

## **REAL PROPERTY PURCHASE AGREEMENT**

THIS REAL PROPERTY PURCHASE AGREEMENT ("Agreement"), made this \_\_\_\_\_ day of March 2023, between OGDENSBURG BRIDGE & PORT AUTHORITY, a corporate governmental agency constituting a public benefit corporation organized under the laws of the State of New York with offices at 1 Bridge Place, Ogdensburg, New York 13669 (the "Seller"), and OGDENSBURG CITY SCHOOL DISTRICT, a school district organized pursuant to the New York State Education Law with offices at 1100 State Street, Ogdensburg, New York 13669 (the "Buyer"). Seller and Buyer may be referred to as "party" or together as "parties".

### **W I T N E S S E T H:**

1. Real Property and Improvements. The premises herein to be conveyed consist of three parcels of real property located at 5952 State Highway 812, Off State Highway 812, and State Highway 37, all in the Town of Oswegatchie, County of St. Lawrence and State of New York, being identified as tax map parcel numbers 59.032-1-3.211, 59.032-1-3.212, and 59.032-1-10, respectively (collectively, the "Property"). The Property shall include all improvements on the Property, the land, if any, lying in the bed of any street, road or avenue, opened or proposed, adjoining any part of the Property to the center line thereof, and to any unpaid award for damages to the Property by reason of any change of grade in any street, road or avenue.

2. Purchase Price. The purchase price for the Property shall be the sum of Three Hundred Five Thousand and 00/100 Dollars (\$305,000.00) (the "Purchase Price"), which sum shall be due and payable in full by cash, certified check, title company check or wire transfer of immediately available funds at the closing (the "Closing").

3. Closing. The Closing is to take place at the office of the -Seller's attorney or at such other location mutually agreed upon by the Buyer and Seller, or by mail, on or about fourteen (14) days after the later to occur of the following: (i) Buyer's satisfaction of its review of the title to the Property as outlined in Sections 5 and 6 herein; (ii) Buyer receiving all requisite approvals to purchase the Property from Seller as described in Section 7(b) herein; or (iii) Seller receiving all requisite approvals to sell the Property to Buyer as described in Sections 7(c)/8(a) herein, at which time Seller shall deliver to Buyer a bargain & sale deed with covenant against grantor's acts (the "Deed") in form acceptable to Buyer.

4. Seller Deliverables. To the extent that Seller has any of the following items in its possession, Seller shall, within ten (10) days from the date the last of either Buyer or Seller has signed this Agreement (the "Effective Date"), deliver copies of such items to Buyer to the extent in its possession: (i) all studies, reports, environmental materials and reports, and site inspection reports relating to the Property, and (ii) the current deed, survey, abstracts of title and any title insurance policies covering the Property (collectively, the "Seller Deliverables").

5. Title. Buyer, at Buyer's option and expense, shall order an up-to-date forty-year abstract of title, an updated survey of the Property, and a ten-year tax search of the Property (collectively, the "Title Documents"). Upon receipt of the same, Buyer shall have, at Buyer's sole cost and expense, a title commitment (the "Title Commitment") prepared by a title company of

Buyer's choice (the "Title Company"). The Title Documents and Title Commitment must show that Seller holds good and marketable title to the Property free and clear of all liens and encumbrances. Notwithstanding the foregoing, Seller shall satisfy any current liens or mortgages (or have the Property released from such liens or mortgages) prior to Closing or, if not so satisfied or released, at Closing out of the proceeds otherwise payable to Seller. Subject to the provisions set forth herein, Buyer agrees to accept title to the Property subject to public utility easements running along boundary lines, utility easements benefitting the Property, as well as other visible easements and other easements of record provided that they do not interfere with the Buyer's intended use of the Property.

6. Inability to Convey Title. If Seller is unable to convey title to the Property in accordance with the requirements of Section 5, Buyer shall have the option of: (i) taking such title to the Property as Seller can convey, with abatement of the Purchase Price to the extent of any liens or encumbrances of a fixed or ascertainable amount; or (ii) terminating Buyer's obligations under this Agreement. If Buyer terminates its obligations pursuant to clause (ii) above, there shall be no further liability or obligation on the part of the Buyer or Seller and this Agreement shall terminate.

