegation.** The Purchaser may not assign any rights or delegate any performance under this Agreement without the prior written consent of Seller. Any prohibited assignment shall be void. The Seller may assign any rights or delegate any obligations under the Agreement.

**15.4 Successors and Assigns.** This Agreement binds and benefits the Parties and their respective permitted successors or assigns.

**15.5 Risk of loss.** Risk of loss shall remain on Seller until the earlier of the Closing Date or Purchaser's possession.

**15.6 Severability.** If any provision of this Agreement is illegal or unenforceable, the other provisions of this Agreement remain in effect. The unenforceable provision shall be revised to reflect the original intent of the Parties to the maximum extent permitted by law.

**15.7 Entire Agreement.** This Agreement contains the complete and final understanding of the Parties and supersedes all other previous agreements between the Parties.

**15.8 No Merger.** This Agreement shall not be merged into the deed for the Property and will survive the delivery of that deed.

**15.9 Amendment.** Any amendments made to the terms contained within this Agreement must be in writing and executed by both parties.

**15.10 Counterparts.** This Agreement may be executed in counterparts, each shall be regarded as an original and all of which shall constitute but one and the same Agreement.

**15.11 Affidavit of Title.** The Seller may, in its own discretion, record an affidavit of title with the Recorder of Hamilton County, Ohio stating the Purchaser's contractual obligations under the Agreement.

**15.12 Evidence of Value in Board of Revisions.** Since this transaction includes non-monetary consideration to the Seller, Purchaser shall not use the Purchase Price as evidence of the Property's fair market value to contest the Property's value in front of the Hamilton County Board of Revisions.

**15.13 Lead-Based Paint Disclosure.** If applicable, the Seller has attached, as **Appendix A**, a Lead-Based Paint Disclosure form and information pamphlet *Protect Your Family from Lead in Your Home*.

**15.14 Evidence of Authority.** If Purchaser's signatory of this Agreement is not accepting title in an individual capacity, upon request of Seller, Purchaser shall provide to Seller, prior to the Closing Date, adequate evidence that Purchaser is acting with proper authority to complete the transaction contemplated by this Agreement.

**15.15 OFAC Compliance.** Purchaser represents and warrants to Seller that Purchaser is not a party with whom Seller is prohibited from doing business pursuant to the regulations of the Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury, including those parties named on OFAC's Specially Designated Nationals and Blocked Persons List. Purchaser is currently in compliance with, and shall at all times remain in compliance with, the regulations of OFAC and any other governmental requirement relating thereto. Purchaser shall defend, indemnify and hold Seller harmless from and against any and all claims, damages, losses, risks, liabilities and expenses incurred arising from or related to any breach of this certification. These indemnity obligations shall survive the expiration or earlier termination of this Agreement.

**15.16 Waiver.** The parties agree that the failure by either party to enforce any term or provision of this Agreement against the other shall not be deemed a waiver of the party's right to enforce such term or provision against the other party.

[Signature page follows]

Intending to be legally bound, the Parties have entered into this Agreement as of the Effective Date.

**SELLER:**

Hamilton County Land Reutilization Corporation

By: Port of Greater Cincinnati Development Authority  
d/b/a Greater Cincinnati Redevelopment Authority  
Its: Management Company

By: \_\_\_\_\_  
Jessica L. Powell, Vice President

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

**PURCHASER:**

**City of Mount Healthy**

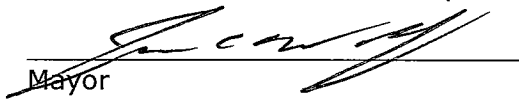
By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Approved this 6 day of MARCH, 2018.

  
\_\_\_\_\_  
Mayor