AGENDA
ATHENS CITY COUNCIL
TUESDAY, SEPTEMBER 5, 2023 - 7:00 PM

e-mail: dwalker@ci.athens.oh.us

Streaming is available at www.ci.athens.oh.us/video

1. **Committee of the Whole**
   - Wayne National Forest (renaming)
2. **Establish Quorum**
3. **Disposition of Minutes:**
   - Regular Session of City Council held August 21, 2023
4. **Communications**
5. **Reports and Communications from Other Elected Officials**
6. **Ordinance for Third Reading:**
   - **0-78-23**
     AN ORDINANCE ACCEPTING PERMANENT UTILITY RIGHT-OF WAY EASEMENTS FROM OCULUS ACQUISTIONS, LLC FOR ACCESS TO THE EXISTING CITY LIFT STATION AT UNIVERSITY ESTATES. Introduced by Council Member Grace
7. **Ordinances for Second Reading:**

0-82-23
AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO THE "AGREEMENT ESTABLISHING THE NORTHEAST OHIO PUBLIC ENERGY COUNCIL (NOPEC)," AND A NATURAL GAS PROGRAM AGREEMENT WITH NOPEC, AND RELATED MATTERS. Introduced by All Members of Council

0-83-23
AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO EXECUTE A 25-

YEAR EASEMENT WITH OHIO UNIVERSITY TO REPLACE A WATERLINE. Introduced by Council Member Grace

0-84-23
AN ORDINANCE GRANTING A SPECIAL RIGHT-OF-WAY USE PERMIT AT 39 HOOPER STREET TO PATRICK AND JAMES BALDING, OWNERS, FOR CONTINUED USE OF THE CITY RIGHT-OF-WAY FOR AN EXISTING FENCE. Introduced by Council Member Grace

0-85-23
AN ORDINANCE ACCEPTING A CERTIFICATE OF REGISTRATION FROM MADISON ENERGY COOPERATIVE ASSOCIATION/UTILITY PIPELINE LTD, FOR USE OF THE CITY'S RIGHT-OF-WAY. Introduced by Council Member Grace

0-86-23
AN ORDINANCE AUTHORIZING DISPOSAL OF A POLICE DEPARTMENT VEHICLE NO LONGER NEEDED FOR A MUNICIPAL PURPOSE. Introduced by Council Member Risner

0-87-23
AN ORDINANCE AMENDING THE 2023 APPROPRIATION ORDINANCE 155-22. Introduced by Council Member Crowl

8. Ordinances for First Reading:

0-88-23
AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO ENTER INTO AN AGREEMENT WITH THE LE-AX REGIONAL WATER DISTRICT FOR RELEASE OF CERTAIN REAL ESTATE PARCELS TO THE CITY FOR WATER SERVICE ALONG DAIRY LANE. Introduced by Council Member McCarey

0-89-23
AN ORDINANCE DECLARING CERTAIN POLICE DEPARTMENT FIREARMS NO LONGER NEEDED FOR A MUNICIPAL PURPOSE. Introduced by Council Member McCarey

0-90-23
AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO ENTER INTO AN LPA FEDERAL LOCAL-LET PROJECT AGREEMENT WITH THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATON, FOR SIDEWALK, ACCESSIBILITY, AND TRAFFIC SIGNAL IMPROVEMENTS IN THE UPTOWN AREA, PROJECT (#329); AND DECLARING AN EMERGENCY. Introduced by Council Member Risner

0-91-23
AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO ADVERTISE AND ACCEPT BIDS, WHERE NECESSARY, AND ENTER INTO CONTRACTS FOR CONSTRUCTION AND CONSTRUCTION ENGINEERING SERVICES FOR THE UPTOWN IMPROVEMENTS PROJECT (#329). Introduced by Council Member Risner

0-92-23
AN ORDINANCE AMENDING THE 2023 APPROPRIATION ORDINANCE 155-22. Introduced by Council Member Crowl

9. Announcements & Other Business:

- Appointment to the Community Relations Commission

- Reappointment to the Income Tax Review Board

10. Opportunity for Citizens to Speak on Legislative Items and City Services Not Covered on the Agenda

11. Adjournment

Chris Knisely
President of Council

The City of Athens supports the Americans with Disabilities Act. Requests for reasonable accommodation may be made with the ADA Coordinator in the City Building or by calling 592-3367.

September 5, 2023

Forest Supervisor Lee Stewart
Wayne National Forest
13799 US Highway 33
Nelsonville, Ohio 45764

Supervisor Stewart,

Athens City Council is writing to support a name change for the Wayne National Forest, which we understand is in response to requests from Indian tribes and community members. We concur that it is important to have a name that "reflects the historical importance" of the only national forest in Ohio.

