

SAMPLE PRE-ANNEXATION AGREEMENT

This Pre-Annexation Agreement ("Agreement") is entered into as of _____, 202__ by and between _____, an Ohio Limited Liability Company ("Company"), whose mailing address is _____ and the Village of Plain City ("Plain City"), an Ohio municipal corporation, whose mailing address is 800 Village Boulevard, P.O. Box 167, Plain City, Ohio 43064 (referred to collectively as "Parties").

RECITALS

1. WHEREAS, the Company is in contract to purchase certain real property located in _____ Township, _____ County, Ohio with addresses of _____, Plain City, Ohio 43064 (the "Property"), being more fully described in the _____ County Auditor's information attached as Exhibit "A" and incorporated herein; and
2. WHEREAS, the Property is located beyond the present corporate boundaries of the Village of Plain City; and
3. WHEREAS, the Company desires to annex the Property to Plain City in order to obtain municipal services to support the Property and its future development; and
4. WHEREAS, Plain City desires to annex the Property.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound, the Parties hereby agree as follows:

1. Annexation:

- a) Company will, at its own expense, prepare the necessary annexation petition with accompanying map or plat. The petition shall appoint one or more attorneys with the law firm of _____, whose mailing address is _____, as agent for the current owners of the Property ("Agent"). The annexation petition shall be filed by Agent as an " _____ " annexation as provided in Section 709.023 of the Ohio Revised Code. Agent shall file the signed and completed petition with the board of county commissioners and shall provide notice and service to all required parties under the Ohio Revised Code. Company agrees to pay any filing fee(s) charged by the board of county commissioners for the filing and processing of the petition. Company agrees that it will take all reasonable actions which are necessary to cause the current owners of the property not to withdraw their names from, or request withdrawal of, the petition during the annexation process and/or any subsequent administrative or legal action involving the annexation.
- b) The Parties agree to cooperate and provide information necessary for the county commissioners to review the annexation as required by Section 709.023 of the

Ohio Revised Code.

- c) Should the annexation be approved, the Parties agree to process the annexation as provided by law subject to the terms of this Agreement.
- d) Company, at its own expense, agrees to file or arrange to be filed an annexation petition, map, and plat that complies with Section 709.023 of the Ohio Revised Code within thirty (30) days after the execution of this Agreement.

2. Municipal Services:

- a) Plain City agrees to enact, within twenty (20) days after the date of the filing of the annexation petition with the board of county commissioners, the appropriate service and zoning buffer resolutions as required by Chapter 709 of the Ohio Revised Code. The resolutions, once adopted, shall be immediately certified and filed with the Clerk of the Commissioners by Plain City.
- b) The Parties acknowledge that centralized water and sanitary sewer services will be provided by a third-party public utility service. Such services are projected to come on line at some point in the future. The Company's development plans and plats shall be planned and approved to have extended validity to allow necessary infrastructure and capacity to be constructed.
- c) Upon annexation, the Company will be entitled to fire protection, police protection, recreation services, sanitation services, street maintenance, and related street services, provided that the streets are properly installed and dedicated to public service.

3. Zoning:

- a) The Property sought to be annexed is currently zoned _____ in _____ Township. The Parties acknowledge that Company desires to rezone the Property to _____ under the Village of Plain City Zoning Code. Once filed, any rezoning request will be reviewed and decided upon by Plain City utilizing the regular procedure for processing an application to rezone in the village and there is no guarantee that any particular zoning will be granted.
- b) Plain City agrees to promptly cooperate and assist the Company, its successors or assignees, to facilitate the annexation, zoning, and development, including, but not limited to, required meetings or hearing.
- c) Plain City recognizes that once the annexation is placed before the Plain City Council (i.e., after the expiration of 60 days from the date when the transcript of the proceedings of the _____ County Board of Commissioners has been delivered to Plain City) Plain City has one hundred twenty (120) days to accept or reject the annexation. Plain City agrees that it will not accept the

annexation of the Property unless and until it is prepared to contemporaneously rezone the Property into a zoning classification as detailed in the immediately preceding subsection (a). At any time during the one hundred twenty (120) day acceptance period for the annexation, Plain City may, on its own initiative, or shall, at the request of Company, delay its acceptance of the annexation until the rezoning is settled to the satisfaction of the Parties. In the event that the Property is annexed but the Property is then not rezoned in a manner that is satisfactory to Company, or if Company exhausts its appeals of Plain City's zoning determination, or the proposed rezoning is rejected by the voters, Plain City agrees to execute a petition to detach the Property from its jurisdiction upon the request of Company.

