

**DOCKET
OF A MEETING OF
THE LAKEWOOD CITY COUNCIL
TO BE HELD IN THE COUNCIL CHAMBERS
LAKEWOOD CITY HALL - 12650 DETROIT AVENUE
February 2, 2015
7:30 P.M.**

The Regular Meetings of Lakewood City Council shall be held on the first and third Mondays of each month at 7:30 P.M., except that when such meeting date falls on a holiday such meeting shall instead be held on the following day. A Docket and Agenda of the business proposed to be transacted by Council will be available in the Clerk's Office and on the City's website www.onelakewood.com after 4 PM on the Friday before a Council meeting.

Section 121.08 of the Codified Ordinances of the City of Lakewood establishes rules for the public to follow when speaking before Council:

ADDRESSING COUNCIL – The President may recognize any non-member for addressing Council on any question then pending. In such cases, the person recognized shall address the chair, state his or her name and address and the subject matter he or she desires to discuss. Speakers must be courteous in their language and avoid personalities. When addressed by the Chair, the speaker must yield the floor and comply with all rulings of the chair, said rulings not being open to debate. Except with permission of Council specifically given, speakers shall be limited to five minutes. No person who has had the floor shall again be recognized until all others desiring an opportunity to speak have been given an opportunity to do so.

AGENDA ITEMS PROTOCOL:

The Clerk at the beginning of the meeting will present the AGENDA ITEMS sign-in sheet to the President of Council. Speakers will be called to address Council by the Chair. A citizen must first write his or her name, address and agenda item number on the designated sign-in sheet in order to be recognized.

PUBLIC COMMENT PROTOCOL:

The clerk at the end of the meeting will present the PUBLIC COMMENT sign-in sheet to the President of Council. Public Comment will be welcomed at the end of a Council Meeting on miscellaneous issues or issues other than agenda items. A citizen must first write his or her name, address and topic on the designated sign-in sheet in order to be recognized. The forum is not designed to be a question and answer session.

- I. Pledge of Allegiance
- II. Moment of Silence
- III. Roll Call

Reading & disposal of the Minutes of the Regular Meeting of Council held December 15, 2014.
Reading & disposal of the minutes of the Regular Meeting of Council held January 5, 2015.
Reading & disposal of the minutes of the Regular Meeting of Council held January 20, 2015.

Reports, legislation and communications from Members of Council, the Mayor and other City Officials.

****OLD BUSINESS****

1. Committee of the Whole Report regarding Committee meetings - 1/26/15 (Process for Council's consideration of Letter of Intent), and 2/2/15 (Resolution 8771-14, Ord 2-15) Chair; Madigan (To be provided)
2. **RESOLUTION NO. 8771-14** A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, appointing _____ to the Planning Commission for the six-year term beginning January 1, 2015 and ending December 31, 2020. (Referred to the Committee of the Whole 11/3/14, Deferred 1/20/15) (Pg. 4)
3. **ORDINANCE NO. 2-15** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Director of Planning and Development to enter into a purchase agreement with Liberty Development Company the TO SELL THE REAL PROPERTY LOCATED AT 1351 West Clifton Blvd. pursuant to Section 155.07 of the Codified Ordinances. (PLACED ON 1ST READING & REFERRED TO THE COMMITTEE OF THE WHOLE 1/20/15) (Pg. 5)
4. Public Safety Committee Report regarding Resolution 8793-15. –Chair Bullock (Pg. 27)
5. **RESOLUTION NO. 8793-15** - A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor to enter into an agreement with the Cleveland Clinic Foundation (CCF) which will allow police officers employed by the Cleveland Clinic Police Department to exercise limited police powers within the City of Lakewood on and around hospital property operated by CCF. (**PLEASE SUBSTITUTE** for Resolution No. 8793-15 Referred to the Public Safety Committee 1/5/15, Deferred 1/20/14) (Pg. 28)
6. **ORDINANCE NO. 3-15** – AN ORDINANCE to amend Section 1105.02 of the zoning Code of the Codified Ordinances of the City of Lakewood by changing and revising the zoning Map of the City with respect to certain property as set forth and described as 1351 West Clifton Blvd. (PPN 311-22-028) from C4 (commercial, Public School) to PD (Planned Development) (PLACED ON 1ST READING & REFERRED TO THE PLANNING COMMISSION 1/20/15) (Pg. 40)

NEW BUSINESS

7. Communication from Councilmember Anderson regarding appointing Kate Spirgen to Citizens Advisory Committee. (Pg. 43)
8. Communication from Public Works Director Beno regarding Ordinance 903, Sidewalks and Curbs. (Pg. 44)

9. **ORDINANCE NO. 4-15** – AN ORDINANCE to amend Section 903.10, Duty to Repair and Maintain Sidewalks, of the Codified Ordinances of the City of Lakewood to remove the requirement that a sidewalk survey be included with the notice to repair. (Pg.45)

REFERRED TO Committee of the Whole 11/3/14.
DEFERRED 1/20/15.

RESOLUTION NO. 8771-14

BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, appointing _____ to the Planning Commission for the six-year term beginning January 1, 2015 and ending December 31, 2020.

WHEREAS, the end of a term has caused a vacancy on the Planning Commission beginning January 1, 2015, in a seat occupied by a Council appointee, thus requiring an appointment to the commission; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure and that it shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in that the position to be occupied by this appointee is currently vacant; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD:

Section 1. Council appoints _____ to the Planning Commission for the six-year term beginning January 1, 2015 and ending December 31, 2020.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were passed in open meetings of this Council and that all deliberations of this Council and any of its committees that resulted in such actions were in meetings open to the public and in compliance with legal requirements.

Section 3. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this ordinance, and provided it receives the affirmative vote of at least five of members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

PRESIDENT

CLERK

Approved: _____

MAYOR

PLACED ON 1ST READING & REFERRED TO THE
COMMITTEE OF THE WHOLE 1/20/15.

ORDINANCE NO. 2-15

BY: _____

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Director of Planning and Development to enter into a purchase agreement with Liberty Development Company to sell the real property located at 1351 West Clifton Blvd. pursuant to Section 155.07 of the Codified Ordinances.

WHEREAS, the City is the owner of real property located at 1351 West Clifton Blvd.;
and

WHEREAS, this Council has determined it is in the best interest of the City and will fulfill the City's obligations to the Lakewood City School District, the prior owner, to sell said real property and that such sale shall further the interest of the City and its residents; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal department in that redevelopment plans for this property are underway and further steps toward construction cannot commence until this agreement is finalized; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Director of Planning and Development and Mayor are hereby authorized and directed, on behalf of the City, to enter into a purchase agreement, in substantially the same form as the document attached as "Exhibit A," with Liberty Development Company or its nominee, as well as all related documents and instruments of conveyance, for the sale of real property located at 1351 West Clifton Blvd., the former site of McKinley School, pursuant to Section 155.07 of the Codified Ordinances.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such 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.

Section 3. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this ordinance, and provided it receives the affirmative vote of at least five members of

Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved _____

Mayor

EXHIBIT A

LAKWOOD 1/13/15

REAL PROPERTY PURCHASE AGREEMENT

THIS REAL PROPERTY PURCHASE AGREEMENT ("Agreement"), is made and entered into by and between THE CITY OF LAKEWOOD, a municipal corporation and political subdivision duly organized and validly existing under the Constitution and laws of the state of Ohio, and acting by authority of Resolution No. _____ (the "Resolution"), the seller ("Seller"); and LIBERTY DEVELOPMENT COMPANY, a corporation duly organized and validly existing under the laws of the state of Ohio, or its nominee(s), the buyer ("Buyer" in any event).

RECITALS:

1. Seller owns the real property situated between and bounded at times by West Clifton Boulevard, Northwood Avenue and Detroit Avenue, Lakewood, Cuyahoga County, Ohio, previously known as the McKinley School site, consisting of approximately 2.88 acres more or less and described or depicted within Exhibit "A," which is attached hereto and is made part hereof ("Land").

2. Seller desires to convey and transfer to Buyer the Land and any and all fixtures located at and upon the Land together with any and all appurtenances, easements, rights-of-way and interests thereto (the "Appurtenances" and together with the Land the "Property").

3. Buyer desires to purchase the Property from Seller and has agreed to construct certain buildings, structures and improvements on the Property including, without limitation, approximately 34 to 40 townhomes with drives, garages, common features and areas (collectively, the "Buyer Improvements"), which Buyer Improvements and the materials to be used therefor are more particularly described on the site plan ("Site Plan") shown in Exhibit "B" attached hereto. The Buyer Improvements and all related demolition, construction and completion work, as necessary, is hereinafter collectively referred to as the "Project."

4. The Board of Education of the Lakewood City School District (the "District") has been notified of the Seller's intent to enter into this Agreement and the District, by resolution adopted by a majority of the Board of Education of the District and certified to Council on _____, has reviewed and approved of the Project, including but not limited to the Project's "Improvements" and "Permitted Use" as those terms are defined in that certain limited warranty deed conveying from the District to the Seller recorded on October 31, 2013, as instrument number 201310311209 ("Prior Deed").

NOW, THEREFORE, in consideration of the terms and conditions contained in this Agreement ("Terms"), Seller and Buyer agree as follows:

1. Purchase Price and Payment: Seller will sell the Property to Buyer and Buyer will purchase the Property from Seller for a purchase price equal to \$500,000.00 ("Purchase Price"). Buyer shall pay the Purchase Price to Seller, subject to any and all adjustments thereto as specified herein, as follows:

(a) Buyer will deposit earnest money in the amount of \$25,000.00 with North Star Title Agency ("Title Company" or "Escrow Agent"), upon the mutual execution and delivery of this Agreement by Seller and Buyer ("Deposit"). The Deposit and any Additional Deposit as defined herein shall be: (i) applied to the Purchase Price at closing ("Closing"); and (ii) refundable to Buyer upon any termination of this Agreement in strict accordance with the conditions set forth herein, unless such termination results from Buyer's default or breach hereunder (whereupon Seller shall receive the Deposit and any Additional Deposit as and for Seller's remedy as liquidated damages, in addition to any other remedies provided for herein).

(b) Buyer will deliver a promissory note to Seller in the principal amount of \$250,000, in the form attached

hereto as Exhibit "C" (the "Note"), payable in the principal amount of \$12,500 per unit as certificates of occupancy are issued for each unit after the first 15 units have been sold but in any event within 36 months after Closing, otherwise payable according to its terms, and secured by a mortgage given by Buyer to Seller on the Property ("Seller Mortgage"). The Seller understands that the Seller Mortgage will be in a shared first position with the construction lender for the Project's mortgage ("Construction Mortgage"). The principal shall bear interest at a rate of three and one-half percent (3.5%) per annum, except that interest may be deferred and/or waived according to the terms of the Note. There shall be no prepayment penalty under the Note.