As "Ohio" is the Iroquois word meaning great river, we think the use of this word provides a significant heritage link. For these reasons, we support a name change to incorporate "Ohio" to convey its significance to the state, and for the forest to be named *The Ohio National Forest.*

Christine Knisely, President	Sarah Grace, At Large
Micah McCarey, At Large	Ben Ziff, At Large
Solveig Spjeldnes, 1st Ward	Jeff Risner, 2nd Ward
Sam Crowl, 3rd Ward	Alan Swank, 4th Ward

Cc: Tom Vilsack, secretary of the U.S. Dept. of Agriculture; Randy Moore, Chief of the U.S. Forest Service

0-78-23

Introduced by Sarah Grace, Chair
Planning & Development Committee

AN ORDINANCE ACCEPTING PERMANENT UTILITY RIGHT-OF WAY EASEMENTS FROM OCULUS ACQUISTIONS, LLC FOR ACCESS TO THE EXISTING CITY LIFT STATION AT UNIVERSITY ESTATES.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: Athens City Council does hereby accept utility easements from Oculus Acquisitions, LLC for access to the existing City lift station at University Estates. Said agreement grants and conveys to the Grantee permanent utility right-of-way easements needed for access to the existing City lift station at University Estates and the right to maintain, repair, and replace, as needed, utility lines in the easement areas, more fully described in the agreement attached hereto and incorporated herein by reference.

SECTION II: This Ordinance shall be in effect and full force upon its passage and approval by the Mayor.

President of Council

ATTEST: APPROVED:

Clerk of Council Mayor

0-82-23

Introduced by All Members of Council

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO THE "AGREEMENT ESTABLISHING THE NORTHEAST OHIO PUBLIC ENERGY COUNCIL (NOPEC)," AND A NATURAL GAS PROGRAM AGREEMENT WITH NOPEC, AND RELATED MATTERS.

WHEREAS, under Section 4929.26 Ohio Revised Code, the Mayor of the City of Athens, Ohio (the "City") is authorized to establish an opt-out natural gas aggregation program for the benefit of eligible natural gas consumers located within the City; and

WHEREAS, the City previously enacted legislation (0-64-17) authorizing the City to establish an opt-out natural gas aggregation program in the City and authorized the Southeast Ohio Public Energy Council ("SOPEC"), which had previously joined NOPEC as a member, to act as the City's agent in order to participate in NOPEC's natural gas aggregation program and to enter into a Natural Gas Program Agreement; and

WHEREAS, Ordinance 75-17 approved the NOPEC Plan of Operation and Governance for NOPEC's natural gas aggregation program, stating that there may be an exit charge as described in the opt-out notification, however, the terms and conditions provided to the customers indicates there is no cost to terminate the agreement; and

WHEREAS, the City has participated in NOPEC's natural gas aggregation program since 2017; and

WHEREAS, the City has determined that it is in the best interest of the City and certain natural gas consumers for the City to join NOPEC as a member and to directly contract with NOPEC to participate in NOPEC's natural gas aggregation program (the "Gas Aggregation Program"), and to execute all documents necessary for the City to participate in the Gas Aggregation Program directly through NOPEC, including the Agreement Establishing NOPEC and the NOPEC Natural Gas Program Agreement, and to terminate its authorization of SOPEC to act as the City's agent in connection therewith.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

<u>SECTION I</u>: The Council of the City (the "Council") finds and determines that it is in the best interest of the City and certain natural gas consumers located within the City to join NOPEC and become a NOPEC member and to participate directly in NOPEC's Gas Aggregation Program, and hereby authorizes the Mayor to enter into such agreements, as necessary, for the City to participate in NOPEC's Gas Aggregation Program, including the Agreement Establishing NOPEC, and a Natural Gas Program Agreement with NOPEC, copies of which are attached hereto and

incorporated herein by reference, and to terminate in all respects the City's authorization of SOPEC to act as the City's agent in connection therewith.

SECTION II: This Ordinance shall be in full force and effect upon its passage and approval by the Mayor.

