

ORDINANCE NO. 08-43 AC CMS

AN ORDINANCE DECLARING CERTAIN MUNICIPALLY-OWNED REAL PROPERTY SURPLUS AND AUTHORIZING AN AGREEMENT WITH LORAIN COUNTY HABITAT FOR HUMANITY RELATING TO SAME AND DECLARING AN EMERGENCY

WHEREAS, the City of Oberlin is the owner of certain real property located on South Pleasant Street that is not necessary for any current municipal purpose; and

WHEREAS, Lorain County Habitat for Humanity has offered to construct affordable housing on said property if the City of Oberlin transfers it to that entity; and

WHEREAS, the construction of affordable housing on said property will create jobs, stimulate the local economy and provide additional housing for low and moderate income residents; and

WHEREAS, the creation of said housing fulfills an important municipal public purpose and will be of great benefit to the residents of the City.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That the unimproved real property located at 263 South Pleasant Street, Oberlin, Ohio, owned by the City of Oberlin and more fully described in the attached "Exhibit A", is hereby declared to be surplus and not necessary for any current municipal purpose.

SECTION 2. That the City Council hereby authorizes and approves an agreement between the City and Lorain County Habitat for Humanity for the transfer of said surplus property to said entity pursuant to the terms and conditions therein contained, a copy of said agreement being attached hereto, marked "Exhibit B", and incorporated herein by reference, and the City Manager is hereby authorized and directed to execute said agreement on behalf of the City.

SECTION 3. It is hereby found and determined that all formal actions of this Council concerning or relating 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 of its 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.

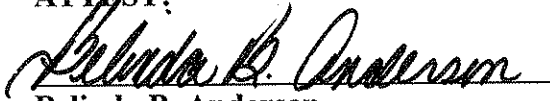
SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Oberlin, Ohio, or to provide for the usual daily operation of a municipal department, to wit:

“to authorize the transfer of certain surplus municipal real property to Lorain County Habitat for Humanity at the earliest possible date in order to allow the commencement of construction of new affordable housing in the City to take place as soon as possible”,

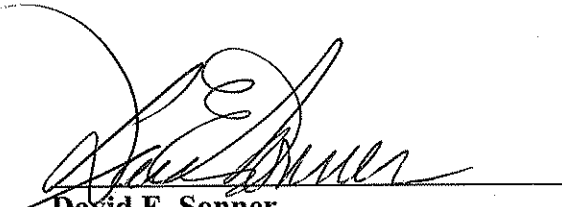
And shall take effect immediately upon passage.

PASSED: 1st Reading – June 16, 2008(E)
2nd Reading –
3rd Reading –

ATTEST:



**Belinda B. Anderson
CLERK OF COUNCIL**



**David E. Sonner
PRESIDENT OF COUNCIL**

POSTED: 6/17/2008

EFFECTIVE DATE: 6/16/2008

**Subrecipient Agreement
between the City of Oberlin and
Lorain County Habitat for Humanity
for the Construction of Affordable Housing**

This Agreement is entered into on this 20th day of June, 2008 by and between the City of Oberlin (herein called the City), 85 South Main Street, Oberlin, Ohio 44074 and Lorain County Habitat for Humanity (herein called the Subrecipient), 105 Court Street, Suite 512, Elyria, Ohio 44035.

Whereas, the City is the owner of a vacant lot municipally located at 263 South Pleasant Street in the City, being further described as Lorain County Auditor's Permanent Parcel No. 09-00-096-110-024 (herein called the Property), which the City has declared surplus and not necessary for any current municipal purpose; and

Whereas, the Subrecipient is a local non-profit entity that has offered to construct affordable housing on the Property if the City is willing to transfer the Property to Subrecipient; and

Whereas, the construction of affordable housing within the City is of great benefit to the City and its citizens in that it will create jobs, provide additional housing for low and moderate income residents, and will help to stimulate the local economy; and

Whereas, the City is willing to transfer the Property to Subrecipient to assist with the goal of the creation of affordable housing and to fulfill the municipal public purpose embodied therein; and

43 Whereas, Oberlin City Council has expressly approved this agreement through Ordinance No. 08-JUNE 16, 2008.

Now, therefore, it is agreed between the parties hereto as follows:

Section 1: Transfer of the Property

The City agrees to transfer the Property, being specifically described in Exhibit A attached hereto, to Subrecipient by Quit Claim Deed within fifteen (15) days of the execution of this agreement. Subrecipient shall be responsible for, and hold the City harmless from, any outstanding real property taxes and assessments relating to the Property.

Section 2: Construction of Affordable Housing

In consideration of the transfer of the Property by the City, Subrecipient agrees to commence construction of a single family home for a low or moderate income family within thirty (30) days of receiving approval for construction from the City Building Department. All construction shall be completed in a workmanlike manner and in accordance with all applicable City of Oberlin codes.

Section 3: Construction Timeline

Subrecipient agrees to proceed with construction of the dwelling substantially in accordance with

the construction timeline attached hereto as Exhibit B. Construction of the dwelling shall be completed within twelve (12) months from the date approval to build has been received from the City Building Department. Any modifications to the construction schedule must be approved in writing by the City Manager.