4. Representations and Warranties of Plain City:

- a) Plain City hereby represents and warrants to Company:
 - i. Plain City is a duly established and validly existing municipal corporation within the State of Ohio, with all requisite power and authority to enter into this Agreement, pursuant to law, and to perform its obligations hereunder;
 - ii. Plain City, acting by and through its agents, has taken all such actions which are necessary or appropriate to authorize the execution of this Agreement by the person executing the same; and
 - iii. This Agreement is the valid and binding act of Plain City, enforceable against the Village in accordance with its terms.
 - iv. The Parties to this Agreement acknowledge that, at this time, sufficient water service and sanitary treatment capacity necessary to support and service the Company's proposed development of the Property as it is contemplated under this Agreement are not constructed and available from the Village and are not expected until _____. For this reason, the Village's Service Resolution shall state that with regard to water and sewer services, the provision of such services to the Property are subject to and conditioned upon the then available service and treatment capacities at the time of development which shall be provided by the Village in its normal course of allocation when such capacities are available.

5. Representations and Warranties of Company:

- a) Company hereby represents and warrants to Plain City that:
 - i. Company is in contract to purchase the Property to be included in the annexation petition; and
 - ii. Company agrees that it shall not engage in discussions, negotiations, or enter into any agreements with any non-Village entity regarding economic development financial incentives or assistance without the express written consent and approval of the Village. This provision is intended to ensure that

all economic development efforts and incentives related to the Project are coordinated and aligned with the Village's goals and priorities, as outlined in the Village's Economic Development Incentive Policy.

- iii. Company, acting by and through their agent, has taken all such actions which are necessary to appropriate to authorize the execution of this Agreement by the person executing the same.

6. Waiver:

- a) The failure of any party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver of any right hereunder, nor shall it deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. Any waiver must be made in writing.

7. Execution:

- a) Neither this Agreement nor any subsequent agreement amending or supplementing this Agreement shall be binding on the parties unless and until it has been signed on their behalf by a duly authorized representative. Commencement of performance hereunder or under any subsequent agreement shall not constitute a waiver of this requirement.
- b) As used herein, the term "Agreement" shall mean this Agreement and any Exhibits hereto. This Agreement may be executed in one or more counterparts by either party hereto and by all parties hereto in separate counterparts, each of which, when so executed and delivered to the other party, shall be deemed an original. All such counterparts together shall constitute one and the same instrument.

8. Severability:

- a) If any provision of this Agreement should be or become fully or partly invalid or unenforceable for any reason whatsoever or violate any applicable law, this Agreement is to be considered divisible as to such provision and such provision is to be deleted from this Agreement, and the remainder of this Agreement shall be deemed valid and binding as if such provision were not included herein.

9. Governing Law:

- a) This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. The parties hereto further agree that any action, suit or proceeding in respect of or arising out of this Agreement, its validity or performance shall be initiated and prosecuted as to all parties and their heirs, successors and assigns and consent to and submit to the exercise of jurisdiction over its person by any court situated therein having jurisdiction over the subject matter.

10. Relationship of the Parties:

- a) Except as expressly stated and provided for herein, neither anything contained in this Agreement nor any acts of the parties hereto shall be deemed or construed by

the parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of association between any of the parties to this Agreement.

11. No Third Party Beneficiary:

- a) Except as expressly stated and provided for herein, neither anything contained in this Agreement nor any acts of the parties hereto shall be deemed or construed by the parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of association between any of the parties to this Agreement.

12. Time is of the Essence:

- a) Time is of the essence for all matters in this Agreement and each party shall diligently pursue and complete its obligations hereunder.

13. Force Majeure:

- a) Neither party shall be in default in the performance of any obligation on such party's part to be performed under this Agreement, other than an obligation requiring payment of a sum of money, if and so long as the non-performance of such obligation shall be directly caused by labor disputes, lockouts, acts of God, enemy action, civil commotion, riot, and conditions that could not have been reasonably foreseen by the claiming party.

14. Approvals:

- a) Unless otherwise stated herein, whenever a party to this Agreement is required to consent to, or approve an action by the other party or to approve any such action taken by another party, such approval or consent shall be given or withheld within the earliest time allowed by law and the process that is utilized in performing the function.

15. Binding Effect:

- a) This Agreement and all of the provisions herein shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

16. Entire Agreement/Merger:

- a) This Agreement contains the entire agreement between the parties hereto with respect to the subject matter set forth herein and supersedes any and all agreements, oral or written.

17. Survival:

- a) The representations, warranties, and covenants contained in this Agreement shall not terminate for a period of twenty (20) years.

18. Notice:

- a) All required notices, requests, consents, approvals, demands, and other communications required or permitted to be given or made under this Agreement shall be in writing and shall be deemed to have been duly given when (a) delivered personally or (b) three (3) business days after deposit in the United States Mail, postage prepaid, by certified mail, return receipt requested, or (c) by e-mail or facsimile telephone transmission, if given below, or later provided, addresses as follows or to such other person or address as either party shall designate by notice to the other party given in accordance herewith:

Company:

Village:

Village of Plain City
 800 Village Boulevard
 P.O. Box 167
 Plain City, OH 43064
 Attn: Haley Lupton, Village Administrator

COMPANY:

PLAIN CITY:

By: _____
 Name
 Title

By: _____
 Haley Lupton
 Village Administrator

Approved as to form: _____
 Law Director
 Village of Plain City