President of Council

ATTEST: APPROVED:

Clerk of Council Mayor

AGREEMENT

ESTABLISHING THE

NORTHEAST OHIO PUBLIC ENERGY COUNCIL

This AGREEMENT is made and entered into as of November 8, 2000, by and among the political subdivisions identified below:

RECITALS:

WHEREAS, Ohio Revised Code Chapter 167 provides, in general, that the governing bodies of any two (2) or more political subdivisions may enter into an agreement establishing a regional council of governments for the purposes of promoting cooperative arrangements and agreements among its members and between its members and government agencies or private persons or entities, performing functions and duties which its members can perform and addressing problems of mutual concerns; and

WHEREAS, certain municipal corporations, counties, townships and regional councils of government of the State of Ohio have determined to enter into this Agreement Establishing the Northeast Ohio Public Energy Council for the purpose of carrying out a cooperative program for the benefit of the members acting as governmental aggregators to arrange for the purchase of electricity by the electric customers in these political subdivisions served by the operating utility companies of FirstEnergy Corp. pursuant to the authority provided under Ohio Revised Code Section 4928.20, and promoting any other cooperative programs which may be approved, from time to time, in accordance with this Agreement and the Bylaws described below;

NOW, THEREFORE, it is agreed by and among the municipal corporations, counties, townships and regional councils of government identified below, on behalf of whom this Agreement has been executed by their representatives in accordance with the authorizing resolution of each, that:

Section 1. Definitions.

As used in this Agreement and in the Bylaws the following words shall have the following meanings:

"Additional Program" means any other cooperative program the Council may establish under an Additional Program Agreement.

"Additional Program Agreement" means any agreement among some or all Members establishing an Additional Program in accordance with Section 5 hereof.

"Additional Program Costs" means, with respect to any Additional Program of the Council, all costs incurred by the Council or the Fiscal Agent of the Council, in connection with the activities and operations of that Additional Program, as defined in the corresponding Additional Program Agreement.

"Advisory Committee" means any committee established by the Board of Directors pursuant to the Bylaws to advise the Board of Directors or the Fiscal Agent with respect to the management and operation of any Program. The Board of Directors shall define the duties of each Advisory Committee.

"Aggregation Costs" means all costs incurred by the Council or by the Fiscal Agent in connection with the activities and operation of the Council for the Aggregation Program.

"Aggregation Fund" means the fund established and maintained by the Fiscal Agent of the Council as a separate fund pursuant to Section 7 of the Bylaws, into which the Fiscal Agent shall deposit any and all moneys contributed by the Members for Aggregation Costs of the Council.

"Aggregation Program" means the cooperative program for the benefit of the Members acting as governmental aggregators to arrange for the purchase of electricity by electric customers in the political subdivisions served by the operating companies of FirstEnergy Corp. pursuant to the terms of Ohio Revised Code Section 4928.20 and this Agreement.

"Agreement" means this agreement, as the same may be amended, modified, or supplemented in accordance with Section 8 hereof.

"Assembly" means the legislative body of the Council established pursuant to, and having those powers and duties enumerated in, the Bylaws.

"Bylaws" means the regulations adopted by the Council pursuant to Ohio Revised Code Section 167.04 and this Agreement, as the same may be amended, modified, or supplemented in accordance with Section 10 thereof, a form of which is attached hereto as Exhibit A.

"Council" means the Northeast Ohio Public Energy Council established by this Agreement.

"Fiscal Agent" means the person or organization designated by the Members of the Council to receive, deposit, invest and disburse funds contributed by the Members for the operation of the Council and its Programs, in accordance with this Agreement, the Bylaws and any applicable Program Agreement.

"Fiscal Year" means the twelve (12) month period beginning January 1 and ending December 31.

"Member" means any municipal corporation, county, township and regional council of governments which pursuant to duly adopted legislation, has caused this Agreement to be executed in its name, which Member shall be listed on Exhibit B hereto, including any additional municipal corporation, county, township and regional council of governments which has caused this Agreement to be executed in accordance with Section 7 hereof, and has not withdrawn from the Council pursuant to this Agreement or the Bylaws.

"Program" means the Aggregation Program or any Additional Program.

Section 2. Name.

The name of the group composed of all Members shall be the "Northeast Ohio Public Energy Council".

Section 3. Representation of Members.

Each Member shall have one representative to the Assembly, who (i) in the case of municipal corporations, shall be the mayor or manager or an appointee of such officer, or (ii) in the case of counties or townships or regional councils of governments, shall be a member of its governing board or an officer chosen by such governing board.

Section 4. Adoption of Bylaws.

Within thirty (30) days following the effective date of this Agreement as determined pursuant to Section 11 hereof, the representatives shall meet for the purpose of adopting Bylaws. The affirmative vote of at least a majority of representatives of all Members shall be required for the adoption of the Bylaws, a form of which is attached as Exhibit A.

Section 5. The Aggregation Program: Additional Programs of the Council.

The Members will act jointly through the Council to establish and implement the Aggregation Program pursuant to Ohio Revised Code Section 4928.20. Each Member has adopted legislation, and approval by the electors of each Member has been or will be obtained, authorizing the Aggregation Program. Upon certification of the Members by the PUCO, as may be applicable, the Council, on behalf of the Members, may effect the aggregation of the retail electrical loads located within the jurisdictions of the Members. The Council may negotiate and enter into all necessary contracts and take any other necessary and incidental actions to effect and carry out the purposes of the Aggregation Program for the benefit of the Members and their respective electricity consumers.