(c) The balance of the Purchase Price shall be paid to Seller in immediately available U.S. funds upon Closing.

2. Inclusions: Included in this Agreement for any and all purposes as part of the "Property" are any and all: (a) rights, easements, licenses and rights-of-way benefiting and appurtenant to the Property; (b) improvements, structures and fixtures located upon or at the Property; and (c) oil, gas and mineral interests, rights and entitlements relating to the Property.

3. Title Evidence: Buyer will obtain an Owner's Title Insurance Commitment (the "Commitment") within 30 days after the Effective Date, after Closing, obtain an Owner's Title Insurance Policy providing for owner's title insurance coverage in the amount of the Purchase Price ("Title Insurance"). Buyer will pay the premium, title examination and commitment costs of and for the Title Insurance. The Commitment will include legible copies of any and all title encumbrances referenced within Schedule B thereof.

Buyer shall obtain the Title Insurance from the Title Company. Buyer shall obtain and pay for any survey which Buyer may want or require ("Survey") within 30 days after the Effective Date. Seller and Buyer shall at Closing execute any ordinary and customary affidavits, agreements, general instructions and forms which the Title Company may reasonably require as a condition to the issuance of the Title Insurance.

The Commitment shall show in Seller a good and marketable title to the Property ("Title"), in fee simple, free and clear of all liens and encumbrances except: (a) those which Buyer creates or expressly assumes; (b) zoning ordinances and building regulations; (c) real estate taxes and assessments, whether general or special, not then due and payable; (d) legal highways; (e) conditions, restrictions, easements, rights of way and all other matters of record to which Buyer shall not pursuant to written notice(s) to Seller make any written objection(s) within 10 calendar days after Buyer receives the Commitment and the Survey ("Notice"); (f) any matters that would be disclosed by an accurate survey of the Property to which Buyer has not pursuant to written notice to Seller made any written objections within 10 days after receipt of both the Commitment and the Survey; and (g) the restrictions on the use of the Property found in the Prior Deed (collectively being the "Permitted Encumbrances").

Within the 10-day period following Buyer's receipt of the Title Commitment and Survey, Buyer shall have the right to object to any matters set forth in the Commitment, other than those matters set forth in (a), (b), (c), (d) and (g) in the paragraph above (the "Unacceptable Title Matter(s)"), by providing written Notice(s) to Seller. Thereafter Seller shall have a reasonable time not to exceed 10 days after Buyer's timely Notice(s) to Seller thereof within which to notify Buyer which Unacceptable Title Matters Seller intends to and shall remedy or remove ("Cure"), prior to or at Closing by giving written notice to Buyer. Seller shall in any event have the unconditional obligation to Cure any and all monetary liens or mortgages of any lenders, governmental bodies, creditor(s) and any other persons or entities, all of which Seller shall satisfy in full prior to or at Closing or for which Seller shall obtain recordable releases or satisfactions such that the same shall not encumber title to the Property as owned by Buyer (or Buyer's nominee(s)). Within 10 days after receipt of such written notice from Seller, Buyer, as Buyer's sole and exclusive remedy, shall elect in writing either to: (i) accept Title to the Property subject to the Unacceptable Title Matters Seller has not otherwise elected to Cure, without an abatement or reduction of the Purchase Price and complete the transaction contemplated hereby ("Transaction"); or (ii) terminate this Agreement. If Buyer elects to terminate this Agreement within 10 days of Seller's written notice, all funds and documents shall be returned to the party who delivered or deposited the same, including the Deposit (and any Additional Deposit) which shall be returned to Buyer, and

thereupon the parties shall be released from any further obligations hereunder each to the other, except that Buyer and Seller shall each pay one-half (1/2) all the expenses of the Title Company, if any and the Escrow Agent shall promptly disburse the Deposit (and any Additional Deposit) to Buyer. If Buyer fails to make a written election within the aforesaid 10-day period, Buyer shall be deemed to have elected to accept title to the Property subject to all Unacceptable Title Matters Seller has not otherwise elected to Cure and to complete the Transaction.

Marketability shall be determined under the Standards of Title Examination adopted by the Ohio State Bar Association.

4. Closing and Possession: Closing shall occur on or before thirtieth (30th) day after expiration of the Inspection Period (defined below) ("Closing Date"), subject to Buyer's right to extend the same for one additional 30-day period upon written notice to Seller; provided, however, that Buyer shall together with any such notice pay into escrow with the Title Company an additional deposit amount of \$25,000.00 (the "Additional Deposit"), which Additional Deposit will be: (a) applied to the Purchase Price at Closing; (b) refundable to Buyer upon any termination of this Agreement in strict accordance with the conditions set forth in this Agreement, unless such termination results from Buyer's breach or default hereunder (whereupon Seller shall receive the Deposit and Additional Deposit as and for Seller's remedy as liquidated damages, in addition to any other remedies provided for herein). The Title Company shall serve as escrow agent and effectuate the Closing of the Transaction. Seller shall deliver full possession of the Property to Buyer at Closing in the present condition thereof subject solely to ordinary wear and tear.

5. Deed: At Closing, Seller shall make, execute and deliver to Buyer or to Buyer's nominee(s) (as applicable) a recordable Limited Warranty Deed ("Deed"), conveying the Property to Buyer or such nominee(s) free and clear of all liens and encumbrances except the Permitted Encumbrances, those matters expressly excepted hereinabove, real estate taxes and assessments which shall be paid and/or prorated as provided hereinbelow, and the restrictions set forth on attached Exhibit "D." A form of the Deed is attached hereto as Exhibit "E."

6. Taxes, Assessments and Other Charges: Prior to or at Closing, Seller shall pay any and all real estate taxes and assessment installments then due and payable and any and all delinquent real estate taxes or assessments, together with any applicable penalties and interest for any prior tax periods. At Closing, Seller shall pay or credit to Buyer all real estate taxes or assessments due or to become due in or for the period prior to Closing pro-rated to the Closing Date utilizing the figures shown on the last available tax duplicate. In any event, Seller shall be wholly obligated to pay and be liable for any and all real estate taxes or assessments (and any applicable penalties or interest) attributable to or assessed against the Property for the period prior to the Closing Date (with this covenant to expressly survive Closing). Seller represents to Buyer that Seller may be exempt or may apply for an exemption from the real estate taxes (the "Tax Exemption"), for the time period from 2013 to the Closing Date. In the event any Tax Exemption is granted or any adjustments are made to the real estate taxes attributable to periods prior to the Closing Date, the parties shall re-prorate the real estate taxes within 10 days of receipt of actual or corrected tax bills. In the event Buyer receives a refund for any adjustments made to real estate taxes, Buyer shall immediately deliver and pay over said refund to Seller. Such covenant to re-prorate taxes and assessments and deliver any refund to Seller shall survive the Closing. Seller will pay any conveyance fee or transfer tax which the Cuyahoga County Fiscal Officer assesses to Seller upon Seller's conveyance of the Property to Buyer. Buyer shall pay the recording fee for the Deed and the Title Company charges to close the Transaction and issue the Title Insurance to Buyer.

7. Severability: If any Term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the Terms of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or otherwise invalidated.

8. Brokers or Realtors: Seller has not listed the Property with a real estate broker or realtor, and neither Buyer nor Seller has enlisted the services of a broker or realtor in any connection therewith. The parties do not owe any broker's or realtor's commission or fee to any broker or realtor relating in any manner whatsoever to this Agreement, the Property or the Transaction. The parties will in any event pay any such commissions owed to their respective realtors or brokers if any is found to be due.

9. Notices: Any notices required or permitted to be given pursuant to this Agreement shall be deemed given when either personally delivered or alternatively sent by Federal Express (or any overnight service provider having readily traceable service) to Seller or Buyer as follows:

To Buyer:
Liberty Development Company
28045 Ranney Pkwy.
Westlake, OH 44145
Attention: Tom Kuluris

With copy to:
Ulmer&Berne, LLP
Mary Forbes Lovett, Esq.
1660 West 2nd Street
Cleveland, Ohio, 44113

To Seller:
City of Lakewood, Ohio
12650 Detroit Avenue
Lakewood, OH 44107
Attention: Mayor

With copy to:
City of Lakewood, Ohio
12650 Detroit Avenue
Lakewood, OH 44107
Attention: Law Director

Either Seller or Buyer may change its notice address by providing the other with written notice as provided hereinabove setting forth such new address.

10. Successors and Assigns: The Terms shall extend to and be binding upon the respective successors and assigns of both Seller and Buyer or Buyer's nominee(s) (as applicable).

11. Governing Law: This Agreement shall be governed by and construed in accordance with Ohio law. The Cuyahoga County, Ohio Common Pleas Court shall have the sole jurisdiction and venue over and respecting any claims, causes of action, liabilities or disputes which arise among and between Seller and Buyer relating in any manner whatsoever to this Agreement, the Transaction or the Property.

12. Effective Date: The effective date of this Agreement (the "Effective Date"), shall be the latest date upon which Seller or Buyer executes the same.

13. Conditions Precedent to Buyer's Obligations: All of Buyer's duties, obligations and liabilities to Seller under this Agreement are wholly contingent upon the following conditions precedent (collectively the "Buyer's Conditions"):

(a) Buyer being satisfied in its sole discretion with the results of its Due Diligence, as set forth in Section 15 below.

(b) That there exist no liens, conditions, easements, encumbrances, restrictions, rights-of-way or any "Unacceptable Title Matters" relative to the Property that would prevent or impair Buyer's utilization, ownership,

possession or development of the Property for Buyer's use thereof to construct the Project, subject, however, to the use restrictions found within the Permitted Encumbrances.

(c) That any EPA Phase I or Phase II Assessments, Wetland Delineations or Studies, Location Surveys, ALTA Surveys and Flood Surveys which Buyer may obtain relative to the Property are wholly satisfactory to Buyer and do not disclose any materially adverse conditions at the Property as Buyer determines in Buyer's reasonable discretion.

(d) That any percolation testing, soil reports, storm water management, Clean Air Act, drinking water tests, adequacy of utilities and any other inspections, tests, soil borings or investigations (collectively the "Tests and Reports") which Buyer may want to obtain or conduct at the Property (at Buyer's sole expense) do not disclose any materially adverse conditions at or relevant to the Property as Buyer determines in Buyer's discretion.

