

**RESOLUTION NO. 34-2023**

**A RESOLUTION AUTHORIZING AND DIRECTING THE VILLAGE ADMINISTRATOR TO ENTER INTO A PURCHASE AGREEMENT WITH DAVID RABER FOR REAL PROPERTY LOCATED AT 10899 CONVERSE ROAD, PLAIN CITY, OHIO**

**WHEREAS**, Section 715.01 of the Ohio Revised Code authorizes a municipal corporation to acquire property by purchase for any authorized municipal purpose; and

**WHEREAS**, the Village of Plain City Council desires to purchase certain real property in order to provide public services to the residents of the Village; and

**WHEREAS**, the Village Administrator has negotiated a purchase agreement for certain real property owned by David Raber; and

**WHEREAS**, the Council has reviewed the proposed purchase agreement between the two parties and desires to execute said agreement as detailed in Exhibit A as attached hereto and incorporated herein.

**NOW THEREFORE BE IT RESOLVED** by the Council of the Village of Plain City, Ohio, a majority of the members elected or appointed thereto concurring, as follows:

**Section 1.** The Village Council hereby authorizes and directs the Village Administrator to enter into a purchase agreement with David Raber, for real property located at 10899 Converse Road as detailed in Exhibit A as attached hereto and incorporated herein.

**Section 2.** The Village Administrator is hereby authorized and directed to take all other necessary actions to ensure fulfillment of the Village's and seller's obligations under the agreement so that the property may be acquired by the Village pursuant to the terms and conditions of the agreement. The Village Administrator, Finance Director, and any other appropriate Village official is hereby directed to take all necessary action to execute all required documents to accept the real property identified in the agreement on behalf of the Village of Plain City upon satisfaction of its terms and conditions.

**Section 3.** This Resolution shall be effective from and after the earliest period provided by law.

Passed: December 11, 2023.

Attest: Austin Rucic  
Clerk of Council

Jody Corney  
Mayor

First reading: November 27, 2023.

Vote: \_\_\_ yea \_\_\_ nay \_\_\_ abstain

Second reading: December 11, 2023.

Vote: 5 yea \_\_\_ nay \_\_\_ abstain

### Certificate of Publication

The undersigned, being Clerk of Council of the Village of Plain City, hereby certifies that the foregoing was published by posting for 15 days as required by law and in accordance with Section 4.15 of the Codified Ordinances. The posting was done from December 12, 2023 to December 28, 2023 at the Office of the Clerk of Council located at 800 Village Boulevard; being in the Village of Plain City, Ohio, and the Village of Plain City Website at [www.plain-city.com](http://www.plain-city.com).

Date: December 12, 2023

Austin Rucic  
Clerk of Council

**REAL ESTATE PURCHASE CONTRACT**  
**(5 PAGES)**

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Plain City, Ohio  
December \_\_\_\_\_, 2023

The undersigned, The Village of Plain City, Ohio (hereinafter "Buyer"), agrees to buy and the undersigned, David C. Raber (hereinafter "Seller") agrees to sell, upon the terms hereinafter set forth, the following real estate located in the State of Ohio, County of Union:

- Being approx.. 3.24 +/- acres, located at and generally described as follows:
  - Union County Parcel Nos. **1500200360000** located at 10899 Converse Road, Plain City, Ohio, such parcel being identified on the survey attached hereto as Ex. "A". (Hereinafter, the "Property".)

**I. TERMS, INSPECTIONS, TESTS, CONTINGENCIES & REMEDY PERIOD**

A. This Contract is contingent upon all the following contingencies, each contingency to be met within ninety (90) days of the date of this Contract:

1. The satisfactory (to Buyer) results of a Phase I environmental audit which shall be arranged and paid for by Buyer, at Buyer's sole expense;
2. The satisfactory (to Buyer) results of inspection(s) of the Property, at Buyer's sole expense;
3. Evidence, satisfactory to Buyer, of good and marketable title to the Property.

B. If Buyer is not, in good faith, satisfied with the condition of the Property as disclosed by Buyer's inspections and tests as provided in this Article I, then Buyer may proceed as otherwise provided as a matter of applicable law, as provided hereafter within this Section I(B), or otherwise as provided within this Contract, including without limitation those remedies available to Buyer under Article VI of this Contract:

1. Agreement to Remedy Period: on or before the end of the sixty (60) day Contingency and Inspection Period of Section I(A) hereof, Buyer may (but is not required to) elect to deliver to Seller a written request to remedy, signed by Buyer, stating the unsatisfactory conditions of the Property, together with a copy of all inspections, tests and/or reports specifying the unsatisfactory conditions;
2. From the date of Buyer's written notice to Seller, the Parties shall have an additional \_\_\_\_\_ ( ) calendar days within which to reach a separate written agreement regarding the remedying of any unsatisfactory condition. This time-frame shall be known as the "Agreement to Remedy Period". The number of days for the Agreement to Remedy Period is a specific and material time-frame agreed upon by Seller and Buyer and the number of days cannot be modified or waived except by a separate, written agreement signed by both Parties hereto. In the event

Buyer and Seller are unable to reach a written agreement regarding remedying the unsatisfactory conditions within the Agreement to Remedy period, this Contract shall terminate. Upon such termination of this Contract, the full amount of all earnest monies and all other monies paid by Buyer to Seller shall be forfeited by Seller and returned to Buyer.