The Board of Directors shall oversee and manage the operation of the Aggregation Program and may adopt policies and procedures supplementing the general terms of this Agreement and the Bylaws.

The Board of Directors shall develop a plan of operation and governance for the Aggregation Program pursuant to Ohio Revised Code Section 4928.20 to be adopted by each member.

The Council may establish, in addition to the Aggregation Program, such other Additional Programs as the Board of Directors may approve. Each Additional Program shall be established by an Additional Program Agreement among the Members of the Council whose governing bodies have determined to participate in the Additional Program and have approved an Additional Program Agreement. Each Additional Program Agreement shall be reviewed and approved by the Board of Directors prior to execution by any Member.

Each Additional Program Agreement shall include but not be limited to provisions that:

(A) Direct the Board of Directors concerning the management of the Additional Program and define matters which must be submitted to the participating Members for decision;

(B) Establish procedures for budgeting Additional Program Costs and apportioning Additional Program Costs among the participating Members;

(C) Establish one or more funds into which all monetary contributions for Additional Program Costs shall be deposited;

(D) Determine the method and timing of inclusion of additional participating Members;

(E) If determined to be necessary or desirable, appoint a Fiscal Agent for the Additional Program different from the Fiscal Agent for the Council; and

(F) Determine the disposition, upon termination of the Additional Program, of any supplies, equipment, facilities or moneys held in connection with the operation of the Additional Program.

Section 6. Withdrawal of a Member.

(a) Any Member wishing to withdraw from membership in the Council shall notify the Council in the manner described in Section 6(c) hereof and such withdrawal shall, except as otherwise provided in this Section 6, cause such Member's membership in the Council to be terminated. Such termination shall not be effective until (A) the end of the applicable two (2) or three (3) year opt-out period as to any electricity or natural gas aggregation program of the Council under which service is being provided to customers in the Member's community; and (B) such withdrawing Member has paid to the Council the Administrative Fee (as defined in Section 6(d) hereof), if applicable.

(b) Any Member wishing to withdraw from participation in any Program of the Council, including any aggregation Program of the Council for electricity or natural gas, shall notify the Council in the manner described in Section 6(c) hereof. Such withdrawal from a Program, regardless of whether a member participates in only one program, shall be effective:

(i.) At any time, without charge, as to a natural gas Program, if NOPEC is not enrolling natural gas customers in that Member's community or offering a natural gas Program for a Member participating in the Council's aggregation Program for natural gas; or

(ii.) At any time, without charge, as to an electric Program, if NOPEC is not enrolling electric customers in that Member's community or offering an electric program for a Member participating in the Council's electric aggregation Program; or

(iii.) Without charge, with at least six (6) months prior written notice before any two (2) or three (3) year opt-out period expires for an existing Council natural gas or electric Program under which service is being provided to customers in the Member's community; or

(iv.) At any other time, with six (6) months written notice, but only if the Member pays NOPEC the Administrative Fee.

A withdrawal from participation in a Council Program is not a withdrawal from Membership as long as the Member continues to participate in at least one Council Program.

(c) Any notification of withdrawal of a Member from Membership in the Council or from participation in a Council Program must include (i) a certified copy of duly adopted legislation of the governing body of the withdrawing Member authorizing such withdrawal; and (ii) a Fiscal Officer's Certificate evidencing the appropriation of funds sufficient to pay the Council the Administrative Fee, if applicable.

(d) So long as the Council does not charge its Members a fee to be a Member of the Council, any Member withdrawing from a Program (unless such withdrawal is in compliance with Sections 6 (b)(i), (ii) or (iii)) shall, prior and as a condition to its withdrawal, pay the Council a withdrawal fee which shall not be a penalty for withdrawing from any Program(s) and which shall be calculated by the Council as the compensation that the Council would have received from the supplier(s) to the Program(s) as it relates to the withdrawing Member during a one (1) year period (the "Administrative Fee").

(e) After withdrawal from membership in the Council, the withdrawing Member may not become a Member again until it has fully complied with the procedures contained in Section 7 of the Agreement.

