

RESOLUTION NO. 2023-\_\_\_\_\_

**A RESOLUTION CONCERNING INTEREST IN  
AND THE AUTHORITY TO PURCHASE REAL ESTATE**

**WHEREAS**, Indiana Law authorizes the Town Council of the Town of Thorntown ("Town Council") to purchase real estate as the Town Council considers necessary and appropriate; and

**WHEREAS**, Indiana Code Sec. 36-1-10.5-5 directs, under certain circumstances which may be applicable here, that the Town Council pass a Resolution to the effect that it is interested in making a purchase of real estate; and

**WHEREAS**, the Town Council believes it is in the best interest of the Town of Thorntown ("Town"), the Town's future economic development and to eliminate the need for ongoing litigation, to obtain the necessary or appropriate real estate more specifically identified on the attached Exhibit A ("Real Estate") and desires to authorize the acquisition thereof.

**NOW, THEREFORE, BE IT RESOLVED** as follows:

1. The Town Council of the Town of Thorntown, Indiana, hereby declares its interest in purchasing or obtaining necessary or appropriate interest in the Real Estate attached hereto as Exhibit A. The Town Council further authorizes the Town Council President, Town Clerk-Treasurer, the Town Attorney, and other Town officials and employees as necessary to take all necessary and appropriate action to purchase the Real Estate, including but not limited to, negotiating, purchasing, obtaining appraisals and other property reports, and paying the purchase price as set forth in the Contract For Purchase of Real Estate attached hereto as Exhibit B, and performing such other matters as may be appropriate in furtherance of the purchase of the Real Estate, provided that such actions and costs are reasonably and appropriately within the scope of the applicable funding in attempting wherever proper to conserve taxpayer expense.

ALL OF WHICH IS RESOLVED this \_\_\_\_\_ day of \_\_\_\_\_,  
2023 by the Town Council of the Town of Thorntown, Indiana.

THORNTOWN TOWN COUNCIL

\_\_\_\_\_  
President

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

Attest: \_\_\_\_\_  
Clerk/Treasurer

Beginning 20 feet West of the Southeast corner of the Public Square in the Town of Thorntown and run thence North 80 feet, thence West 23 feet, thence South 80 feet, thence East 23 feet to the place of beginning.

Also, commencing at a point 43 feet West of the Southeast corner of said Public Square in the Town of Thorntown, Boone County, Indiana, said point being in the center of the East brick wall of the said Smiley Lot and run thence North along the center line of said East brick wall 80 feet, thence West 20 feet, thence South 80 feet, thence East 20 feet to the place of beginning.

Commonly known as: 113 East Main Street, Thorntown IN 46071

CONTRACT FOR PURCHASE OF REAL ESTATE

The Town of Thorntown, Thorntown, Indiana (the "Purchaser") offers to purchase from Kevin Smith (the "Vendor") the following described real estate and other property located in Boone County, Indiana, commonly known as 113 E. Main Street, Thorntown, Indiana, the legal description of which is:

(see attached)

and including all improvements thereto either permanently installed, or which belong to or are used in connection with the real estate, wherever located, such as electrical or gas fixtures; heating equipment; hot water heater and water softener (if not leased); and any other fixtures.

(all referred to as the "Real Estate") for Nineteen Thousand Five Hundred Dollars (\$19,500.00) (the "Purchase Price") subject to the following written terms and conditions:

1. **Payment.** The Purchase Price shall be paid on closing this transaction. Purchaser shall pay the Purchase Price in cash to Vendor.

2. **Conditions of Offer.** In addition to other provisions of this Contract the Purchaser's obligations hereunder are subject to satisfaction of the following conditions unless waived in whole or in part by Purchaser:

2.1 That all improvements on the Real Estate are located entirely within the bounds of the Real Estate and that there are no encroachments thereon.

2.2 That marketable title to the Real Estate is conveyed to Purchaser subject only to

2.21 taxes and assessments which Purchaser has agreed to pay;

2.22 covenants, conditions, restrictions and easements, if any, set forth in a plat of record.

2.23 no liens other than the lien in favor of Purchaser or which Purchaser agrees to pay;

2.3 That possession of the Real Estate is delivered to Purchaser in the condition existing at the time of this offer, ordinary wear and tear excepted.

3. Survey and Title Evidence.

3.1 <sup>PURCHASER MAY OBTAIN</sup> Vendor at ~~Vendor's expense~~ shall furnish an Abstract of Title to the Real Estate continued to a current date and certified in its entirety by a currently qualified abstracter. If title is not marketable, Purchaser may waive marketability and require that Vendor furnish an owner's title insurance policy satisfactory to Purchaser insuring the full amount of the Purchase Price.

