

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into as of the last date set forth in the signature lines below (the “Effective Date”), by and between WDP Enterprises at Lima LLC (“Property Owner”), Carrols LLC, its lessee and party in possession of the Subject Property (as defined below) (hereinafter referred to as “Lessee”) and the Elida Local School District Board of Education (“Board of Education”). The Property Owner, Lessee, and the Board of Education may be referred to jointly herein as the “Parties” or individually as a “Party.”

WHEREAS, the Board of Education filed a complaint against valuation for tax year 2021 (“Complaint”) with the Allen County Board of Revision (“BOR”), being case number 2021-G25-4-000127, requesting an increase in the value of certain real property located at 2635 Elida Road, Lima, OH 45805 and identified on the records of the Allen County, Ohio, Auditor as parcel number 36-2204-02-002.000 (collectively, the “Subject Property”);

WHEREAS, the Property Owner has filed an entry of appearance in this case;

WHEREAS, after considering the potential for increase or decrease in real estate taxes of the Subject Property as a result of the prosecution of the pending valuation Complaint and future challenges to the value of the Subject Property, the Parties have mutually agreed to resolve the pending Complaints upon the terms and conditions set forth herein; and

NOW, THEREFORE, in consideration of the mutual covenants and obligations herein, the Parties agree as follows:

1. Withdrawal of Complaints in Pending BOR Cases. Upon the execution of this Agreement by the Parties and payment of the Direct Payment to the Board of Education c/o Counsel for the Board of Education identified in Section 2, the Board of Education shall execute and file with the BOR a withdrawal of the Complaint for the Subject Property for tax year 2021. The Property Owner and/or Lessee shall execute and file with the BOR a withdrawal of any counter-complaint or notice of appearance for the Subject Property for tax year 2021.
2. Direct Payments to Board of Education. Within five (5) days after the Board of Education executes this Agreement, the Lessee shall pay a direct payment to the Board of Education in the amount of **Fifty-Four-Thousand, Three-Hundred, Ninety Dollars and 00/100 cents (\$54,390.00)** (“Direct Payment”). This shall constitute tax revenue foregone by the Board of Education for tax years 2021, 2022, and 2023 as a result of the withdrawal of the Board of Education’s Complaint.

The Direct Payment set forth in this Section shall be made in the form of a check payable to the Elida Local School District Board of Education and delivered to counsel for the Board of Education at the following address: Mitchell L. Stith, Scott Scriven LLP, 250 East Broad Street, Suite 900, Columbus, Ohio 43215.

3. No Filing Provision. The Parties and their successors, heirs, assigns, agents, board members, tenants, and attorneys shall not file or prosecute, or cause to be filed or prosecuted, an original Board of Revision complaint for tax years 2022 and/or 2023 unless one of the exceptions enumerated in R.C. 5715.19(A)(2) occurs, or the Allen County Auditor changes the value of the Subject Property. In the event that a taxing authority other than the Board of Education brings a complaint against the value of the Subject Property, and a resulting change in value occurs, it will be treated as if the Auditor has changed the value. In the event that a complaint is filed or the value of the property is increased due to one of the above scenarios, the Board of Education shall credit and/or refund Lessee, and its successors and assigns, for the amount of the increase already paid. The Parties agree to take all such action(s) required to effectuate the stated intent of the Agreement. By way of example, if such an increase in value results in an additional \$10,000 in tax revenue being paid to the Board of Education in tax year 2022, the Board of Education shall credit \$10,000 of the Direct payment to Lessee for said tax year.
4. General Provisions.
- a. In the event any provision or term of this Agreement is found to be void or unenforceable to any extent and for any reason, it is the agreed upon intent of the parties hereto that all remaining provisions or terms of this Agreement shall remain in full force and effect to the maximum extent permitted and that this Agreement shall be enforceable as if such void or unenforceable provision or term had never been a part hereof.
 - b. This Agreement sets forth the entire Agreement between the Parties and fully supersedes any and all other prior agreements or understandings between the Parties pertaining to the subject matter hereof. No provision of this Agreement may be modified, waived, or discharged unless the waiver, modification or discharge is agreed to in writing and signed by the Parties. No agreements, or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by either Party that are not set forth expressly in this Agreement.
 - c. This Agreement shall be interpreted and construed in accordance with the laws of the State of Ohio. Exclusive jurisdiction and venue shall be in Allen County, Ohio. Should the Board of Education have to initiate legal action to enforce the Direct Payment provision set forth in Section 2 of this Agreement, the Property Owner and/or Lessee, including any successor, heir or assign of the Property Owner and/or Lessee, shall indemnify and hold the Board of Education harmless for any legal fees, costs, and/or expenses associated with such legal action.
 - d. Each Party acknowledges that it has had an opportunity to review and revise this Agreement and the normal rule of construction to the effect that ambiguities in an agreement are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.

- e. The Parties represent and warrant that the individuals executing this Agreement do so with the authority to bind the Property Owner, the Lessee, and the Board of Education.
- f. This Agreement may be executed in counterparts, each of which when so executed shall be an original; but all such counterparts shall together constitute one and the same instrument.
- g. The Parties agree that this Agreement, or counterparts as provided herein, may be executed, and transmitted via facsimile and shall, when so executed and transmitted, be valid as though an original.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement by their signature below:

CARROLS LLC, LESSEE
AND PARTY IN POSSESSION

By: _____

Name: _____

Its: _____

Date: _____

BOARD OF EDUCATION
ELIDA LOCAL SCHOOL DISTRICT

By: _____

Name: _____

Its: _____

Date: _____

PROPERTY OWNER
WDP ENTERPRISES AT LIMA LLC

By: _____

Name: _____

Its: _____

Date: _____