Section 7. <u>Inclusion of Additional Members.</u>

Any municipal corporation, county or township in the State of Ohio may apply to become a Member of the Council by submitting an application in writing to the Board of Directors, accompanied by duly adopted legislation authorizing inclusion in the Council, execution of this Agreement and approval of the Bylaws. Prior to the Assembly's next meeting, the Board of Directors shall review the application and recommend to the Assembly whether the applicant municipal corporation, county, township or regional council of governments should be included in the Council. At the Assembly's next meeting, it shall act upon the Board of Directors' recommendation by duly adopted resolution. The applicant municipal corporation, county, township, or regional council of governments shall be included in the Council and deemed a Member hereunder if its inclusion is approved by the affirmative vote of at least two-thirds (2/3) of the representatives in the Assembly and the applicant municipal corporation, county, township or regional council of governments executes the Agreement, and appropriates and remits to the Fiscal Agent an initial monetary assessment for Aggregation Costs in an amount recommended by the Board of Directors and approved by the Assembly. The applicant shall thereafter be a Member and be assessed its portion of the Aggregation Costs by the same method and using the same formula as any other member, in accordance with the Bylaws.

Section 8. Amendments.

This Agreement may be modified, amended, or supplemented in any respect not prohibited by law upon the approval of the modification, amendment or supplement by the representatives of at least two-thirds (2/3) of the Members; and the amendment, modification, or supplement shall thereupon become binding upon all Members.

Section 9. Term of the Agreement.

It is the express intention of the Members that this Agreement shall continue for an indefinite term, but may be terminated as herein provided.

Section 10. Termination of the Agreement.

In the event that the governing bodies of two-thirds (2/3) of the Members, by duly adopted legislation, determine that this Agreement shall be terminated, the Board of Directors shall meet within thirty (30) days following its receipt of certified copies of the legislation. At that meeting, the Board of Directors shall determine the date upon which this Agreement and the activities and operations of the Council shall terminate and make recommendations to the Assembly with respect to any matter which must be resolved in connection with the termination of the Council and which is not addressed by this Agreement, the Bylaws, or any Program Agreement.

Upon termination of this Agreement, any Additional Program Agreement shall automatically terminate. After payment of all known obligations of the Council in connection with each Additional Program, any surplus remaining in any Additional Program fund shall be distributed among the participating Members in the manner provided in the Additional Program Agreement. After payment of all known obligations of the Council, any surplus remaining in the Aggregation Fund shall be distributed among the Members as determined by the Board of Directors.

No Member shall be required, by or under this Agreement or the Bylaws, by an amendment or otherwise, to pay any sum upon termination hereof, unless it shall have expressly agreed thereto.

Section 11.Effectiveness and Counterparts of the Agreement.

This Agreement shall not be effective until (i) the Agreement is signed by the representatives of not less than ten (10) Members as authorized by duly adopted legislation of the governing body of each of those Members; and (ii) the voters of those Members have approved the Aggregation Program in accordance with Ohio Revised Code Section 4928.20. This Agreement may be signed in separate counterparts on behalf of any one or more than one, of the Members, without necessity for any one counterpart to be signed on behalf of all Members. Separately signed counterparts shall be filed with the Fiscal Agent and shall constitute one Agreement.

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ADOPTED THE 8th DAY OF NOVEMBER, 2000

AMENDED THE 27th DAY OF JUNE, 2002

AMENDED THIS 13th DAY OF NOVEMBER, 2008

AMENDED THIS 10th DAY OF NOVEMBER, 2015

NORTHEAST OHIO PUBLIC ENERGY COUNCIL

By:______________________________________

Ronald McVoy, Chairman

MEMBER:

____

By:______________________________________

Its:______________________________________

BYLAWS

GOVERNING THE

NORTHEAST OHIO PUBLIC ENERGY COUNCIL

WHEREAS, certain municipal corporations, counties, townships and regional councils of governments of the State of Ohio (each, a "Member") entered into an Agreement Establishing the Northeast Ohio Public Energy Council (the "Agreement") pursuant to Revised Code Chapter 167, for the purpose of carrying out the Aggregation Program pursuant to Revised Code Section 4928.20 and any Additional Programs which the Members of the Council may approve, from time to time, and which are authorized under the laws of the State; and

WHEREAS, Revised Code Section 167.04 requires and the Agreement provides that the Council shall adopt Bylaws designating the officers of the Council and the method of selection thereof, creating a governing board to act for the Council, appointing a fiscal officer and providing for the conduct of the Council's business; and

WHEREAS, each Member has by duly adopted legislation authorized its representative to approve these Bylaws, and the representatives of the Members have met for the purpose of adopting these Bylaws in accordance with Revised Code Section 167.40 and Section 4 of the Agreement;

NOW, THEREFORE, the following provisions shall constitute the Bylaws of the Council:

Section 1. Definitions.

Any capitalized word or phrase used in these Bylaws and not otherwise defined herein, shall have the meaning given in Section 1 of the Agreement as the Agreement may, from time to time, be amended, modified, or supplemented in accordance with Section 8 thereof.

Section 2. Assembly.

The Assembly shall be the legislative body of the Council. The Assembly shall be composed of the representatives of the Members, who have been appointed pursuant to Section 3 of the Agreement. All representatives to the Assembly (exclusive of ex-officio members) shall serve without compensation.