(e) That the Property be properly and correctly zoned for a use under which the Project may be constructed and that there otherwise do not exist any federal, state, county, city or local regulations, restrictions, issues, requirements or conditions materially adverse to the Property or Buyer's development thereof as Buyer determines in Buyer's discretion, subject, however, to the use restrictions found within the Permitted Encumbrances.

(f) That the Property shall consist of approximately 2.88 acres and shall be configured as depicted within Exhibit "A" hereto.

(g) That Buyer has obtained any and all final approvals and permits from Seller, Cuyahoga County, the state of Ohio and any other governmental agency or body that Buyer needs to promptly develop the Property and to construct the Project thereon; provided Buyer has timely applied for and promptly proceeded in good faith to satisfy all application requirements associated with the approvals or permits.

(h) That Closing shall occur on or before the Closing Date (with time being of the essence).

(i) That there shall have been no material adverse changes in or to the Property or relating thereto prior to Closing as Buyer and Seller determine in their reasonable discretion.

(j) That Seller shall at Closing be ready, willing and able to execute and deliver the Deed and any and all Closing documents and instruments that Buyer and the Title Company reasonably require.

In the event Buyer's Conditions (a) through (f) are not met, Buyer may, by written notice to Seller not later than 5:00 p.m. on the 90th day immediately following the day on which all of the following have voted to approve the plans for the Project: (i) the architectural review board; (ii) the planning commission; and (iii) city council (which shall mark the conclusion of the period known as the "Inspection Period"), terminate this Agreement, whereupon the Deposit (and any Additional Deposit) shall be returned to Buyer and the parties shall be released from any further obligations hereunder each to the other, except that Buyer shall promptly provide Seller with copies of any Tests and Reports, and Buyer and Seller shall each pay one-half (1/2) of all the expenses of the Escrow Agent and the Title Company. In the event Buyer's Conditions (g) through (j) are not met, Buyer may, by written notice to Seller not later than 5:00 p.m. on the Closing Date, terminate this Agreement, whereupon the Deposit (and any Additional Deposit) shall be returned to Buyer and the parties shall be released from any further obligations hereunder each to the other, except that Buyer shall promptly provide Seller with copies of any Tests and Reports, and Buyer shall pay all the expenses of the Escrow Agent and the Title Company. In the event that Buyer fails to deliver to Seller such termination notice prior to the expiration of the Inspection Period or the Closing Date, as applicable, Buyer shall be deemed to have waived Buyer's right to terminate based on Buyer's Conditions, and the parties shall proceed to Closing upon the terms contained herein without reduction in the Purchase Price (and the Deposit and Additional Deposit shall become nonrefundable and shall be paid to Seller as liquidated damages and as Seller's sole and exclusive remedy if Buyer defaults under or breaches this Agreement, in addition to any other remedies provided for herein).

14. Conditions Precedent to Seller's Obligations: All of Seller's duties, obligations and liabilities to Buyer under this Agreement are wholly contingent upon the following conditions precedent (collectively, the "Seller's Conditions"):

(a) The information provided by Buyer to Seller in all submissions provided as part of the request for qualification and request for proposal process preceding this Agreement, as well as all the "Submittals" (as hereinafter defined), shall be found in every respect to be true and accurate.

(b) Upon or prior to February 2, 2015, Buyer shall have provided the following to Seller (the "Submittals"):

- (i) drawings and plans as required by the architectural review board and the planning commission ("Plans") that reasonably evidence that Buyer shall construct Phase I of the Project generally outlined on Exhibit "B" for delivery to arm's-length purchasers not later than the date that is the 24-month anniversary of the Effective Date, subject to delays caused by or attributable to Acts of God, labor strikes, material shortages, inclement weather and other matters beyond Buyer's reasonable control; and
- (ii) Plans that reasonably evidence that Buyer shall construct Phase II of the Project generally outlined on Exhibit "B" for delivery to arm's-length purchasers not later than the date that is the 36-month anniversary of the Effective Date, subject to delays caused by or attributable to Acts of God, labor strikes, material shortages, inclement weather and other matters beyond Buyer's reasonable control; and
- (iii) other submittals as may be reasonably required by the city in writing. Buyer's Submittals shall be subject to applicable laws, including but not limited to building and zoning requirements, as well as any additional review by and approval from Seller's board of building standards/architectural board of review, planning commission and, if necessary, board of zoning appeals, but otherwise shall not be subject to Seller's satisfaction or approval.

(c) Buyer's representations and warranties are true and correct in all material respects.

In the event any of Seller's Conditions set forth in this Section are not satisfied by the end of the Inspection Period, Seller may, by written notice to Buyer not later than 5:00 p.m. on the end of the Inspection Period, terminate this Agreement, whereupon the Deposit (and any Additional Deposit) shall be retained by and paid to Seller and the parties shall, thereafter, be released from any further obligations hereunder each to the other, and Buyer shall pay all the expenses of the Escrow Agent and the Title Company. In the event that Seller elects not to terminate this Agreement, Seller shall be deemed to have waived its right to terminate based on Seller's Conditions, and the parties shall proceed to Closing upon the terms contained herein without an adjustment in the Purchase Price.

15. Due Diligence, Inspection and Right of Access: During the Inspection Period, upon notice to and coordination with Seller, Buyer (and Buyer's consultant(s) or agent(s)) shall at Buyer's sole expense have the right to assess, analyze, inspect, test and evaluate the Property from and after the Effective Date to determine the suitability and feasibility of the Property for Buyer's intended use thereof ("Due Diligence"); provided Buyer does not violate any covenants and restrictions imposed on the Property as reflected in documents on public record. Upon notice to and in coordination with Seller, Buyer and Buyer's consultant(s) or agent(s) shall have the right to enter upon the Property (at Buyer's sole expense) to inspect and examine the same and to conduct any and all studies, testing, borings, surveys, examinations and sampling and obtain all such Tests and Reports as Buyer or Buyer's lender (as applicable) deem either necessary or desirable (the "Inspections"). Buyer shall, at Buyer's expense, reasonably restore the Property to the preexisting condition thereof (if and as applicable). Buyer hereby agrees to indemnify, defend and hold harmless Seller from and against any losses, liabilities, damages, costs or expenses incurred by Seller as a result of Buyer's inspection activities at the Property; provided, however, notwithstanding any other provisions of this Agreement, Seller shall have no liability for Buyer's discovery of negative facts regarding the Property and any resulting diminution in the value of the Property. Buyer acknowledges and agrees that any such Inspections conducted by Buyer or Buyer's agents and representatives shall be solely at the risk of Buyer. Buyer shall carry commercial general liability insurance covering all activities conducted by Buyer, its agents, contractors and engineers on the Property. Such insurance shall have limits of not less than \$1,000,000.00 for personal injury to or death of any one person, \$2,000,000.00 for personal injury to or death of any number of persons in any one accident and \$500,000.00 for property damage, and shall name Seller as an additional insured. All of the obligations of Buyer under this Section

shall survive Closing or the termination of this Agreement.

Buyer agrees that it shall treat all Tests and Reports as confidential materials and shall not disclose any portion thereof except: (i) to the extent necessary in connection with its evaluation of the Property and to its attorneys, consultants and potential lenders; (ii) to the extent required by law; or (iii) with the express written consent of Seller. Notwithstanding any provision in this Agreement to the contrary, and except as may be required by applicable law, neither Buyer nor Buyer's agents shall contact any governmental authority regarding Buyer's discovery of any Hazardous Substances (as hereinafter defined) on, or any environmental conditions at, the Property without Seller's prior written consent thereto. In addition, if Seller's consent is obtained by Buyer, Seller shall be entitled to receive at least two business days prior written notice of the intended contact and to have a representative present when Buyer has any such contact with any governmental official or representative. For the purposes of this Agreement, the term "Hazardous Substances" shall have the same definition as is set forth in CERCLA (the "Superfund Act"); provided, however, that the definition of the term "Hazardous Substances" shall also include (if not included within the definition contained in the Superfund Act) petroleum and related byproducts, hydrocarbons, radon, asbestos, urea formaldehyde and polychlorinated biphenyl compounds.

16. Seller's Representations and Warranties: Seller covenants, represents and warrants to Buyer ("Seller's Covenants"), that both as of the Effective Date and as of the Closing Date:

(a) Seller owns fee simple and insurable Title to the Property and that Buyer will acquire the Property from Seller free and clear of all liens, encumbrances, claims, demands, easements, covenants, conditions, proffers, restrictions and encroachments of any kind or nature, subject to the Permitted Encumbrances, and other exceptions relating to the Property as set forth in Schedule B of the Commitment (as acceptable to or accepted by Buyer).

(b) Other than those found within the Permitted Encumbrances, Seller has not entered into any other agreements to sell, mortgage, lease, encumber or dispose of any interest in the Property or any portion thereof or any agreement which imposes restrictions on the ability or right of Seller to sell or transfer the Property or any interest therein as required under this Agreement; including, without limitation, any leases, options or rights of first refusal in favor of any persons or entity.

(c) Relative to the Property, Seller has not received any formal notifications of any violations of any applicable federal, state or local ordinances, statutes, codes, rules or regulations relevant or relating thereto except as Seller has otherwise disclosed herein.

(d) To actual knowledge of Seller, there are no hidden or undisclosed underground storage tanks at or upon the Property.

(e) Seller's execution of and performance under this Agreement and Seller's completion of the Transaction will not result in any breach of, constitute a default under or result in the creation of any lien, charge or encumbrance upon the Property under or pursuant to any indenture, mortgage, security agreement, credit agreement or internal governance provisions of Seller or any other agreement or instrument to which Seller is a party or by which Seller or any of the Property may be or is bound; including, without limitation, any options, rights of first refusal or transfer restrictions of any type or nature.

(f) As of the Closing Date, except as noted herein, no consent or approval of any person, entity, governmental agency or body is or will be required for Seller to fully perform under this Agreement or to complete the Transaction in accordance with the Terms.

(g) There are no actions, suits, claims, demands or any other proceedings or investigations, either administrative or judicial, pending or, to the best of Seller's knowledge, threatened against Seller or the Property.

(h) Seller has complied with all applicable laws, regulations, ordinances and rules pertaining to the Property.

(i) Seller is current and at Closing shall be current with and upon all of Seller's obligations and liabilities to pay for any and all utilities servicing the Property.