7. Buyer Conditions. Buyer's obligation to complete Closing under this Agreement shall be conditioned upon the following:

- (a) Title being acceptable to Buyer and Buyer's Title Company as described in Sections 5 and 6 herein.
- (b) Buyer having obtained approval from the Board of Education of Buyer and the Buyer's voters (the "Buyer Approvals"); and
- (c) Seller having obtained all necessary approvals to sell the Property to Buyer, including, but not limited to, approval and internal approval by the Seller's Board of Directors (, the "Seller Approvals").
- (d) All representations and warranties by Seller set forth in this Agreement being true, correct and complete in all material respects both at and as of the date of this Agreement and at and as of Closing; and Seller having performed all agreements required by this Agreement to be performed by Seller prior to or as of the date of Closing.

8. Seller Conditions. Seller's obligation to complete Closing under this Agreement shall be conditioned upon the following:

- (a) Seller having obtained the Seller Approvals;

(b) Following Closing, Buyer shall agree to enter into an easement agreement with the Seller for utility access benefitting Seller's neighboring property (the "Utility Easement"). The scope, specific location and detailed terms of the Utility Easement will be determined at a future date when Buyer has commenced construction planning for its improvements to be constructed on the Property (the "Project"). The general location of the Utility Easement shall be in the area of the existing sewer easement on the Property which was granted to the Village of Heuvelton. The terms of the Utility Easement will be mutually agreeable to Buyer and Seller and shall be negotiated by the Parties in good faith. The Utility Easement shall in no way materially impact the Project or Buyer's intended operations of the Property nor shall Buyer have any financial responsibility or obligation under the Utility Easement. At Closing, Buyer and Seller ~~may~~ shall enter into an agreement to enter into easement upon the request of either Party. This provision shall survive Closing; and

(c) All of the representations and warranties by Buyer set forth in this Agreement being true, correct and complete in all material respects both at and as of the date of this Agreement and at and as of Closing; and Buyer having performed all agreements required by this Agreement to be performed by Buyer prior to or as of the date of Closing.

9. Covenants of Seller. From the Effective Date and until the Closing or earlier termination of this Agreement:

(a) Seller shall (a) operate and maintain the Property in accordance with normal maintenance and management practices historically practiced by Seller, and (b) not make any material alterations or changes to the Property.

(b) Seller shall not sell, transfer, convey or encumber, or cause or permit to be sold, transferred, conveyed, or encumbered, the Property, or any part thereof or interest therein.

(c) Seller shall not enter into any new agreements or material modifications, renewals or terminations of any existing agreements that would impose any obligations on Buyer or on the Property after Closing, without the written consent of Buyer, which consent may be granted or denied in Buyer's sole discretion.

(d) Seller shall promptly notify Buyer in writing of any litigation or governmental proceeding to which Seller becomes a party or which affects the Property or any part thereof.

(e) The Property shall be in substantially the same condition on the Closing Date as on the date hereof, save and except for reasonable and ordinary wear and tear from normal use and as otherwise set forth herein.

(f) Until the earlier of the Closing or the termination of this Agreement, Seller agrees that Seller shall: (1) not do anything that would impair or modify the status of title;

and (3) remain liable for injuries to persons and damages to property occurring at the Property until the Closing. Subparagraph (3) of this Section shall survive Closing or earlier termination of this Agreement.

10. Representations and Warranties. Seller makes the representations and warranties to Buyer (which are and shall be true, correct and complete both at and as of the date of this Agreement and at, through and until the Closing) as set forth below. Seller's representations and warranties shall survive Closing for a period of one (1) year.

(a) Seller represents and warrants to Buyer that Seller has taken all necessary action to authorize the execution, delivery and performance of this Agreement and has the power, authority, and ability to execute, deliver and perform this Agreement and the transaction contemplated hereby, subject to the Seller Approvals. This Agreement and all obligations of Seller hereunder are the legal, valid and binding obligations of Seller, enforceable in accordance with the terms of this Agreement, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(b) The execution and delivery of this Agreement and related documents required hereunder and the performance of its obligations hereunder by Seller will not conflict with any provision of any law or regulation to which Seller is subject or any agreement or instrument to which Seller is a party or by which it is bound or any order or decree applicable to Seller, and will not result in the creation or imposition of any lien on any of Seller's assets or property which would materially and adversely affect the ability of Seller to carry out the terms of this Agreement.