Section 4: Lead-Based Paint

The Subrecipient shall comply with all federal, state and local laws and regulations regarding lead-based paint. The use of lead-based paint is prohibited.

Section 5: Housing Discrimination Prohibited

The Subrecipient and any entity or agency acting on its behalf shall not exclude from participation in, deny benefits to, or discriminate against any applicant for or participant in the services or housing to be provided pursuant to this Agreement because of race, color, national origin, religion, sex, age, handicap, sexual orientation, ancestry or Vietnam-era or disabled veteran status. The Subrecipient and any entity or agency acting on its behalf shall, as applicable, comply with the following: (a) the Fair Housing Act, 42 U.S.C. 3601-20, and implementing regulations at 24 CFR part 100; (b) Executive Order 11063, as amended by Executive Order 12259, regarding Equal Opportunity in Housing and implementing regulations at 24 CFR part 107; (c) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, regarding Nondiscrimination in Federally Assisted Programs, and implementing regulations at 24 CFR part 1; (d) the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, 42 U.S.C. 6101-07 and implementing regulation at 24 CFR part 146; (e) the prohibitions against discrimination against handicapped individuals under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and implementing regulations at 24 CFR part 8; and (f) the Americans With Disabilities Act of 1990, 42 U.S.A. 12101-213, implementing regulations at 29 CFR part 1630 and 36 CFR part 1191.

Section 6: Equal Employment Opportunity

A. MBE/WBE. If required by federal or state law, the Subrecipient agrees to use its best efforts to afford minority-and-women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and women-owned enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans and American Indians. The Subrecipient may rely on written representation by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

B. EEO. The Subrecipient shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, handicap, ancestry or Vietnam-era or disabled veteran status. The Subrecipient shall in all solicitations of advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity employer. The Subrecipient shall require that all contracts between the Subrecipient and any contractor performing work on this Project to contain language the equivalent of this section.

Section 7: Training and Employment of Project Residents

The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 u. Section 3 requires that to

the greatest extent feasible, opportunities for training and employment in connection with planning and carrying out this project be given low income residents of the City of Oberlin and contracts for work in connection with the project be awarded to business concerns, including but not limited to individuals or firms doing business in the fields of planning, consulting, design, architecture, building construction, rehabilitation, maintenance or repair which are located in or owned in substantial part by persons residing in the City of Oberlin. The Subrecipient shall comply with the provision of Section 3 and may refer to the regulations set forth in 24 CFR part 135 for guidance regarding the objectives of Section 3. The paragraph stated above shall be included in all contracts executed in furtherance of the Agreement.

Section 8: Religious Organizations and Religious Purposes

The Property may not be used to rehabilitate or construct housing owned by primarily religious organizations or assist primarily religious organizations in acquiring housing. The real property and improvements resulting from the project must be used exclusively for secular purposes, available to all persons regardless of religion. In particular, there must be no religious or membership criteria for occupants of the property.

Section 9: Organization and Authorization

The Subrecipient warrants that it is a duly organized non-profit entity and in good standing under the laws of the State of Ohio and the County of Lorain and has the power to carry on its business as it is presently being conducted, and to enter into and observe the provisions of this Agreement. The Subrecipient further warrants that the entering into and performance of this Agreement has been duly authorized by all necessary action and will not violate any law, rule, regulation, order, writ, judgment, decree, determination or award presently in effect and having applicability to the Subrecipient or any provision of the Subrecipient Articles of Incorporation, Regulations or By-laws, and/or result in a breach of or constitute a default under any indenture, bank loan, credit agreement or any other agreement or instrument to which the Subrecipient is a party or by which it or its property may be bound or affected.

Section 10: Maintain Existence

The Subrecipient agrees to maintain its existence, rights, privileges and franchises within the State of Ohio in full force and effect. The Subrecipient shall maintain a standard and modern system of accounting principles. The Subrecipient shall notify the City of any material change in the ownership, structure, control or operation of the Subrecipient including, without limitation, (i) merger into or consolidation with any other persons or business entities; (ii) changing the nature of its business as carried on as of the date it signs this Agreement; or (iii) substantial distribution, liquidation, encumbrance or other disposal of the Subrecipient's assets.

Section 11: Payment of Taxes

The Subrecipient shall duly pay and discharge all taxes, assessments and governmental charges levied upon it or against its properties prior to the date on which penalties would attach, except that the Subrecipient shall not be required to pay any tax, assessment or governmental charge which is being contested by it in good faith and by appropriate and timely proceedings, provided that the Subrecipient provides prior written notice to the City of that contest and proceeding.

Section 12: Limitation of City Liability

The Subrecipient acknowledges that the City, its agents and employees, shall not be liable to the Subrecipient for completion of, or the failure to complete, any activities which are a part of the project.

Section 13: Indemnification

The Subrecipient agrees to indemnify, defend and save harmless the City against all liability, claims, demands, losses, damages and costs arising from any act or omission by, or negligence of, the Subrecipient or its officers, agents, or employees, including all contractors and subcontractors engaged by the Subrecipient while engaged in the performance of this Agreement.