(j) Seller's Covenants as contained within this Agreement do not and will not contain or furnish any untrue statements of material fact or omit any material information necessary to render Seller's Covenants to not be misleading.

(k) To the actual knowledge of Seller, other than this Agreement, there are no agreements, contracts, licenses, invoices, bills, leases, undertakings or understandings affecting all or any of the Property except as Seller has disclosed in writing to Buyer within this Agreement.

(l) To the best of Seller's knowledge the demolition of the former school building was done in compliance with laws and the sub surface fill is compact and buildable.

All of Seller's Covenants shall survive Closing and the execution, delivery or recordation of the Deed for a period of one (1) year.

17. Buyer's Representations and Warranties: Buyer covenants, represents and warrants to Seller ("Buyer's Covenants"), that both as of the Effective Date and as of the Closing Date:

(a) There is no pending litigation, and to the best of Buyer's knowledge, there is no threatened litigation or claims against Buyer which would impair Buyer's ability to perform its obligations under the terms of this Agreement and to close the transaction as contemplated herein on the Closing Date.

(b) No consent or approval of any person, entity, governmental agency or body is or will be required for Buyer to fully perform under this Agreement and to complete the Transaction in accordance with the Terms.

(c) Buyer is authorized to sign this Agreement, Close the Transaction and perform pursuant to and under the Terms.

(d) Buyer's Covenants as contained within this Agreement do not and will not contain or furnish any untrue statements of material facts or omit any material information necessary to render Buyer's Covenants to not be misleading.

(e) Neither Buyer nor any of its owners, members, shareholders or partners has been convicted of any felony crime or crime involving moral turpitude or of any crime involving an act of theft, fraud, dishonesty or falsification.

All of Buyer's Covenants shall survive Closing and the execution, delivery and recordation of the Deed for a period of one (1) year.

18. Status of Seller: Seller covenants, represents and warrants to Buyer that as of the Effective Date and as of the Closing Date:

(a) Seller is an Ohio municipal corporation;

(b) Seller is authorized to sign this Agreement, close the Transaction and perform pursuant to and under the Terms.

19. Waiver or Modification: None of the Terms can be waived, modified or amended unless and until Seller and Buyer prepare and sign a written waiver or modification, which such waiver or modification must incorporate this Agreement by reference therein and must otherwise ratify and reaffirm the same (subject to the waiver or

modification).

20. Special Conditions: The following shall constitute special Terms of this Agreement and shall survive the Closing:

(a) Existing Surveys, Reports and Title Evidence: Seller has provided or, on Buyer's demand, will promptly provide to Buyer the original or copy of any and all surveys, title evidence, soil test reports, environmental site assessments and any other inspections or testing reports or studies which Seller possesses relative to the Property.

(b) Buyer shall, at its sole cost and expense, be responsible for obtaining all necessary approvals, permits, consents and agreements necessary to enable Buyer or Buyer's nominee(s) to construct, erect, maintain, repair and replace signage and Buyer shall comply with all applicable laws, regulations, rules and ordinances.

(c) Local Participation: Buyer shall in good faith encourage Buyer's contractors, subcontractors, licensees, concessionaires and tenants to use and hire qualified Lakewood businesses and citizens in the development and construction of the Property and for their business operations at the Property (if and as applicable).

(d) Prohibited Uses: Buyer acknowledges that Seller, pursuant to the Prior Deed, is obligated to restrict the use of the Property to a use that is primarily residential in nature, with additional prohibitions on uses found in the Prior Deed. Buyer agrees the Deed will contain the same restrictions and prohibitions on use of the Property, and agrees not to permit operation of any enterprise on the Property in violation of these restrictions and prohibitions. The term "operation" shall include not only those involving the Buyer's Improvements but also all those upon the Property. The Deed shall provide that such prohibitions shall continue for a period of twenty (20) years from the Closing Date.

(e) City's Support: The Seller has agreed to provide the following support for the project: (i) provide parallel parking along the West Clifton border of the Property; (ii) replace the sidewalks on the Property's Northwood Avenue frontage; (iii) provide building permits and inspection fees at cost (not the standard fee schedule) and agrees that there are no separate tap in fees; all subject to separate approval of Seller's city council.

(f) Buyer's Covenant: Buyer will begin construction activities and efforts at the Property ("Construction"), no later than 12 months after the Closing Date and Buyer shall construct a minimum of 15 units as shown on Exhibit "B" for delivery to arm's-length purchasers not later than the date that is the 36-month anniversary of the Closing Date; provided, however, that the deadlines in this paragraph, by reason of Acts of God, labor strike, lockout, inability to procure materials, failure of power, riot, insurrection, war or warlike act, terrorist act, utility blackout or brownout, legal requirement or other reason not within the control of Buyer, shall be continued for a period equivalent to the period of such delay.

21. Condition of Property: BUYER ACKNOWLEDGES THAT EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT: (A) PRIOR TO THE CLOSING, BUYER SHALL HAVE HAD AN OPPORTUNITY TO MAKE ALL INSPECTIONS OF THE PROPERTY AS DESIRED BY BUYER, AND BUYER SHALL HAVE INSPECTED THE PROPERTY AND ACCEPTS IT "AS IS" IN ITS CURRENT CONDITION WITHOUT WARRANTY NOT OTHERWISE SET FORTH HEREIN; (B) BUYER IS AWARE OF THE PRESENT PHYSICAL CONDITION OF THE PROPERTY; AND (C) BUYER FURTHER ACKNOWLEDGES THAT (EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT) THE PROPERTY IS BEING PURCHASED IN ITS PRESENT PHYSICAL CONDITION AND THAT THERE HAVE BEEN NO REPRESENTATIONS, WARRANTIES OR STATEMENTS MADE CONCERNING THE CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION, WARRANTY OR STATEMENT CONCERNING THE ENVIRONMENTAL CONDITION OF THE PROPERTY) OTHER THAN THOSE CONTAINED HEREIN, AND THAT BUYER HAS NOT RELIED ON ANY OTHER REPRESENTATIONS, WARRANTIES OR STATEMENTS. ANY REPRESENTATIONS, WARRANTIES, PROMISES OR STATEMENTS BY ANY BROKER, AGENT OR EMPLOYEE OF SELLER OR ANY OTHER PERSON THAT

DIFFERS IN ANY RESPECT FROM THE TERMS AND CONDITIONS OF THIS AGREEMENT SHALL BE GIVEN NO FORCE AND EFFECT. SUBJECT TO AND EXCEPTING FOR SELLER'S REPRESENTATIONS, WARRANTIES AND COVENANTS AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, BUYER WAIVES AND RELEASES SELLER FROM ALL CLAIMS AGAINST SELLER ARISING OUT OF THE CONDITION OF THE PROPERTY. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THE PROPERTY IS BEING SOLD AS IS, WHERE IS AND WITH ALL FAULTS. THIS SECTION SHALL SURVIVE CLOSING AND THE RECORDING OF THE DEED FOR RECORD.

Buyer acknowledges that the Site Plan depicted on Exhibit "B" (the "Site Plan") depicts access and egress onto and through the Property. Buyer agrees that it shall, at its sole cost and expense, build, construct and erect all roadways, sidewalks, access drives, traffic signals, signs and infrastructure necessary to comply with the Site Plan as to and upon the Property, including but not limited to, landscaping, civic green space and grading, as required and necessary. Buyer acknowledges that Seller shall have no responsibility or liability for construction of any of the improvements enumerated in this Section or in the Site Plan except as otherwise specifically provided in this Agreement.

Buyer, on behalf of itself and all future owners and occupants of the Property, hereby waives and releases Seller from any claims for recovery of costs associated with conduct of any voluntary action or any remedial responses, corrective action or closure under any applicable federal, state or local environmental laws ("Environmental Laws"). For purposes of this Agreement, the term "Environmental Laws" shall include, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq. and the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 et seq. as amended from time to time; and any similar federal, state and local laws and ordinances and the regulations and rules implementing such statutes, laws and ordinances. The foregoing waiver and release shall be set forth in the Deed and shall be binding upon all future owners and occupants of the Property.

22. Entire Agreement; Survival: There are no covenants, representations, warranties, agreements or conditions, either express or implied, which in any way affect, form a part of, or relate to this Agreement except for the Terms hereof. This Agreement constitutes the entire understanding and agreement between Seller and Buyer. All of the Terms of this Agreement; including, without limitation, Seller's Covenants and Seller's other representations and warranties, shall survive Closing and the execution, delivery and recordation of the Deed.

(The signature page follows.)

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement in duplicate original counterparts on the date(s) set forth hereinbelow.

THE CITY OF LAKEWOOD, an Ohio municipal corporation ("Seller")

LIBERTY DEVELOPMENT COMPANY, an Ohio corporation ("Buyer")

By: _____

Its: _____

Dated: _____

By: _____

Its: _____

Dated: _____

ESCROW CONSENT

The undersigned agrees to act as the Title Company and Escrow Agent for the transaction described in the above Agreement as provided herein.

[title company]

By: _____

Its: _____

Dated: _____

EXHIBITS

Exhibit A
Land

Exhibit B
Property Site Plan

Exhibit C
Promissory Note

Exhibit D
Deed Restrictions

Exhibit E
Deed

EXHIBIT A
Land

Situated in the City of Lakewood, County of Cuyahoga, State of Ohio, described as follows:

Parcel No. 1

Situated in the City of Lakewood, County of Cuyahoga, State of Ohio, and known as being in Section No. 23, and bounded and described as follows:

Commencing at the center of Detroit Plank Road, so called, 30 feet easterly from the East line of C. Southern's land, on the North side of Detroit Street;

thence running northerly parallel with said Southern's East line and 30 feet therefrom the whole distance of his land and continuing Northerly in a straight line until it strikes the southerly line of James Carmen's land;

thence westerly along the Southerly line of said Carmen's land until it strikes the East line of J.D. Wager's land;

thence southerly along the East line of said Wager's land to C. Southern's land;

thence easterly along the Northerly line of said Southern's land to northwest corner of same;

thence southerly along the Easterly line of same land to the center of Detroit Street;

thence easterly along the center of Detroit Street to the place of beginning.