## **II. PURCHASE PRICE**

- A. The Purchase Price shall be three hundred and fifty-thousand dollars (\$350,000), payable upon delivery, to Buyer, of the Deed to said Property.

## **III. EVIDENCE OF TITLE**

- A. Seller shall, at Seller's sole expense, obtain an Owner's Policy of Title Insurance in favor of Buyer in the amount of the Purchase Price. Seller does guarantee that the public records will show a marketable record title, as determined by the Ohio State Bar Association's Standards of Title Examination, in fee simple in the name of Seller, free and clear of all liens and encumbrances except: (i) those created by or assumed by Buyer; (ii) those specifically set forth in the Contract; (iii) zoning ordinances; (iv) legal highways; and (v) covenants, restrictions, conditions and easements of record which do not unreasonably interfere with its present lawful use. If Buyer desires a survey, Buyer shall pay the cost thereof.
- B. If title to all or part of the Property is unmarketable, as determined by Ohio Law with reference to the Ohio State Bar Association's Standards of Title Examination, or is subject to liens, encumbrances, easements, conditions, restrictions, or encroachments other than those excepted in this Contract, Seller shall, within thirty (30) days following written notice thereof from Buyer, remedy or remove any and all such defects, liens, encumbrances, easements, conditions, restrictions or encroachments, or obtain title insurance without exception thereof. Failure to correct any defect shall enable Buyer to go forward with the Contract, or alternatively elect to terminate and rescind the Contract with full refund of all monies paid under this Contract. At closing, Seller shall sign a Seller's Affidavit with respect to all off-record title matters in accordance with community custom.
- C. Seller shall deliver to Buyer a copy of the Commitment for title insurance by not later than fifteen (15) calendar days prior to the date of closing pursuant to this Contract. If Seller fails to make such delivery within the stated fifteen (15) calendar day period, Buyer may, by delivering written notice to Seller, either terminate this Contract or extend the closing date to the tenth (10th) day following Seller's delivery of the Commitment. Upon termination of this Contract, the full amount of all earnest monies and all other monies paid by Buyer to Seller shall be forfeited by Seller and returned to Buyer.
- D. Buyer may object if the Commitment indicates that title to all or part of the Property is or remains unmarketable, as determined by Ohio law with reference to the Ohio State Bar Association's Standards of Title Examination, or if Buyer, in good faith, objects to defects, liens, encumbrances, easements, conditions, restrictions, conveyances or encroachments

that are disclosed in, or excepted by, such Commitment, including (without limitation) all matters identified within this Article III. In such event, Buyer shall notify Seller, in writing, of the objection(s) by the earlier of: **(i)** the closing date, **or (ii)** ten (10) days after Buyer receives the Commitment. Upon receipt of Buyer's notice as provided within this Article III(D)(ii), Seller shall, within \_\_\_\_\_ (\_\_\_) calendar days, remedy or remove such defects, liens, encumbrances, easements, conditions, restrictions, conveyances or encroachments or obtain title insurance without any exception therefor. The date of closing shall be extended to the extent necessary to accommodate Seller's reasonable efforts to remedy or remove items made the subject of Buyer's objection(s). Failure of Seller to cure Buyer's objection(s) shall result in termination of this Contract. Seller is not obligated to incur any expense in curing Buyer's objection(s). In the event that the cure of an objection will subject Seller to additional expense, Seller shall have the option to either cure the objection(s) at Seller's sole expense or terminate this Contract by delivering a written notice of termination to Buyer. Upon such termination by Seller, the full amount of all earnest monies and all other monies paid by Buyer to Seller shall be forfeited by Seller and returned to Buyer. Buyer's failure to timely object as herein provided constitutes a waiver of Buyer's right to object.

#### **IV. DEED**

Seller shall convey to Buyer marketable title in fee simple by transferable and recordable General Warranty Deed, with release of dower, if any, or fiduciary deed, as appropriate, free and clear of all liens and encumbrances not excepted by this Contract.

#### **V. TAXES AND ASSESSMENTS**

- A.** Seller shall pay or credit to the Purchase Price all delinquent taxes, including all penalties and interest, all assessments which are a lien on the Property as of the date of this Contract, all agricultural use tax recoupments (if any) and all other unpaid real estate taxes and community development charges (if any) not yet due for all years prior to closing and a portion of such taxes for the year of closing prorated through date of closing and based on a three hundred sixty five (365) day year, and if undetermined, on most recently available tax rate and valuation. It is the intention of the parties to this Contract in making such tax proration to allow Buyer a credit as close in amount as possible to that amount which Buyer will be required to remit to the Union County (Ohio) Treasurer for the period of time through the date of closing, giving effect to all applicable exemptions, recently voted millage, change in valuation, etc., whether or not certified.
- B.** Seller warrants that no improvements or services (to the site or area of the Property) have been installed or furnished, or notification received from any public authority of future improvements of which any part of the cost may be assessed against the Property.
- C.** During the period of time between closing and the expiration of Seller's possession period, as outlined in Section IX herein, Seller shall be responsible for payment of all real estate property taxes due and payable.