An Assembly representative may designate another Assembly representative as a proxy at any meeting by delivering to the Chairman of the Council a written designation of that proxy.

(A) Officers. The officers of the Board of Directors shall be the officers of the Council and its Assembly and shall consist of a Chairman and Vice-Chairman who each shall be selected pursuant to Section 3 hereof. The Chairman (and in the Chairman's absence, the Vice-Chairman) shall preside at Assembly meetings.

If for any reason the offices of the Chairman and Vice-Chairman are vacant, the person serving as Executive Director, if any, shall preside as temporary Chairman until a Chairman is elected by the Board of Directors.

(B) Resolutions. A majority of all representatives to the Assembly (including proxies correctly presented to the Chairman) shall constitute a quorum to transact business except as otherwise provided in the Agreement or these Bylaws. Each representative (including the Chairman and Vice-Chairman) shall have one vote; provided, however, that when a matter is to be voted upon which is of concern to only one or more but not all Programs of the Council, only representatives of participating Members of those Programs shall be entitled to vote on that matter and only those representatives shall be counted for purposes of determining whether a quorum is present. All legislative action of the Assembly shall be by resolutions entered on its records. Except as otherwise provided in the Agreement, the affirmative vote of at least a majority of all of the representatives to the Assembly eligible to vote on a matter (not counting vacancies) shall be required for the enactment of every resolution. Unless otherwise specifically stated in the resolution, all resolutions shall be effective immediately upon enactment, subject to any authorizations or certifications required by the Revised Code to be made by the Fiscal Agent or the Members.

(C) Meetings. The Assembly shall meet on a day of each November designated by the Board of Directors and at such other times as may be required by the Chairman or as may be requested, in writing to the Executive Director, by any two (2) or more Directors. Written notice of each meeting shall be served by the Executive Director upon each Assembly representative not less than twenty-four (24) hours preceding the time for the meeting, and shall state the date, time, and place of the meeting and subject or subjects to be considered a the meeting. The requirements of and procedures for notice may be waived in writing by each representative and any representative shall be deemed conclusively to have waived such notice with respect to a meeting by his or her attendance at that meeting. At the request of the Chairman and with the approval of a majority of the members of the Board of Directors, the annual meeting of the Assembly may be rescheduled to such other dates as may be so approved by the Board of Directors; provided, however, that actions required by this Agreement to be taken by the Assembly at its annual meeting are taken by the Assembly within thirty (30) days of the scheduled annual meeting date in November.

Pursuant to Revised Code Section 121.22(F), the Assembly shall by rule, establish a reasonable method whereby any person may determine the time, place, and purpose of its meetings. All meetings of the Assembly shall be open to the public, subject to the exceptions in Revised Code Section 121.22(G). The Assembly may, but need not, adopt other rules.

(D) Powers and Duties of Assembly.

(1) At its annual meeting, the Assembly shall review the annual report of the Council, including but not limited to, the financial status of the Council's operation, operation of the Aggregation Program, and any Additional Program being considered.

(2) At its annual meeting, the Assembly shall consider, upon submission by the Board of Directors, and thereafter modify, if necessary, and approve the annual appropriations of the Council for the next Fiscal Year based upon the estimate of Aggregation Costs and any Additional Program Costs determined pursuant to Section 8 hereof. The Board of Directors shall have the authority to revise the appropriations between Assembly meetings.

(3) At its annual meeting, the Assembly shall select the members of the Board of Directors for the next Fiscal Year in accordance with Section 3 hereof.

(4) The following matters shall be submitted to the Assembly and are subject to final approval by the Assembly: the annual appropriations of the Council for each Fiscal Year; selection of the Board of Directors; and such other matters that the Board of Directors or the Assembly may, from time to time, determine to be matters requiring approval by the Assembly.

Section 3. Board of Directors.

The Board of Directors shall be the policy making body of the Council.

(A) Composition. Subject to the provisions of Section 3(B) below, the Board of Directors shall be composed of one Director representing each county with Members in the Council, and one Director in the case of a regional council of governments having at least one member of such council of governments participating in a NOPEC electric or natural gas program, each of whom shall be an Assembly representative of each respective county and of the regional council of governments and shall be elected by the Assembly representatives of each respective county and of the regional council of governments, at the annual meeting of the Assembly, provided that the affirmative vote of at least a majority of the representatives to the Assembly of each representative county shall be required to elect any Director.