Parcel No. 2

Situated in the City of Lakewood, County of Cuyahoga, State of Ohio, and known as being part of section twenty-three (23) Rockport Township, and bounded and described as follows:

Beginning at a point in the south line of the Northwood Park Subdivision as recorded in Volume 29 of Maps, Page 27 of Cuyahoga County Records, which bears South 89° 39' 30" East 144 feet from the intersection with the easterly line of West Clifton Boulevard, said beginning point being at the northeast corner of land conveyed to the Board of Education by deed recorded in Volume 191, Page 551 of Cuyahoga County Deed Records; thence South 5° 37' 30" East along the easterly line of lands conveyed to the Board of Education as aforesaid 294.55 feet to an iron bolt; thence North 73° 55' 30" East parallel to and 20 feet distant northerly at right angles from the northerly line of Detroit Avenue 275.56 feet to an iron bolt; thence North 4° 49' West parallel to and 175 feet distant westerly at right angles from the westerly line of Webb Road 215.95 feet to an iron bolt on the south line of the Northwood Park Subdivision; thence North 89° 39' 30" West along said southerly line 275.53 feet to the place of beginning, containing 1.597 acres of land.

Parcel No. 3

Situated in the City of Lakewood, County of Cuyahoga, State of Ohio, Section No. 23, Rockport Township and being known as all of Sublot No. 8 in the Northwood Park Subdivision in the said City of Lakewood, as recorded by plat in Volume 29 of Maps, Page 27 of Cuyahoga County Records, and being further described as follows:

Beginning at a point in the intersection of the southerly lot line of said Lot No. 8, and the easterly street line of West Clifton Boulevard; thence North 00° 03' 30" West a distance of 74.05 feet in the easterly street line of West Clifton Boulevard to the Northwest corner of said Lot No. 8; thence South 89° 45' 30" East a distance

of 160 feet in the Northerly lot line of said Lot No. 8 to the Northeasterly corner of said lot and the westerly line of an alley; thence South $00^{\circ} 03' 30''$ East a distance of 60 feet to a point in the easterly lot line of said Lot No. 8, and the westerly line of an alley; thence North $89^{\circ} 45' 30''$ West, a distance of 40 feet to a point in the northerly line of an alley; thence South $00^{\circ} 03' 30''$ East a distance of 14.30 feet to a point in the southerly lot line of said Lot No. 8; thence North $89^{\circ} 39' 30''$ West a distance of 120 feet to the place of beginning.

Parcel No. 4

Situated in the City of Lakewood, County of Cuyahoga, State of Ohio, Section No. 23, Rockport Township, and being known as part of Lot No. 7 in the Northwood Park Subdivision in said City of Lakewood, as shown by plat recorded in Volume 29 of Maps, Page 27 of Cuyahoga County Records, and being further described as follows:

Beginning at a point in the intersection of the southerly lot line of said Lot No. 7, and the easterly street line of West Clifton Boulevard; thence North $00^{\circ} 03' 30''$ West in the Easterly street line of West Clifton Boulevard a distance of 29.95 feet to a point in the south line of the proposed extension of Northwood Avenue; thence South $89^{\circ} 39' 30''$ East a distance of 160 feet, along the south line of the said Northwood Avenue Extension to a point in the easterly lot line of said Lot No. 7; thence South $00^{\circ} 03' 30''$ East a distance of 29.67 feet to a point in the easterly lot line of said Lot No. 7; thence North $89^{\circ} 45' 30''$ West a distance of 160 feet in the southerly lot line of said Lot No. 7, to the point of beginning.

Parcel No. 5

Situated in the City of Lakewood, County of Cuyahoga, State of Ohio, and known as being all of that part of vacated Cannon Alley, as shown by the Vacation Plat recorded in Volume 204 of Maps, Page 22 of Cuyahoga County Records.

(Permanent Parcel No. 311-22-028)

EXHIBIT B
Outline of Project
(to be provided)

EXHIBIT C
Promissory Note
(to be provided)

EXHIBIT D
Deed Restrictions
(to be provided)

The following restrictions shall be made a part of the Deed:

1. Grantee, on behalf of itself and all future owners and occupants of the Property, hereby waives and releases Grantor from any claims for recovery of costs associated with conduct of any voluntary action or any remedial responses, corrective action or closure under any applicable federal, state or local environmental laws ("Environmental Laws"). For purposes of this provision, the term "Environmental Laws" shall include, without limitation, CERCLA and the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 *et seq.*, as amended from time to time; and any similar federal, state and local laws and ordinances and the regulations and rules implementing such statutes, laws and ordinances, and any similar federal, state and local laws and ordinances and the regulations and rules implementing such statutes, laws and ordinances. The foregoing waiver and release shall be binding upon all future owners and occupants of the Property.

2. The Property shall not in any event be used as a theatre, supermarket, bowling alley, billiard parlor, night club or any other business serving or selling alcoholic beverages (except that restaurants may serve alcoholic beverages as an ancillary part of their business), funeral parlor, automobile dealership, skating rink, adult bookstore or establishment selling, exhibiting or distributing pornographic or obscene materials, massage parlor, so-called "head shop," unsupervised amusement arcade or game room, body and fender shop or off-track betting parlor.

3. The improvements to be constructed by Grantee on the Property (the "Improvements") shall be primarily a residential development, shall have been previously approved by Grantor, and shall not be subject to any tax abatement or deferral ("Permitted Use").

4. Prior to the construction of the Improvements on the Property, the party or parties constructing the initial Improvements shall submit to Grantor a site plan and building layout in connection with the initial Improvements to be constructed on the Property for the review and written approval of the Grantor, which review and approval shall not be unreasonably withheld, conditioned or delayed by Grantor.

5. Repurchase right. The Property and any and all rights and interests appurtenant thereto are subject to the Right to Repurchase (as defined herein) held by Grantor, its successors and assigns, on the following terms and conditions:

(a) Grantor has reserved and does hereby reserve unto itself, its successors and assigns, and Grantee does hereby grant and convey to Grantor, its successors and assigns, the right and option, but not the obligation, to repurchase the Property as set forth below from Grantee (hereinafter referred to as the "Right to Repurchase"), for the Repurchase Price (as hereinafter defined) and on the other terms and conditions hereof if (i) Grantee fails to commence construction of the Improvements on or before the expiration of the twelfth full calendar month after the date of the Closing (for purposes of the Right to Repurchase set forth in this Deed the date of Closing shall be deemed the date of this Deed), or (ii) Grantee fails to complete construction of fifteen (15) units for delivery to arm's-length purchasers not later than the date that is the 36-month anniversary of the date of Closing (any of the deadlines in items (i) and (ii) (hereinafter referred to as the "Commencement Deadline"); provided, however, that in the event of Acts of God, strikes, terrorism, war, unavailability of materials or any other cause outside the reasonable control of Grantee, the Commencement Deadline shall be reasonably extended to reflect the time loss due to the unexpected delay and the time to complete the same using reasonably prompt diligence. Grantor must exercise the Right to Repurchase by written notice to Grantee delivered within six full calendar months after the Commencement Deadline.

(b) If Grantor fails to deliver timely the required notice under paragraph (a), then the Right to Repurchase thereupon automatically ceases and terminates and is of no further force and effect without any further action by any of the parties. The Right to Repurchase set forth herein shall automatically cease and terminate upon Grantee's transfer of any portion of the Property to a third-party, but only as to such portion of the Property, without any further action on any part of the parties hereto; provided, however, that then Grantor shall, upon

the request of Grantee or its successor-in-title, at Grantee's cost, execute a termination agreement in recordable form terminating the Right to Repurchase as to such property and shall deliver the same to Grantee.

(c) If Grantor exercises the Right to Repurchase in accordance with the terms hereof, then the consummation of such transaction (hereinafter referred to as "Repurchase Closing") will occur in the offices of Grantor's counsel on that date which is 60 days after the delivery to Grantee of the exercise notice or such earlier date upon which Grantor and Grantee agree.

(d) At the Repurchase Closing, Grantee shall execute and deliver to Grantor: (i) a limited warranty deed conveying title to the Property to Grantor, subject only to the Permitted Exceptions, and such other matters established against title after the date of Closing with the express written consent of Grantor (except financing liens established at or after Closing, which Grantee shall discharge prior to or at the time of the re-conveyance); (ii) such other documents, certificates, instruments and the like, as may be required by the Title Company to issue a policy of title insurance subject only to the Permitted Exceptions, with all standard exceptions removed; and (iii) possession of the Property, subject to the matters permitted hereunder.

(e) In the event that Grantor elects to exercise the Right to Repurchase in accordance herewith, the purchase price for the Property (hereinafter referred to as the "Repurchase Price") shall be whatever amounts Grantee shall have paid to Grantor by the Closing Date for Grantee's purchase of the property, including any deposits, cash and principal and interest paid by Grantee to Grantor under the terms of the purchase agreement between Grantee and Grantor and mortgage note from Grantee to Grantor plus the fair market value of any improvements to the Property made by the Buyer but in no event less than the amount due under the Construction Mortgage. Grantor shall deliver the Repurchase Price to the Title Company in cash or other funds available for immediate credit to Grantee. Closing costs shall be shared by the Grantor and the Grantee according to the custom of the jurisdiction in which the Property is located.

EXHIBIT E
Deed
(to be provided)



12650 DETROIT AVENUE 44107 216/529-6055 FAX 216/226-3650
www.onelakewood.com
Lakewood City Council
MARY LOUISE MADIGAN, PRESIDENT
RYAN P. NOWLIN, VICE PRESIDENT

Council at Large
RYAN P. NOWLIN
THOMAS R. BULLOCK III
CINDY MARX

Ward Council
DAVID W. ANDERSON, WARD 1
SAM O'LEARY, WARD 2
SHAWN JURIS, WARD 3
MARY LOUISE MADIGAN, WARD 4

February 2, 2015

Lakewood City Council
Lakewood, OH 44107

Re: Public Safety Committee Report; Resolution 8793-15;

The Public Safety Committee met January 20, 2015 and again on January 26, 2015 to discuss Resolution 8793-15 which provides hospital police officers operating under Ohio Revised Code to exercise limited police powers within the City of Lakewood.

At the January 20, 2016 Committee meeting Committee Members Madigan and Bullock were joined by Councilmember Marx, Police Chief Malley, Law Director Butler, Cleveland Clinic Police Department Chief David Easton and Commander David Wright. Committee Member Anderson was unable to attend the Committee Meeting but was present for the interim report provided at the Regular Meeting of Council later that night.

The first meeting introduced the general reasoning behind the proposal, the final details of which are attached in the Memorandum of Understanding. During the discussion the Committee learned the proposal was similar to those already entered into by Cleveland, Euclid, Mayfield Heights, Garfield Heights, Independence and Avon. The Committee agreed a second meeting would allow time for a more extensive evaluation. The Chair encouraged Committee members to forward questions directly to Chief Malley for review at the subsequent Public Safety Committee meeting.