Section 14: Records and Right to Inspect

The Subrecipient shall comply with the City's reasonable requests for reports concerning the matters covered by this Agreement, and keep and maintain books, records, and other documents relating directly to all matters covered by this Agreement.

Section 15: Access to the Project

Any duly authorized representative of the City shall have access at all reasonable times with advance written notice to the project site until the terms of the Agreement have been compiled with and fulfilled.

Section 16: Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the Subrecipient and the City. When used in the Agreement, the terms "City" and "Subrecipient" shall include any successors and permitted assigns, or any permitted entity designated by either party to carry out the obligations of that party regarding the project. This includes any entity which may assume ownership of the project site.

Section 17: Amendments

This Agreement shall only be amended by written agreement signed by all parties and approved by Oberlin City Council.

Section 18: Severability


If any section of this Agreement is found to be illegal, unconstitutional, improper or unenforceable, said section shall not affect the enforceability of the remainder of this agreement, it being the intent of the parties that the provisions of this agreement be severable.

Section 19: Jurisdiction

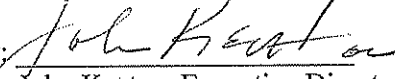
This Agreement shall be construed in accordance with the provisions of Ohio law.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

CITY OF OBERLIN, OHIO

By: 
Eric Norenberg, City Manager

LORAIN COUNTY HABITAT FOR HUMANITY

By: 
John Keaton, Executive Director

Approved as to form:

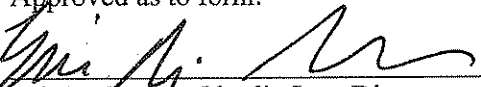

Eric R. Severs, Oberlin Law Director

EXHIBIT "A"

PARCEL NO. 3: Situated in the City of Oberlin, Township of Russia, County of Lorain and State of Ohio, known as being part of Original Lot No. 96 of said Township and further described as follows:
Commencing at a concrete right of way marker found on the northerly right of way line of the former Penn Central Railroad, said marker being 25.0 feet from the centerline of Pleasant Street;
Thence South $1^{\circ} 7' 23''$ East, parallel to the centerline of Pleasant Street, a distance of 159.47 feet to a point, said point being the principal point of beginning;
Thence North $88^{\circ} 52' 37''$ East a distance of 131.30 feet to an iron pin set;
Thence South $1^{\circ} 7' 23''$ East a distance of 85.06 feet to an iron pin set on the northerly line of a parcel of land conveyed to A. H. Clark by Deed Volume 1160, Page 945 of the Lorain County Record of Deeds;
Thence Westerly in a curve deflecting to the left a distance of 8.00 feet to a point, said curve having a degree of curve of $0^{\circ} 15'$, an central angle of $0^{\circ} 1' 12''$, a chord bearing of South $88^{\circ} 9' 38''$ West;
Thence continuing Westerly in a curve that deflects to the left a distance of 125.20 feet to a point on the easterly right of way of Pleasant Street, said curve having a degree of curve of $0^{\circ} 20'$, a central angle of $0^{\circ} 25' 2''$ and a chord bearing of South $88^{\circ} 47' 14''$ West;
Thence North $1^{\circ} 7' 23''$ West along the easterly right of way line of Pleasant Street a distance of 85.36 feet to a point;
Thence North $88^{\circ} 52' 37''$ East a distance of 1.9 feet to the principal place of beginning;
Containing within said bounds about 0.2607 acre of land, be the same more or less, but subject to all legal highways.

EXHIBIT "B"

Oberlin/HFH Build Schedule
Address: 7:263 S. Pleasant St

Date	Task	Volunteers needed
6/21/2008	Start standing walls. Brace walls	10-12
6/28/2008	Place sheathing on walls. Top plates	10-12
7/12/2008	Start trusses.	10-12
7/19/2008	Finish roof sheathing	8-12
7/26/2008	Install windows, doors, shingles	8-12
8/2/2008	Start siding.	8-12
8/9/2008	Siding plus interior backing	8-12
8/16/2008	Continue on siding	8-12
8/23/2008	Button up odds and ends	8-12
8/30/2008	Complete framing	8-12
9/6/2008	Insulation and caulk	
9/13/2008	Finish Framing	8-12
9/20/2008	Finish Siding	8-12
9/27/2008	Paint, primer	8-12
10/4/2008	Paint walls.	8-12
10/11/2008	Paint doors	8-12
10/18/2008	Start trim	8-10
10/25/2008	Touch up paint	8-10
11/1/2008	Kitchen cabinets, interior doors	8-10
11/8/2008	Trim	8-10
11/15/2008	Trim	8-12
11/22/2008	Trim, touchup.	8-12
11/29/2008	Final touch up	8-12
12/6/2008	Cleanup	8-12
		8-12

ALL DATES ARE TENTATIVE AND SUBJECT TO WEATHER AND OTHER
 NORMAL CONSTRUCTION DELAYS AND IN NO WAY BINDS LORAIN
 COUNTY HABITAT TO A DEFINITE COMPLETION DATE.