(B) Notwithstanding anything in this Section 3 to the contrary, the maximum number of Directors shall be twenty-one (21), and shall be constituted as follows: The state of Ohio shall be divided into five (5) regions, the Northeast Ohio Region, the Northwest Ohio Region, the Central Ohio Region, the Southwest Ohio Region and the Southeast Ohio Region, defined in the attached Exhibit A to these Bylaws. There shall be a limit of seventeen (17) Directors from counties located in the Northeast Ohio Region. There shall be a limit of (1) Director from the total number of Member counties located in each of the Northwest Ohio Region, the Central Ohio Region, the Southwest Ohio Region and the Southeast Ohio Region. Effective on and after November 15, 2016, a county or region must have one (1) or more Member(s) combined with collectively at least 2,500 electricity and/or natural gas accounts participating in NOPEC's electricity and/or natural gas program in such Members' communities in order to be eligible to elect a Director from such county or region. The rights of any Member of the Council as of November 15, 2016, shall be preserved and not be diminished, limited or abridged by the operation of this Section 3.

(C) Terms of Office. Assembly representatives elected to serve on the Board of Directors at the first organizational meeting shall serve the following terms of office: Half of the members of the Board shall each serve a two-year term and the other half shall each serve a one-year term. Thereafter, any Assembly representative elected to serve on the Board of Directors shall serve a two (2) year term of office. If the number of members of the Board is increased as a result of an increase in the number of counties represented by the membership in the Council, then the terms of those additional Board members shall be set by the Board so that half, or as close as possible to half, of the members of the Board shall be elected every year. There shall be no limit to the number of terms to which a person may be elected or appointed. All members of the Board shall serve without compensation.

In the event that a vacancy occurs on the Board of Directors, the remaining members of the Board of Directors shall meet and appoint an Assembly representative to fill the vacancy until the next meeting of the Assembly at which elections of Directors are held.

(D) Meetings. The Board of Directors shall hold regular meetings not less than once per calendar quarter at such times as may be determined by the Board or the Chairman. Special meetings shall be held at such other times as may be requested by the Chairman. Written notice of each meeting shall be served by the Executive Director upon each Director not less than twenty-four (24) hours preceding the time for the meeting, and shall state the date, time, and place of the meeting and subject to be considered at the meeting. The requirements of and procedures for notice may be waived in writing by each Director and any Director shall be deemed conclusively to have waived such notice with respect to a meeting by his or her attendance at that meeting.

(E) Attendance. Directors are expected to attend Board meetings. Any Director who is absent from three Board meetings without excuse during a twelve month period is automatically removed from the Board. The remaining Directors shall meet and appoint a person to fill the vacated seat until the next meeting of the General Assembly at which elections of Directors are held.

(F) Officers. At its first meeting in each Fiscal Year, the Board of Directors shall convene and organize. The Chairman of the Board shall be elected to serve a one-year term by the Board of Directors from its members by majority vote of all its members. The Chairman whose term has expired shall preside as temporary Chairman until the Chairman is elected. In the absence of the prior Chairman, the prior Vice-Chairman shall be elected to serve a one year term by the Board of Directors by a majority vote of its members.

(1) Chairman. The Chairman shall preside at all meetings of the Board of Directors and the Assembly. The Chairman's duties shall also include, but not be limited to: preparing agendas for each meeting of the Board of Directors and arranging for distribution of such agendas so that each Board member receives an agenda at least seven (7) days in advance of each regularly scheduled Board meeting and as soon as practical before any specially scheduled Board meeting; and presenting an annual report to the Assembly at its annual meeting, or distribution of such report to the Members, concerning the activities and operations of the Council. Such duties of the Chairman described in the preceding sentence may be delegated to the Executive Director. In the event of a tie on matters subject to a vote of the Board, the Chairman shall cast the tie-breaking vote.

(2) Vice-Chairman. In the absence of the Chairman, the Vice-Chairman shall preside at meetings of the Board of Directors and the Assembly. The Vice-Chairman shall succeed to the office of the Chairman, should that office be vacated before the end of a term, and shall assist the Chairman in the discharge of his duties.

(3) Executive Director. The Executive Director shall provide written notice to all members of the Board of Directors of all meetings of the Board in accordance with paragraph (D) of this Section. Minutes of all meetings of the Board shall be kept by the Executive Director and distributed to each member of the Board within thirty (30) days following each Board meeting. The Executive Director shall provide Assembly members with written notice of all Assembly meetings in accordance with Section 2 hereof. The Executive Director shall perform such other duties as the Chairman may request. If the Board of Directors decides to hire a chief executive officer for the Council, then this person will be titled the Executive Director. The Board of Directors shall provide a job description for this position.

(4) Fiscal Agent. The Board of Directors shall provide for the employment of a Fiscal Agent either by:

(a) contracting with a Member, or

(b) hiring a person to perform the duties of the Fiscal Agent, who shall be the Treasurer. Separate Fiscal Agents may be hired to handle specific Programs or assigned to the Treasurer if such employee is hired. The Fiscal Agent shall receive and disburse all funds of the Council, prepare all necessary fiscal reports for the Board of Directors and the Assembly, and undertake all other financial transactions necessary to the work of the Council.