(c) Seller owns the Property in fee simple absolute and has the power to convey title to the Property in accordance with the terms and conditions of this Agreement.

(d) No person or entity has any option to lease or purchase all or any portion of the Property or any interest or rights therein; no person or entity has any right of first refusal or similar right to lease or purchase all or any portion of the Property; there are no leases, licenses or occupancy agreements affecting the Property.

(e) No portion of the Property is in violation of any law, ordinance or regulation of any governmental authority ("Violation"), and there are no presently outstanding and uncured notices of Violations.

(f) As of the date hereof, Seller represents that no condemnation or eminent domain proceedings are pending or to Seller's knowledge threatened against the Property or any part thereof.

(g) As of the date hereof, Seller represents that Seller has not received (i) a notice of any investigation of the Property or any potential liability of the Seller relative to any environmental condition or (ii) a notice of any condemnation proceeding or other proceeding in the nature of eminent domain in connection with the Property.

(h) To the best of Seller's knowledge, and during the period of Seller's ownership of the Property, no Hazardous Substances (as hereinafter defined) have been released, treated, stored or disposed of, or otherwise deposited in or on, or migrated to, the Property, including without limitation of the generality of the foregoing, the surface waters and subsurface waters of the Property and the Property and all activities and conditions at the Property are in compliance with all applicable federal, state and local environmental statutes, ordinances, regulations, orders and requirements of common law. As used herein, "Hazardous Substances" shall mean any hazardous materials, hazardous waste, hazardous and toxic substances, pollutants, and contaminants, as those terms are defined by any applicable local, state or federal environmental laws.

(i) As of the date hereof, there are no liens, special assessments, charges, or payback agreements which are or may become a lien against the Property. The Property is not subject to any special assessments, whether or not it constitutes a lien on the Property, and Seller has no knowledge of any pending or threatened special assessments or reassessments of the Property.

(j) As of the date hereof, there are no litigation, reassessment, tax proceeding, zoning code violations, or other proceedings pending or to Seller's knowledge, contemplated against the Property.

(k) No portion of the Property is the subject of any abatement, reduction, deferral or "roll back" with regard to real estate taxes, nor any other agreement or arrangement whereby the Property may be subject to the imposition of real estate taxes after the date of Closing on account of periods of time prior to the date of Closing.

Seller shall indemnify, defend, and hold Buyer absolutely harmless from and against any and all claims, demands, actions, suits, judgments, liabilities, damages, costs and expenses, including reasonable attorneys' fees related to, arising from, in connection with, directly or indirectly, any breach or inaccuracy of the representations, warranties, or covenants set forth in this Agreement.

11. Representations of Buyer. Buyer represents and warrants to Seller that Buyer has taken all necessary action to authorize the execution, delivery and performance of this Agreement and has the power, authority, and ability to execute, deliver and perform this Agreement and the transaction contemplated hereby, subject to the Buyer Approvals. This Agreement and all obligations of Buyer hereunder are the legal, valid and binding obligations of Buyer, enforceable in accordance with the terms of this Agreement, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law). The representations and warranties of Buyer set forth in this Section 11 are made as of the date of this Agreement and are restated as of the Closing.

12. Possession. Possession is to be given to the Buyer on the date of Closing free of any tenants, claims, rights or possession by any other party.

13. Apportionments. Real estate taxes and special assessments shall be prorated and adjusted as of the date of Closing.

14. Closing Costs. The Seller shall pay for the cost of drafting and recording of any title corrective instruments, and any other customary charges paid by sellers in connection with Closing except as otherwise set forth herein. Buyer shall pay all fees in connection with the recording of the Deed including the filing fee for the RP-5217, the cost to record the TP-584, the cost of any transfer tax, the cost to order the Title Documents and any title insurance premium, and any and all prorations or adjustments required by this Agreement according to local custom.