The January 26, 2015 Committee meeting included all members of the Committee along with Law Director Butler and Police Chief Malley. The list of several questions submitted to Chief Malley were officially placed on the Committee record and discussed. The questions and answers addressed scope, protocol, training, jurisdiction, timing as well as many others. A reference to section VI of the MOU which allows the City the ability to withdraw from the agreement at its discretion concluded the Committee's review. The Public Safety Committee therefore unanimously recommends adoption of substituted Resolution 8793-15.

Respectfully submitted,
Thomas R. Bullock, III, Chair
David Anderson, Mary Louise Madigan; Members
PUBLIC SAFETY COMMITTEE

Referred to the Public Safety Committee
1/5/2015. Substitute recommended for
adoption 1/26/2015. Please substitute
for the original.

RESOLUTION NO. 8793-15

BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor to enter into an agreement with the Cleveland Clinic Foundation (CCF) which will allow police officers employed by the Cleveland Clinic Police Department to exercise limited police powers within the City of Lakewood on and around hospital property operated by CCF.

WHEREAS, the CCF has a police department established under the authority of O.R.C. §4973.17(D); and

WHEREAS, an agreement is required in order for the special police officers hired by CCF to have misdemeanor arrest authority within the city of Lakewood; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments it is in the best interest of the City to allow special police officers appointed by the CCF to have police powers on certain hospital property owned by the city of Lakewood and operated by CCF; now, therefore,

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor, as Director of Public Safety, is hereby authorized to enter into an agreement, in substantially the form as attached as Exhibit 1, with the Cleveland Clinic Foundation granting authority for special police officers appointed by the CCF to exercise police powers in accordance with O.R.C. §4973.17 on and around hospital property owned by the city of Lakewood and operated by CCF.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such 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.

Section 3. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force

immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President of Council

Clerk of Council

Approved: _____

Mayor

Exhibit 1

(See attached revised agreement)

**AGREEMENT BETWEEN
THE CITY OF LAKEWOOD**

And

THE CLEVELAND CLINIC FOUNDATION

Purpose

To authorize Cleveland Clinic Police Officers, under the authority granted in Ohio Revised Code §4973.17(D), to exercise police powers within Lakewood Hospital, located at 14519 Detroit Avenue in the City of Lakewood, Ohio and The Lakewood Family Health Center, located at 16215 Madison Avenue in the City of Lakewood, Ohio (collectively referred to herein as "Lakewood Hospital") and in certain areas outside of Lakewood Hospital and within the City of Lakewood and to develop protocols for the operation of those powers.

Policy

The Cleveland Clinic Foundation established the Cleveland Clinic Police Department ("CCPD") as its own proprietary police department. Each member of the CCPD is appointed under O.R.C. §4973.17(D). The City of Lakewood Police Department ("LPD") recognizes the authority of the CCPD and has granted approval for officers of CCPD to be vested, while directly in the discharge of their duties as Cleveland Clinic Police Officers, with the same powers and authority vested in a municipal police officer or county sheriff, and exercise concurrent jurisdiction over those properties owned or operated by The Cleveland Clinic Foundation ("CCF") and/or a member of the Cleveland Clinic Health System ("CCHS") located within the City of Lakewood. This authority, in no way, usurps the authority vested in any municipal law enforcement agency wherein that property is situated.

The LPD and CCPD believe it is in their mutual interest to provide concurrently, through their separate police departments, police services that will enhance the safety of Lakewood Hospital, its patients, employees and property. It is the desire of the Parties to provide for mutual assistance by the interchange and use of their police department personnel and equipment in areas inside and outside of CCF and/or CCHS property in the City of Lakewood to the benefit of both in improved safety and vitality in the City of Lakewood.

I. Exercise of Police Powers

In accordance with the terms and limitations specified in this Agreement, police officers appointed by CCPD, under the authority of O.R.C. §4973.17, shall have full authority to exercise their police powers granted under O.R.C. §4973.17 in areas inside Lakewood Hospital and areas outside Lakewood Hospital, within the City of Lakewood to the extent provided for and limited by Ohio law, all City of Lakewood General Police Orders (GPOs), the attached protocols (Attachment A), and the provisions of this Agreement.

1) Limitations on the authority granted under the provisions of this Agreement include, but are not limited, to the following:

- a) When CCPD Officers are within the property owned, leased or otherwise held or operated by CCF and/or a member of CCHS, the authority granted to such Officers under this Agreement is limited to all streets and areas within 300 feet of the property line of Lakewood Hospital.
- b) CCPD Officers may exercise their police powers outside the limited areas described in "a)" of this Section I when they are within the City's jurisdiction and en route to or from CCF and/or CCHS property, and exigent circumstances exist, which may include any of the following:
 - i) CCPD Officers are in hot pursuit of a fleeing suspect under O.R.C. §2935.03.
 - ii) A police officer or member of the public is in imminent peril of bodily harm if action is not taken immediately;
 - iii) The escape of a known criminal or suspect has occurred and action must be taken immediately; or
 - iv) When a CCPD Officer witnesses the commission of a crime while such crime is in progress. (This does not include misdemeanor drug activity or routine traffic matters).

- c) CCPD Officers may exercise their police powers outside the limited area described in the above parts "a)" and "b)" of this Section I when they are participating in a cooperative enforcement effort that has been approved in advance by the Chief of Police for CCPD and the Chief of Police for LPD. Either party may appoint a designee as their representative for approval.
- 2) CCPD Officers, enroute to and/or enroute from CCF and/or CCHS property, and while within the jurisdiction of the City of Lakewood, when acting under the terms of this Agreement, shall be acting within the scope of their employment for CCPD.
- 3) CCPD Officers may operate emergency police vehicles on City of Lakewood streets while responding to an emergency call within the scope and terms of their employment.
- 4) Any authority granted by this Agreement to CCPD Officers is limited to and shall only apply during periods when CCPD Officers are on duty. This Section is not intended to expand or alter the investigation, transportation, booking, reporting, or other responsibilities of CCPD Officers beyond those described in the attached Protocols (Attachment A) and in LPD GPOs regarding procedures governing the LPD and CCPD police departments.
- 5) CCF agrees that for CCPD prisoners that need medical treatment or require hospitalization before booking or while confined by CCPD at jail or holding areas other than LPD jails or holding areas, CCPD Officers shall arrange for the prisoners' medical care or hospitalization and CCPD shall be responsible for transporting its prisoners and guarding its prisoners while medical care is given and during the hospitalization and for the cost of, if any, the medical care or hospitalization. CCPD prisoners confined at City of Lakewood jails after booking that need outside medical care or hospitalization shall be transported by LPD and guarded during the initial LPD tour of duty. After the initial tour of duty, the responsibility for guarding such prisoners shall lie with the CCPD and remain with CCPD until the prisoner is returned to the City of Lakewood jails. CCF agrees to be responsible for the cost, if any, of any medical care or hospitalization of CCPD prisoners during confinement at the City of Lakewood's jails.
- 6) Concurrent with signing this Agreement, CCPD shall provide to the LPD and to the City of Lakewood Prosecutor, a list of the names and badge numbers of all CCPD Officers covered under this Agreement. This list shall be updated in writing as needed and copies of the updated list shall be promptly delivered to the LPD and the City of Lakewood Prosecutor.

II. Police Powers to be Exercised in Accordance with Written Protocols Agreed to by CCPD and LPD

The operational procedures governing the exercise of authority by CCPD Officers under this Agreement and governing the exercise of the City of Lakewood's authority within the jurisdiction of the City of Lakewood shall be set forth in Protocols agreed to, in writing, between CCF and the City of Lakewood. A copy of the current Protocols are attached to this Agreement as Attachment A and are incorporated as if fully re-written herein. Protocols may be amended in writing by the Chief of the CCPD and the Chief of the LPD, as the Parties deem necessary.

III. Charges

No charges shall be made by either CCF or the City of Lakewood for services rendered by one to the other under the provisions of this Agreement. Each Party shall assume the expense of loss or damage to its own equipment that may occur while in the City of Lakewood's territorial limits or while rendering assistance to the other Party.

IV. Indemnity

Neither CCF nor the City of Lakewood intends, under this Agreement, to indemnify or; hold harmless the other for any damages awarded by a court of competent jurisdiction in any civil action arising from any action or omission of any officer acting under this Agreement. Neither Party shall be or be deemed to be acting as agent for the other. Nothing in this Agreement is intended to and shall not be construed to constitute a waiver of either Party's defenses, including immunity.

V. Insurance

- 1) To the extent permitted by law, personnel to which this Agreement applies, and while acting under this Agreement, may participate in any pension or indemnity fund established by their employer to the same extent as

while acting within their employing entity. Those personnel members shall be entitled to all the rights and benefits of Section 9.86, 2744.02, 2950.12 and Chapter 4123 of the Ohio Revised Code, and to all rights and benefits of their employer's applicable insurance policies, including but not limited to its police liability insurance coverage, to the same extent as while performing services outside this Agreement within the entity they are employed by. To the extent applicable, Section 9.86 and Chapter 2744 of the Ohio Revised Code, as well as the terms and condition of each party's applicable insurance policies, insofar as it applies to the operation of police departments, shall apply to the parties to this Agreement.

- 2) CCPD confirms that it has insurance coverage for all CCPD personnel covered under this Agreement and that such insurance applies while CCPD personnel are acting under this Agreement.
- 3) The City of Lakewood confirms that it has insurance coverage for all City of Lakewood personnel covered under this Agreement and such insurance shall not provide coverage to CCPD, its employees, agents or assigns.

VI. Term

This Agreement shall be in effect after its execution under the laws of the State of Ohio and shall expire on December 31, 2017. Either Party may withdraw from this Agreement upon giving the other Party at least (30) days prior written notice of intent to withdraw.

VII. Meetings

During the Term of this Agreement, either Party may notify the other Party of its desire to meet, at a mutually convenient time and place, to discuss any dispute, problem, or proposed termination.

VIII. Amendments

This Agreement may be amended from time to time by mutual agreement of the Parties in writing. Any such Amendment shall be signed by the Parties and attached to the Agreement as addenda.

IX. Notices

All notices that may be proper or necessary shall be sent by regular U.S. Mail, postage pre-paid, to the following addresses or to such other address as either Party may designate for such purpose.