## **VI. DAMAGE OR DESTRUCTION OF PROPERTY**

Risk of loss to the Property and appurtenances shall be borne by Seller up and through closing, provided that if any property covered by this Contract shall be substantially damaged or destroyed before this transaction is closed, Buyer may elect either to: (a) proceed with the transaction and close on the Contract and be entitled to all insurance proceeds and monies, if any, payable to Seller under all policies of insurance covering the Property; or (b) rescind this Contract, and thereby release all parties to this Contract from any liability under this Contract, by giving written notice to Seller within ten (10) calendar days following that date on which Buyer has received Seller's written notice of such damage or destruction. Failure by Buyer to so timely notify Seller shall constitute an election to proceed with the transaction. Seller shall notify Buyer, within five (5) calendar days of any event or occurrence through which the Property has been substantially damaged or destroyed, of such occurrence or event. Failure by Seller to so timely notify Buyer shall be deemed a material breach of Seller's promises, covenants and other material terms and conditions of and under this Contract.

## **VII. FIXTURES AND EQUIPMENT:**

The Parties agree that no fixtures or equipment are being sold or conveyed. Further, Seller agrees to remove all personal property, fixtures, and equipment from the Property upon the expiration of Seller's Possession Period, as that date is outlined in Section XI.

## **VIII. SETTLEMENT FEES; CLOSING COSTS**

A. Seller shall pay and remain solely responsible for all of the following:

1. One-half (1/2) of the escrow or closing fee.
2. Preparation and filing of Deed to Buyer.
3. Conveyance fees paid to Union County (Ohio) Auditor.
4. Any title search and title insurance fees.

B. Buyer shall pay and remain solely responsible for all of the following:

1. One-half (1/2) of the escrow or closing fee.
2. Any recording costs associated with the transfer of the Property.

## **IX. ATTORNEY APPROVAL CLAUSE**

Buyer or Seller may terminate this Contract if the Party's attorney disapproves this Contract, by providing written notice of said disapproval, along with the changes proposed by that Party's attorney to remedy the disapproval, within five (5) calendar days after acceptance hereof. If the other Party accepts the proposed changes in writing within three (3) days after delivery thereof, this Contract shall continue in full force and effect, as amended by the accepted changes. The Party requesting the changes may waive the request in writing at any time prior to the expiration of the said three (3) day period. In the event of such termination, any earnest money or other monies paid by Buyer, to Seller, shall be fully refunded to Buyer within five (5) calendar days.

**X. MISCELLANEOUS:**

- A. Subject to completion of the Phase I Environmental audit and attendant report, and subject to all other contingencies, inspections, terms and conditions of this Contract, Buyer has Examined the Property, all fixtures and equipment and all property involved in the Transaction made the subject of this Contract and, in making this offer, Buyer is relying solely upon such examination with reference to the condition, character and size of the Property, the land and improvements, and the equipment and fixtures, if any.
- B. This Contract constitutes the entire agreement between the parties hereto and there are no representations, oral or written, which have not been incorporated herein. Time is of the essence of all provisions of this Contract. All provisions, promises, covenants, terms and conditions of this Contract shall survive the closing.
- C. This Contract shall be binding upon the heirs, co-Trustees, legal representatives, beneficiaries, members, successors, assigns and personal representatives of the Parties hereto, as to all provisions, terms, promises, covenants, and conditions contained herein.
- D. All representations, promises, covenants and warranties of the parties contained within this Contract shall survive the closing.
- E. Seller represents that he is the current owner of Union County Auditor's Parcel No. 1500200080010, located on Currier Road in Jerome Township, that he is intending to sell and convey to Buyer. Seller shall cooperate with Buyer's efforts to survey the parcel and complete any and all property split applications.
  - 1. Seller agrees that Buyer shall have the first right of refusal to purchase the parcel referenced in Section X.E. above for a price as determined by the Letter of Intent signed on \_\_\_\_\_ by the buyer and seller.

**XI. CLOSING AND POSSESSION**

This Contract shall be performed and this transaction closed on or before the \_\_\_\_ day of \_\_\_\_\_, 2023, unless the Parties agree in writing to an extension. Buyer and Seller agree that Seller shall remain in possession of the Property for a period of twelve (12) months following the date of Closing ("Possession Period"). Thereafter, Buyer shall take possession of the Property. Through the Possession Period, Seller shall maintain the Property to the same standard as Seller is currently maintaining it. Seller will retain home insurance and utility ownership until vacating the property.

Executed this \_\_\_\_ day of \_\_\_\_\_, 2023.

**ALL SIGNATURES ON FOLLOWING PAGE**

**SIGNATURES:**

**For Buyer:**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Tele No.: \_\_\_\_\_

Email: \_\_\_\_\_

**For Seller:**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Tele No.: \_\_\_\_\_

Email: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Paul-Michael La Fayette, Law Director

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**Prepared by:**

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