15. Items to be Delivered at Closing.

(a) By Seller. At Closing, Seller shall deliver to Buyer the following:

- (i) The Deed, duly executed and acknowledged by Seller and in proper form for recording;
- (ii) A Combined Real Property Transfer Gains Tax Affidavit, Real Estate Transfer Tax Return, and Credit Line Mortgage Certificate (TP-584);
- (iii) A State Board of Equalization and Assessment Real Property Transfer Report (RP-5217);
- (iv) Agreement with respect to Utility Easement.
- (v) Seller's affidavit or similar certification as may be reasonably and customarily required by the Title Company to issue Buyer a title insurance policy in accordance with Section 5;
- (vi) Any other title assurances and materials as shall be properly and reasonably required by Buyer, Buyer's Title Company and/or Buyer's attorney;
- (vii) All other documents required by this Agreement to effectuate the terms and conditions hereof.

(b) By Buyer. At Closing, Buyer shall deliver to Seller the following:

- (i) The Purchase Price;
- (ii) Agreement with respect to Utility Easement.
- (iii) A closing statement in form reasonably acceptable to Buyer and Seller;
- (iv) All other documents required by this Agreement to effectuate the terms and conditions hereof.

16. Force Majeure. In the event either Seller or Buyer shall be delayed, hindered or prevented from performance by reason of non-performance or a breach by the other party, a pandemic and associated government directed shutdown, natural disaster, strikes, lockouts, labor trouble, governmental authority, riots, insurrections, war or other reasons of like nature, where such delay, hindrance or prevention of performance shall not be within the reasonable control of the party obligated to perform, the party so delayed, hindered or prevented from performing shall be excused for such period of delay. This Section does not exclude the recovery of damages for delay by either party under other provisions in this Agreement.

17. Condemnation. In the event of the taking of all or any part of the Property by eminent domain proceedings that would have a material impact on the Buyer's intended use of the Property, or by the commencement or threat of any such proceedings prior to the Closing, Buyer shall have the right, at Buyer's option, to terminate this Agreement. If Buyer does not so terminate this Agreement, the Purchase Price for the Property shall be reduced by the total of any awards or other proceeds received by the Seller with respect to the taking, and at Closing, Seller shall assign to Buyer any rights of Seller in and to any awards or other proceeds not yet received by the Seller with respect to the taking prior to Closing.

18. Brokers. Seller and Buyer warrant and represent to each other that no broker or agent was instrumental in bringing about this Agreement. Buyer and Seller shall indemnify the other for a breach of the foregoing representations by such party. This Section shall survive the Closing.

19. Notices. Wherever any notice or other communication is required or permitted hereunder, such notice or other communication shall be in writing and shall be delivered by hand, by nationally-recognized overnight express delivery, by U.S. registered or certified mail, return receipt requested, postage prepaid, or by confirmed facsimile transmission or by scanning and emailing, to the addresses set forth below or at such other addresses as are specified by written notice delivered in accordance herewith. Notice shall be deemed given upon the date that the party actually received such written notice, and the date of postmark of any return receipt indicating the date of delivery of such notice to the addressee shall be conclusive evidence of such receipt. Any notice given by or to the attorneys for the Parties shall be deemed properly given if given in accordance with the requirements of this Section 19:

If to Buyer:

OGDENSBURG CITY SCHOOL DISTRICT  
1100 State Street  
Ogdensburg, New York 13669  
Attn: Kevin Kendall  
Email: [kkendall@ogdensburgk12.org](mailto:kkendall@ogdensburgk12.org)

with a copy to:

Bond, Schoeneck & King, PLLC  
110 W. Fayette Street

One Lincoln Center  
Syracuse, NY 13202  
Attention: Kate Reid; Amy Rhinehardt  
Email: kreid@bsk.com; arhinehardt@bsk.com

If to Seller:

OGDENSBURG BRIDGE & PORT AUTHORITY  
1 Bridge Plaza  
Ogdensburg, New York 13669  
Attn: Steven Lawrence  
Email: slawrence @ogdensport.com

with a copy to:  
The Wladis Law Firm, P.C.  
6312 Fly Road,  
East Syracuse, NY 13214  
Attention: Jennifer Granzow  
Email: jgranzow@wladislawfirm.com