City of Lakewood:
Lakewood Police Department
12650 Detroit Avenue
Cleveland, Ohio 44107

The Cleveland Clinic Foundation:
The Cleveland Clinic Police Department
9500 Euclid Ave. (mail Code U12)
Cleveland, OH 44195

IN WITNESS WHEREOF, the Parties have signed this Agreement effective as of the _____ day of _____
2015.

CITY OF LAKEWOOD

By: _____
Michael P. Summers, Mayor

By: _____
Timothy J Malley, Chief of Police

THE CLEVELAND CLINIC FOUNDATION

By: _____
David Easton, Chief of Police

Approved as to Form

By: _____
Director of Law

Date: _____

By: _____
Attorney for CCF

Print Name and Title

Date: _____

ATTACHMENT A
PROTOCOLS BETWEEN
CLEVELAND CLINIC POLICE DEPARTMENT
And
CITY OF LAKEWOOD POLICE DEPARTMENT

The City of Lakewood Police Department ("LPD") is the law enforcement and investigative branch for the City of Lakewood. The Cleveland Clinic Police Department ("CCPD") is a proprietary police department of The Cleveland Clinic Foundation ("CCF") and The Cleveland Clinic Health System ("CCHS").

Lakewood Hospital and the Lakewood Family Health Center are located in the City of Lakewood and consist of the buildings, grounds, and lots outlined in red and yellow in Attachment B (the "CCF Property"). CCF Property shall also include all streets and alleys that transverse the CCF Property and all adjoining streets and areas of the property lines of the CCF Property.

CCF Property shall include all other property that may be acquired by CCF and/or a member of CCHS at a future date that is located within the boundaries of the City of Lakewood. CCPD shall promptly notify, in writing, both the LPD and the City of Lakewood Prosecutor of any changes to CCF Property.

A mutual concern of the CCPD and LPD is the preservation of peace, protection of persons and property, and the enforcement of state and municipal laws and regulations on and around CCF Property. To provide an open line of communication and cooperation with one another, and to assure the effective accomplishments of mutual responsibilities, the following operational Protocols shall be adopted. These protocols are not intended to, and are neither to be construed to, limit the lawful police power of the LPD nor to confer any additional police powers on CCPD not already held by CCPD Officers except to permit CCPD Officers to enforce the laws inside and outside the CCF Property within the parameters set forth in CCF's Agreement with the City of Lakewood and these protocols attached to and incorporated into the Agreement. CCPD Officers will act only within and to the extent permitted by law and CCPD is solely responsible for insuring compliance by its Police Officers with this requirement. CCPD Officers will cooperate fully with LPD.

1) The Lakewood Police Department will:

- a) Have investigative responsibility for the following incidents that occur on CCF and/or CCHS Property:
 - i) Incidents involving Aggravated Murder, Murder, Attempted Murder and any Felony of the First Degree;
 - ii) Incidents involving explosive or incendiary devices;
 - iii) Hostage situations;
 - iv) Deaths other than "Probably Natural";
 - v) Use of deadly force;
 - vi) Incidents of Ethnic Intimidation and/or Hate Crimes;
 - vii) Felony Sexual Assaults - CCPD shall provide a monthly status report on any misdemeanor sexual assault investigations to the LPD Officer In Charge ("OIC") of the Detective Bureau;
 - viii) All felonies and misdemeanors involving or related to Domestic Violence and Temporary Protection Orders issued by any court; and
 - ix) Any incident that the LPD desires to preempt the investigative function; Nothing in these Protocols shall prohibit the LPD from investigating other felony or misdemeanor complaints occurring on CCF or CCHS Property deemed to be of investigative interest to the LPD.

- b) In the discretion of the LPD, receive and serve all warrants that have been generated as a result of CCPD Officers' enforcement efforts that are delivered to the LPD, via the Lakewood Clerk of Court's Office.
 - c) Provide all crime statistics necessary for the CCPD to prepare the federally mandated annual report on campus crime statistics and security.
 - d) In the sole discretion of the LPD, assist the CCPD with investigations or other matters of mutual concern when called on by CCPD to do so.
- 2) The Cleveland Clinic Police Department will:
- a) Use its best efforts, consistent with the availability of personnel and other resources, to respond to any criminal complaint reported as occurring on CCF Property, whether a misdemeanor or felony, unless notified by the LPD, or otherwise aware, that a CCPD response has been preempted by the LPD.
 - b) Investigate all felonies and misdemeanors that occur on CCF and/or CCHS Property with the exception of incidents listed in Section I above for which the LPD has investigative responsibility. In the case of incidents of domestic violence, the CCPD shall comply with LPD policies and procedures under applicable LPD General Police Orders ("GPOs").
 - c) Provide the LPD with copies of all felony crime reports, misdemeanor crime reports in which suspects have been arrested, other crime reports, and filed reports, including in those that have been investigated by the CCPD under these Protocols, by fax or electronic mail to police@lakewoodoh.net within 24 hours of their completion.
 - d) Be responsible for consulting with the City of Lakewood Prosecutor whenever necessary for the issuance of charges concerning any arrest under these Protocols.
 - e) When called upon, assist the LPD with investigations, or other matters of mutual concern, for which the ultimate investigative responsibility rests with the LPD.
 - f) Establish a relationship with the Clerk of the Lakewood Municipal Court to acquire, process, and return misdemeanor citations.
 - g) The CCPD supervisors shall be responsible for monitoring the activity of CCPD Officers. The CCPD shall be responsible for ensuring that all CCPD Officers are trained in arrest procedures, the proper exercise of arrest powers, and other applicable training. The LPD is not responsible for the supervision, training, or actions or failure to act, of any CCPD Officer.
 - h) Handle and process juvenile arrests under these Protocols, using the LPD's holding facility until disposition to the detention home or released to a parent or guardian.
 - i) Handle the towing of vehicles connected to an arrest under these Protocols using its own contract towing agencies, unless directed otherwise by the on-scene LPD sector supervisor.
 - j) Promptly notify the LPD Impound Unit in writing of all tows that occur under these Protocols off of CCF and/or CCHS Property.
 - k) Promptly inform the LPD Detective Bureau of all felony arrests and all instances of serious physical injury to any person involved, including CCPD officers that occur under these Protocols.
 - l) Adopt the LPD "hot pursuit" policy or a hot pursuit policy that is more restrictive than that policy.
 - m) The CCPD agrees that for CCPD prisoners that need medical treatment or require hospitalization before booking at City jails, CCPD Officers shall arrange for the prisoners' medical care or hospitalization and CCPD shall be responsible for transporting its prisoners and guarding its prisoners while medical care is given and during the hospitalization, and for the cost, if any, of the medical care or hospitalization. The CCPD shall comply with LPD procedures including but not limited to "Prisoner Transportation, General Order 90-027.
 - n) The CCPD prisoners confined at City jails after booking that need outside medical care or hospitalization shall be transported by LPD and guarded during the initial tour of duty. After the initial tour of duty, the responsibility for guarding such prisoners shall lie with the CCPD and remain with that Department until the prisoners are returned to the City of Lakewood jail. CCF agrees to be responsible for the cost, if any, of any medical care or hospitalization of CCPD prisoners during confinement at the City of Lakewood jail.
 - o) The CCPD is responsible for testing and storage of any evidence material and its custody for presentation at trial.
- 3) Amendment of Protocols: Changes to these protocols shall be in writing approved by signatures of the LPD Chief of Police and the CCPD Chief of Police, or their designated representatives.

ATTACHMENT B

See Attached

Lakewood Hospital
14519 Detroit Avenue



Lakewood FHC
18215 Madison Avenue



ORDINANCE NO. 3-15

BY:

AN ORDINANCE to amend Section 1105.02 of the Zoning Code of the Codified Ordinances of the City of Lakewood by changing and revising the Zoning Map of the City with respect to certain property as set forth and described as 1351 West Clifton Blvd. (PPN 311-22-028) from C4 (Commercial, Public School) to PD (Planned Development).

WHEREAS, it is necessary and desirable to rezone the property which is the site of the former McKinley School to allow for the redevelopment of the property; and

WHEREAS, Article 18, Section 3 of the Constitution of the State of Ohio permits municipalities to exercise all powers of local self-government and to adopt and enforce within their limits such as local police, sanitary and other regulations as are not in conflict with general laws; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 1105.02 of the Zoning Code of the Codified Ordinances of the City of Lakewood be and the same is hereby amended by changing and revising the Zoning Map of the City from C4 (Commercial, Public School) to PD (Planned Development) for the following property:

Situated in the City of Lakewood, County of Cuyahoga, State of Ohio, described as follows:

Parcel No. 1

Situated in the City of Lakewood, County of Cuyahoga, State of Ohio, and known as being in Section No. 23, and bounded and described as follows:

Commencing at the center of Detroit Plank Road, so called, 30 feet easterly from the East line of C. Southern's land, on the North side of Detroit Street;

thence running northerly parallel with said Southern's East line and 30 feet therefrom the whole distance of his land and continuing Northerly in a straight line until it strikes the southerly line of James Carmen's land;

thence westerly along the Southerly line of said Carmen's land until it strikes the East line of J.D. Wager's land;

thence southerly along the East line of said Wager's land to C. Southern's land;

thence easterly along the Northerly line of said Southern's land to northwest corner of same;

thence southerly along the Easterly line of same land to the center of Detroit Street;

thence easterly along the center of Detroit Street to the place of beginning.

Parcel No. 2

Situated in the City of Lakewood, County of Cuyahoga, State of Ohio, and known as being part of section twenty-three (23) Rockport Township, and bounded and described as follows:

Beginning at a point in the south line of the Northwood Park Subdivision as recorded in Volume 29 of Maps, Page 27 of Cuyahoga County Records, which bears South 89° 39' 30" East 144 feet from the intersection with the easterly line of West Clifton Boulevard, said beginning point being at the northeast corner of land conveyed to the Board of Education by deed recorded in Volume 191, Page 551 of Cuyahoga County Deed Records; thence South 5° 37' 30" East along the easterly line of lands conveyed to the Board of Education as aforesaid 294.55 feet to an iron bolt; thence North 73° 55' 30" East parallel to and 20 feet distant northerly at right angles from the northerly line of Detroit Avenue 275.56 feet to an iron bolt; thence North 4° 49' West parallel to and 175 feet distant westerly at right angles from the westerly line of Webb Road 215.95 feet to a iron bolt on the south line of the Northwood Park Subdivision; thence North 89° 39' 30" West along said southerly line 275.53 feet to the place of beginning, containing 1.597 acres of land.

