

ORDINANCE NO. 2007-118

**AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT
TO SELL THE CITY OF MASON'S PROPERTY AT 500 DAVID LANE TO
DANIEL AND JODY THIEKEN**

WHEREAS, Council has determined that the City of Mason's property at 500 David Lane is no longer needed for any municipal purposes, so the property should be sold; and

WHEREAS, Article XVIII of the Ohio Constitution confers the power of local self-government upon the City of Mason, and authorizes the City of Mason to convey property owned by it and not needed for municipal purposes in accordance with the provisions of the Charter; and

WHEREAS, Daniel and Jody Thieken, have offered to purchase the property for \$215,000.00.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Mason, Ohio, six members elected thereto concurring:

Section 1. That the City Manager, is hereby authorized to enter into an agreement to sell the real estate and improvements known as 500 David Lane, Mason, Ohio, to Daniel and Jody Thieken, for \$215,000.00, consistent with the terms set forth in the Contract to Purchase document attached as Exhibit "A".

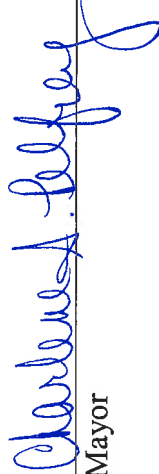
Section 2. That the City Manager is hereby authorized to execute and deliver any other document necessary to perform the City of Mason's duties under the Contract to Purchase agreement, including, but not limited to, deeds.

Passed this 13th day of August, 2007.

Attest:


5/10/08

Clerk of Council


Mayor

CONTRACT TO PURCHASE

1. **PROPERTY DESCRIPTION:** The undersigned Purchaser agrees to purchase the following described Property, together with all improvements thereon and all appurtenant rights, located at 500 David Lane, Mason, Ohio 45040 ("Property") and further described as follows:

2. **PRICE AND TERMS:** Purchaser hereby agrees to pay \$ 215,000.⁰⁰ ("Purchase Price") for the Property, payable as follows:

3. **EARNEST MONEY:** \$ 5,000.⁰⁰. Earnest money to apply toward the purchase price and to be held by the Seller pending closing. In the event of Purchaser's default, the earnest money shall be forfeited to Seller to be applied toward Seller's damages, but shall not be considered liquidated damages.

4. **BALANCE:** The balance of the purchase price shall be paid by cash, certified, building and loan or cashier's check on the date of closing.

5. **INCLUDED IN SALE:** The Property shall include all land and appurtenant rights, all buildings, fixtures, heating, electrical and plumbing fixtures and facilities, window shades, blinds, awnings, curtain rods, screens, storm windows and storm doors, wall-to-wall carpeting, stair carpeting, built-in kitchen appliances, landscaping and shrubbery and attached radio and television aerials, **EXCEPT**

WASZ

6. **PERSONAL PROPERTY:** The following personal property shall be included in the sale:

7. CONTINGENCIES:

- a. This contract shall be contingent upon Purchaser obtaining, at their sole expense, a whole house inspection within seven (7) days of acceptance by Seller of this contract. This contingency shall be removed within fourteen (14) days of acceptance, based either on Purchaser's satisfaction with the results, or upon Seller's agreement to correct any deficiencies. In the event Purchaser is not satisfied with the results of the whole house inspection, Seller may agree to correct any deficiencies identified by the report. In the event Seller refuses to correct the deficiencies identified in the report, this Contract shall be null and void and all parties relieved of liability thereunder.
- b. This contract shall be contingent upon an inspection, within seven (7) days of acceptance by Seller of this Contract, at Purchaser's sole expense, showing no active infestation or structural damage by termites or other wood-destroying or wood-eating insects. This contingency shall be removed within fourteen (14) days

of acceptance, based either on Purchaser's satisfaction with the results, or upon Seller's agreement to correct any deficiencies. In the event Purchaser is not satisfied with the results of the termite inspection, Seller may agree to correct any deficiencies identified by the report. In the event Seller refuses to correct the deficiencies identified in the report, this Contract shall be null and void and all parties relieved of liability thereunder.

- c. This contract shall be contingent upon Purchaser qualifying for a first mortgage loan in an amount and at an interest rate acceptable to Purchaser in their sole discretion, and Purchaser shall make a diligent effort to obtain such mortgage loan. Purchaser shall apply for financing within five (5) days of Seller's acceptance of this Contract and shall provide to Seller a loan commitment from their lender within fourteen (14) days of Seller's acceptance of this Contract
- d. This contract shall be contingent upon the sale of Purchaser's current home within (30) thirty days from the date of the passage of legislation by Mason City Council authorizing the sale of this Property to Purchaser.