20. Default. If Buyer breaches any material covenants or other obligations of Buyer contained in this Agreement, Seller shall be entitled to reimbursement of Seller's actual out-of-pocket expenses incurred by Seller in connection with this Agreement in an amount not to exceed \$5,000.00 as full and liquidated damages hereunder (and not as a penalty or forfeiture) as its sole and exclusive remedy, and thereafter neither party will have any further liability to the other, except for those provisions that survive termination of this Agreement. The parties agree that this is a reasonable sum considering all circumstances existing on the date hereof, including the relationship of the sum to the range of harm to Seller that reasonably could be anticipated, and the anticipation that proving actual damages would be costly, impractical and extremely difficult.

If Seller breaches any of its covenants or obligations of Seller contained in this Agreement or any representation or warranty made by Seller in this Agreement is untrue or false in any material respect, Buyer shall be entitled to do one (but only one) of the following:

- (a) close the transaction contemplated by this Agreement, thereby waiving such breach, default, or failure; or
- (b) terminate this Agreement and receive reimbursement of Buyer's actual out-of-pocket expenses incurred by Buyer in connection with this Agreement in an amount not to exceed \$5,000.00 or
- (c) specifically enforce this Agreement.

21. Entire Agreement. This Agreement constitutes the entire agreement between Seller and Buyer, and there are no other covenants, agreements, promises, terms, provisions, conditions,



undertakings, either oral or written, between them concerning the Property other than those herein set forth. No subsequent alteration, amendment, change, deletion or addition to the Agreement shall be binding upon Seller or Buyer unless in writing and signed by both Seller and Buyer.

22. Choice of Laws. This Agreement shall be governed by the laws of the State of New York and the laws of the United States pertaining to transactions in the State of New York.

23. Counterparts. This Agreement may be executed in a number of identical counterparts which, taken together, shall constitute collectively one (1) agreement; but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

24. Assignment. This Agreement may be assigned by the Buyer without the written Consent of the Seller. Notwithstanding any such assignment, Buyer shall remain obligated hereunder.

25. Deadlines. If the final date of any period which is set out in any provision of this Agreement falls on a Saturday, Sunday or legal holiday under the laws of the United States or the State of New York, then, in such event, the time of such period shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

SELLER:

OGDENSBURG BRIDGE & PORT AUTHORITY

By: \_\_\_\_\_  
Name:  
Title:

BUYER:

OGDENSBURG CITY SCHOOL DISTRICT

By: \_\_\_\_\_  
Name:  
Title:

Summary Report	
Title	<b>pdfDocs compareDocs Comparison Results</b>
Date & Time	3/28/2023 11:19:53 AM
Comparison Time	0.22 seconds
compareDocs version	v5.1.700.3

Sources	
Original Document	[BOND][#15726170] [v1] Purchase and Sale Agreement - OBPA.docx
Modified Document	[BOND][#15726170] [v2] Purchase and Sale Agreement - OBPA.docx

Comparison Statistics	
Insertions	1
Deletions	3
Changes	7
Moves	0
Font Changes	0
Paragraph Style Changes	0
Character Style Changes	0
TOTAL CHANGES	11

Word Rendering Set Markup Options	
Name	Standard
<u>Insertions</u>	
<del>Deletions</del>	
<u>Moves</u> / <del>Moves</del>	
Font Changes	
Paragraph Style Changes	
Character Style Changes	
Inserted cells	
Deleted cells	
Merged cells	
Changed lines	Mark left border.

compareDocs Settings Used	Category	Option Selected
Open Comparison Report after saving	General	Always
Report Type	Word	Redline
Character Level	Word	False
Include Comments	Word	False
Include Field Codes	Word	True
Flatten Field Codes	Word	True
Include Footnotes / Endnotes	Word	True
Include Headers / Footers	Word	True
Image compare mode	Word	Insert/Delete
Include List Numbers	Word	True
Include Quotation Marks	Word	False
Show Moves	Word	True
Include Tables	Word	True
Include Text Boxes	Word	True
Show Reviewing Pane	Word	True
Summary Report	Word	End
Detail Report	Word	Separate (View Only)
Document View	Word	Print