Parcel No. 3

Situated in the City of Lakewood, County of Cuyahoga, State of Ohio, Section No. 23, Rockport Township and being known as all of Sublot No. 8 in the Northwood Park Subdivision in the said City of Lakewood, as recorded by plat in Volume 29 of Maps, Page 27 of Cuyahoga County Records, and being further described as follows:

Beginning at a point in the intersection of the southerly lot line of said Lot No. 8, and the easterly street line of West Clifton Boulevard; thence North 00° 03' 30" West a distance of 74.05 feet in the easterly street line of West Clifton Boulevard to the Northwest corner of said Lot No. 8; thence South 89° 45' 30" East a distance of 160 feet in the Northerly lot line of said Lot No. 8 to the Northeast corner of said lot and the westerly line of an alley; thence South 00° 03' 30" East a distance of 60 feet to a point in the easterly lot line of said Lot No. 8, and the westerly line of an alley; thence North 89° 45' 30" West, a distance of 40 feet to a point in the northerly line of an alley; thence South 00° 03' 30" East a distance of 14.30 feet to a point in the southerly lot line of said Lot No. 8; thence North 89° 39' 30" West a distance of 120 feet to the place of beginning.

Parcel No. 4

Situated in the City of Lakewood, County of Cuyahoga, State of Ohio, Section No. 23, Rockport Township, and being known as part of Lot No. 7 in the Northwood Park Subdivision in said City of Lakewood, as shown by plat recorded in Volume 29 of Maps, Page 27 of Cuyahoga County Records, and being further described as follows:

Beginning at a point in the intersection of the southerly lot line of said Lot No. 7, and the easterly street line of West Clifton Boulevard; thence North 00° 03' 30" West in the Easterly street line of West Clifton Boulevard a distance of 29.95 feet to a point in the south line of the proposed extension of Northwood Avenue; thence South 89° 39' 30" East a distance of 160 feet, along the south line of the said Northwood Avenue Extension to a point in the easterly lot line of said Lot No. 7; thence South 00° 03' 30" East a distance of 29.67 feet to a point in the easterly lot line of said Lot No. 7; thence North 89° 45' 30" West a distance of 160 feet in the southerly lot line of said Lot No. 7, to the point of beginning.

Parcel No. 5

Situated in the City of Lakewood, County of Cuyahoga, State of Ohio, and known as being all of that part of vacated Cannon Alley, as shown by the Vacation Plat recorded in Volume 204 of Maps, Page 22 of Cuyahoga County Records.

(Permanent Parcel No. 311-22-028)

Section 2. The Director of Planning and Development is hereby authorized and directed to make the reclassification change on the zoning map of the City of Lakewood, Ohio, in order to reflect the amendment designated in Section 1 of this ordinance.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such 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.

Adopted: _____

PRESIDENT

CLERK OF COUNCIL

Approved: _____

MAYOR



12650 DETROIT AVENUE 44107 216/529-6055 FAX 216/226-3650
www.onelakewood.com
Lakewood City Council
MARY LOUISE MADIGAN, PRESIDENT
RYAN P. NOWLIN, VICE PRESIDENT

Council at Large
RYAN P. NOWLIN
THOMAS R. BULLOCK III
CINDY MARX

Ward Council
DAVID W. ANDERSON, WARD 1
SAM O'LEARY, WARD 2
SHAWN JURIS, WARD 3
MARY LOUISE MADIGAN, WARD 4

January 22, 2015

Lakewood City Council

Dear Colleagues:

I write today to appoint Katherine Spirgen to Lakewood's Citizens Advisory Committee.

Ms. Spirgen is a committed Lakewood neighbor who has served our city in many ways over the years and has consistently put herself forward in response to our calls for candidates for various boards and commissions. I am confident she will serve all of Lakewood well on the CAC.

As such, I ask for Council's support of this nomination.

Yours in service,

David W. Anderson
Member of Council, Ward 1
216-789-6463



JOSEPH J. BENO, PE
DIRECTOR OF PUBLIC WORKS

DEPARTMENT OF PUBLIC WORKS
DIVISION OF ENGINEERING AND CONSTRUCTION
12650 DETROIT AVENUE ✕ 44107 ✕ (216) 521-6692

January 20, 2015

RE: Ordinance 903, Sidewalks and Curbs

Dear Members of Council,

Please consider the recommended changes to Ordinance 903.10. These changes will streamline the process of repairing and notifying property owners of deficiencies in a sidewalk. The city's current inspection and tracking system has much less paperwork and is more efficient than the system referred to in the current ordinance. The suggested changes will be utilized to notify owners from 2013 and 2014 inspections that have not yet completed the necessary repairs. These repairs will be completed in the spring and summer of 2015 as part of the city's Sidewalk Program.

Please review the proposed revisions and refer this matter to the appropriate committee for further discussion.

Sincerely,

Joseph J. Beno P.E.

ORDINANCE NO.

BY:

AN ORDINANCE to amend Section 903.10, Duty to Repair and Maintain Sidewalks, of the Codified Ordinances of the City of Lakewood to remove the requirement that a sidewalk survey be included with the notice to repair.

WHEREAS, traditionally, a sidewalk survey or form with a drawing indicating that blocks of concrete which need to be replaced or repaired has been included with a notice to repair a sidewalk, tree lawn or driveway apron and is currently required by ordinance; and

WHEREAS, sidewalk inspections are no longer done with a paper diagram which becomes the sidewalk survey, instead pavement markings are used to indicate which areas require repair or replacement; and

WHEREAS, Article 18, Section 3 of the Constitution of the State of Ohio permits municipalities to exercise all powers of local self-government and to adopt and enforce within their limits such as local police, sanitary and other regulations as are not in conflict with general laws; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 903.10, Duty to Repair and Maintain Sidewalks, currently reading as follows:

903.10 DUTY TO REPAIR AND MAINTAIN SIDEWALKS, TREE LAWNS AND DRIVEWAY APRONS.

(a) For the purpose of this section, "sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians, including the area commonly referred to as the "tree lawn."

(b) As used in this section, "driveway apron" means that area of the driveway from the curb to the sidewalk.

(c) The property owner whose property abuts any sidewalk shall be primarily responsible for the repair and maintenance of such sidewalk, driveway apron and tree lawn area.

(1) Any hole or defect that is a tripping hazard or that is capable of causing injury, inconvenience, annoyance or damage to sidewalk users shall be repaired by the abutting property owner within a reasonable period of time from the time at which the property owner should have known of the necessity of such repair through the exercise of due diligence, or within such time as may be determined as reasonable by the Director of Public Works at the time the repair work is determined to be necessary.

(2) The failure of a property owner to reasonably repair such defect in accordance with the applicable time frame shall be considered a negligent act as

a matter of law, and the property owner shall be liable for any injury resulting from such defect.

(d) The Director of Public Works, upon determining that the condition of any sidewalk, driveway apron or tree lawn constitutes a public hazard, may order the abutting property owner to repair any sidewalk, driveway apron, or tree lawn which the City finds to be a nuisance or in an unsafe condition.

(1) The Director of Public Works shall serve a written notice of his or her determination in the manner provided by law for service in a civil action, setting forth a duplicate of the sidewalk survey indicating which sidewalks, driveway aprons, or tree lawns are to be repaired, the cost per square foot of those repairs and a time frame in which such work is to be completed.

(2) If a property owner fails to repair a sidewalk or tree lawn as required by such order, the Director of Public Works may perform the work determined necessary and assess the cost of such work to the abutting land owner.

(3) The Director of Public Works shall have the authority to inspect any sidewalk or tree lawn and issue a citation and order to repair to any property owner whose property abuts a sidewalk or tree lawn that is in an unreasonable state of disrepair or is determined to be a public hazard. The order to repair and citation shall be in writing upon a form approved by the Director of Public Works setting forth the specific conditions determined to be a public hazard or unreasonable state of disrepair and shall contain a date for compliance not less than thirty days from the date of the issuance of the order and citation, unless a longer period is determined to be appropriate by the Director of Public Works.

shall be and is hereby amended to read as follows:

903.10 DUTY TO REPAIR AND MAINTAIN SIDEWALKS, TREE LAWNS AND DRIVEWAY APRONS.

(a) For the purpose of this section, "sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians, including the area commonly referred to as the "tree lawn."

(b) As used in this section, "driveway apron" means that area of the driveway from the curb to the sidewalk.

(c) The property owner whose property abuts any sidewalk shall be primarily responsible for the repair and maintenance of such sidewalk, driveway apron and tree lawn area.

(1) Any hole or defect that is a tripping hazard or that is capable of causing injury, inconvenience, annoyance or damage to sidewalk users shall be repaired by the abutting property owner within a reasonable period of time from the time at which the property owner should have known of the necessity of such repair through the exercise of due diligence, or within such time as may be determined as reasonable by the Director of Public Works at the time the repair work is determined to be necessary.

(2) The failure of a property owner to reasonably repair such defect in accordance with the applicable time frame shall be considered a negligent act as

a matter of law, and the property owner shall be liable for any injury resulting from such defect.

(d) The Director of Public Works, upon determining that the condition of any sidewalk, driveway apron or tree lawn constitutes a public hazard, may order the abutting property owner to repair any sidewalk, driveway apron, or tree lawn which the City finds to be a nuisance or in an unsafe condition.

(1) The Director of Public Works shall serve a written notice of his or her determination in the manner provided by law for service in a civil action, setting forth ~~a duplicate of the sidewalk survey~~ sufficient information indicating which sidewalks, driveway aprons, or tree lawns are to be repaired, the estimated cost per square foot of those repairs and a time frame in which such work is to be completed, which shall be not less than 30 days from the date of the issuance of the order and citation, unless a longer period is determined to be appropriate by the Director of Public Works.

(2) If a property owner fails to repair a sidewalk or tree lawn as required by such order, the Director of Public Works may perform the work determined necessary and assess the cost of such work to the abutting land owner.

~~— (3) The Director of Public Works shall have the authority to inspect any sidewalk or tree lawn and issue a citation and order to repair to any property owner whose property abuts a sidewalk or tree lawn that is in an unreasonable state of disrepair or is determined to be a public hazard. The order to repair and citation shall be in writing upon a form approved by the Director of Public Works setting forth the specific conditions determined to be a public hazard or unreasonable state of disrepair and shall contain a date for compliance not less than thirty days from the date of the issuance of the order and citation, unless a longer period is determined to be appropriate by the Director of Public Works.~~

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such 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.

Adopted: _____

PRESIDENT

CLERK OF COUNCIL

Approved: _____

MAYOR