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3.2 The title evidence selected and a survey, if required, shall be ordered by the Party obligated to pay the charges therefore immediately after acceptance of this offer.

4. Taxes and Assessments. Purchaser assumes and agrees to pay all assessments for public improvements becoming a lien after closing and

4.2 so much of the real estate taxes assessed for and becoming a lien during the calendar year in which closing occurs as shall be allocable to Purchaser on and after closing. Vendor shall pay the balance of such taxes, using, for closing purposes, the present tax rate if the applicable tax rate has not been set, and provided that both installments of real estate taxes payable during the calendar year in which closing occurs shall be paid by Vendor. Any taxes not assumed by Purchaser and which are not due and payable at the time of closing shall be allowed to Purchaser as a credit on the cash payment required on closing, and Vendor shall not be liable thereafter for such taxes.

5. Risk of Loss. Vendor shall bear the risk of loss or damage to the improvements occurring subsequent to the acceptance of this Contract and until delivery of the deed. If damage occurs and the damage cannot be repaired for an amount not to exceed 10% of the Purchase Price, Vendor shall pay for such repair.

6. Inspection. Purchaser acknowledges that Vendor has made no warranties or representations pertaining to the quality or condition of the real estate and that Purchaser agrees to purchase the real estate in an "as is" condition provided, however, Purchaser may inspect the real estate within 15 days

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after acceptance of the offer.

If such an inspection is made and said inspection reveals defects in the roof or foundation, or defects in the heating, air conditioning, plumbing or electrical systems which cannot be repaired or remedied for a total cost not to exceed Fifty Thousand Dollars (\$50,000), Purchaser shall have the right, unless the existence of the condition is waived by Purchaser, to cancel this Contract.

7. Default: If Vendor, through no fault of Vendor, is unable to convey marketable title as required by this Contract and the defect or defects are not waived by Purchaser, the Purchaser shall have the right to cancel this Contract. If Vendor refuses to perform as required, Purchaser may pursue all available legal and equitable remedies.

If Purchaser refuses to perform as required by this Contract, Vendor may pursue all available legal or equitable remedies.

#### 8.1 Closing and Possession.

8.1 The transaction shall be closed at a time and place acceptable to the parties but in no event later than ~~June 2,~~ <sup>MAY, 10</sup> 2023. Either party may, however, request and receive a ~~15~~ day extension of the closing date in the event the transaction cannot be closed due to delay in obtaining the title evidence or title clearance work, provided that such delay does not result from the fault of the party requesting the extension.

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#### 8.2 At closing, Vendor shall

8.2.1 deliver to Purchaser an executed Warranty deed in recordable form conveying marketable title to the Real Estate subject only to exceptions permitted by this Contract together with an executed Vendor's Affidavit in the form most recently published by the Indianapolis Bar Association.

8.3 Possession of the Real Estate shall be delivered to the Purchaser on the date of closing.

#### 9. Additions

9.1 In addition to the Purchase Price, Purchaser shall release the lien for unpaid civil penalties recorded in the Boone County Recorder's Office on April 20, 202, instrument

TYPO

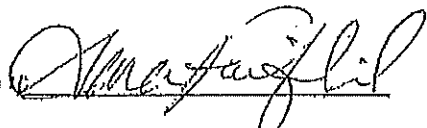
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number 2022004628.

9.2 Vendor shall retain the right to pursue a complaint pending in Boone Circuit Court against Scott Construction Co., Inc. under cause number 06C01-1311-PL-739 and shall have the right to any and all recovery therefrom.

10. Duration of Offer. This offer shall expire if written acceptance endorsed hereon is not delivered to Purchaser or left for Purchaser at the Thorntown Town Hall with copy delivered to Whitsitt & Noonung, P.C., 121 N. Meridian Street, Lebanon, Indiana on or before 4 o'clock P.M. on the 1st day of May, 2023.

Dated: 4-29-23

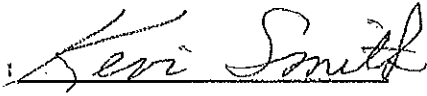
Signature: 

Printed: Sarah Fairfield  
President of Thorntown  
Town Council  
PURCHASER

#### Acceptance of Offer

The undersigned, Vendor, hereby accepts such offer.

Dated: 4-29-23

Signature: 

Printed: Kevin Smith  
VENDOR