With the exception of the sale of Purchaser's home, Purchaser shall provide Seller written notice of the removal of the above listed contingencies within fourteen (14) days of Seller's acceptance of the Contract. In the event Purchaser fails to provide Seller written notice of the removal of each of these contingencies, (other than the sale of home contingency), these contingencies shall be deemed waived by Purchaser unless Purchaser has provided Seller notice, in writing, of a deficiency in one of the contingency reports.

8. TEMPORARY CONSTRUCTION EASEMENT: At closing, Purchaser shall grant to Seller a 20' temporary construction easement along the South property line, for the purpose of constructing a future bike path. The City shall be responsible for all restoration in conjunction with this construction.

9. CONVEYANCE AND CLOSING: Title to the Property shall be conveyed by limited warranty deed on or before the 26 day of Sept, 2007, or at such sooner time as is mutually agreeable to the parties hereto. Title to the Property shall be free, clear and unencumbered, except easements and restrictions of record which do not adversely affect the use of the Property, and **EXCEPT** a 20' temporary construction easement along the South property line, _____.

Seller shall have the right at closing to remove out of the purchase price any and all encumbrances or liens.

10. PRORATIONS: Seller shall be responsible to pay all Property taxes and assessments, if any, accrued through closing, based upon the latest available tax bill. The following shall also be prorated between Seller and Purchaser as of closing:

NOTE: Property taxes and assessments are subject to change.

11. **POSSESSION:** Immediate possession shall be given upon closing.
12. **SELLER'S CERTIFICATION:** Seller further agrees that at the time of the transfer of title of the Property which is the subject of this contract, said Property and all items included in this sale will be in the same condition as on the date of this offer, reasonable wear and tear excepted.

ALTERNATE: Seller makes no representations or warranties as to the condition of the Property, which is the subject of this contract, and any personal property included in the sale. Purchaser acknowledges and agrees that he/she/they is/are relying solely upon his/her/their own inspections of the Property and personal property and accept the Property and personal property AS IS.

13. **NO BROKER:** Seller represents and warrants that it has not employed the services of a Property broker in connection with this transaction. Purchaser agrees to pay the commission for any Property broker employed by it, and Purchaser agrees to indemnify and save and hold Seller harmless from any and all liability for or expense in connection with any commission due or alleged to be due to any Property broker employed by Purchaser in connection with this transaction.

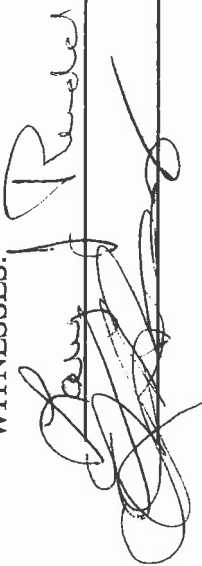
14. **OHIO RESIDENTIAL PROPERTY DISCLOSURE FORM AND LEAD PAINT DISCLOSURE.** Simultaneously with the date of acceptance of this Contract, Seller has delivered to Purchaser, and Purchaser hereby acknowledges receipt of the completed and signed Ohio Residential Property Disclosure and the Lead Paint Disclosure.

15. **SOLE CONTRACT:** This offer, when accepted, comprises the entire agreement of the Purchaser and Seller, and it is agreed that no other representations or agreements have been made or relied upon. Any amendments to this contract shall be made in writing, signed by the parties, and copies shall be attached to all copies of the original contract. This contract shall be binding upon the parties, their heirs, administrators, executors, successors and assigns.

16. **EXPIRATION AND APPROVAL:** This offer is void if not accepted in writing on or before 12 o'clock (~~am~~) (~~noon~~) (~~pm~~) (midnight) CINCINNATI TIME, August 13, 2007.

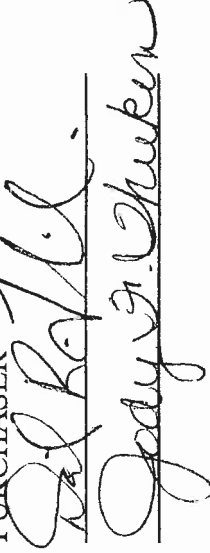
The Purchaser has read, fully understands and approves of the foregoing offer.

WITNESSES:





Dated: August 1, 2007

PURCHASER



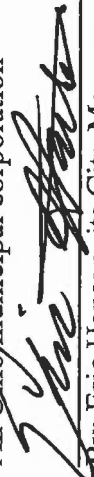
The City of Mason accepts the above offer and earnest money submitted to it.

WITNESSES:

Dated: August 13, 2007

SELLER: City of Mason
An Ohio municipal corporation


By: Eric Hansen, its City Manager

325594.1