The Fiscal Agent of the Council shall obtain and keep in force a fidelity bond, in an amount determined by the Board of Directors and with a surety company approved by the Board of Directors, or, in lieu of a separate fidelity bond, the Board of Directors may direct the Fiscal Agent to continue and keep in force any existing fidelity bond the Fiscal Agent may have which the Board of Directors determines to be adequate. In either case, the Council shall be named as an insured on such bond and the amount thereof shall not be reduced without prior written consent of the Board of Directors.

The Fiscal Agent and the Executive Director may be held by the same person or by two different persons.

(G) Powers and Duties of the Board of Directors. The Board of Directors shall have the authority to:

(1) Consider and approve any purchases of equipment, facilities, or services for the Council; provided that the cost thereof is within the Aggregation Costs approved by the Assembly pursuant to Section 8 hereof.

(a) Make recommendations to the Assembly concerning any matter relating to the Council and its Programs, including but not limited to:

(b) amendments to or modifications of the Agreement and Bylaws,

(c) appropriations of the Council,

(d) each Member's share of Aggregation Costs or any Additional Program Costs, and

(e) disqualification of Members.

(2) Direct the Fiscal Agent concerning any disbursements from the Aggregation Fund.

(3) By affirmative vote of a majority of Board members and upon certification to the Board by the Fiscal Agent that the proposal is within the limits of

the Council's resources, amend the budget and appropriations of the Council.

(4) Approve the inclusion of additional Members into the Council.

(5) Enter into any and all necessary and incidental contracts to facilitate the aggregation of the retail electric and natural gas loads within the jurisdiction(s) of the Members.

(6) Enter into any and all necessary and incidental contracts to carry out all Programs of the Council.

(7) Enter into any and all necessary and incidental contracts to carry out all Programs of the Council.

Section 4. Advisory Committees.

One or more Advisory Committees may be appointed by the Board of Directors to assist the Board of Directors in the management of any Program of the Council. The members of an Advisory Committee shall be appointed by and shall serve at the pleasure of the Board of Directors. Each Advisory Committee shall perform the duties directed by the Board of Directors.

Each Advisory Committee shall elect from its membership a chairman and vice-chairman, who shall each serve for a term of one year or such shorter period of time as the Advisory Committee may be in existence. The Committee chairman shall preside at all Committee meetings and prepare the agenda for each meeting following consultation with the Executive Director or Board of Directors. Such duties of the Committee chairman described in the preceding sentence may be delegated to the Executive Director. In the absence of the Committee chairman, the Committee vice-chairman shall preside at Committee meetings. The Committee vice-chairman shall succeed to the office of the Committee chairman, should it be vacated before the end of a term, and shall assist the Committee chairman in the discharge of the Committee chairman's duties.

Each Advisory Committee shall make recommendations to the Board of Directors concerning any matter referred to it by the Board of Directors.

Section 5. Employees and Consultants.

The Board of Directors may employ the Fiscal Agent and the Executive Director for the Council. In addition, the Board of Directors may employ other persons and may contract for the services of independent contractors, consultants, legal counsel, or experts as the Board of Directors deems necessary or appropriate for the proper operation and administration of the Council and its Programs. Any staff employed by the Council shall be determined by the Board of Directors to have the educational background and work experience necessary to discharge the duties assigned to that person by the Board of Directors. The Board of Directors shall establish the salaries, benefits, and work and disciplinary rules for the Council's staff and shall direct the hiring and discharge of that staff. The Board of Directors of the Council may designate the Executive Director to be responsible for the supervision of the Council's staff. The salaries and independent contractors, consultants, legal counsel, or experts shall be paid either as Aggregation Costs or Additional Program Costs from their respective accounts as determined by the Board of Directors.

Section 6. Equipment and Facilities.

The Council may purchase, lease, or otherwise provide supplies, materials, equipment, and facilities as it deems necessary and appropriate to carry out the Programs of the Council. The Council shall comply, to the extent applicable, with the provisions of the Ohio Revised Code with respect to the procedures for bidding and letting of contracts for the acquisition, repair, or improvement of its facilities, equipment, and supplies. The Fiscal Agent of the Council shall, at the direction of and on behalf of the Board of Directors, enter into all contracts or leases for supplies, materials, equipment, or facilities of the Council.

Section 7. Aggregation Fund.

The Aggregation Fund shall be established and maintained by the Fiscal Agent of the Council separate and apart from all other funds of the Council which may be under the custody of the Fiscal Agent. Separate funds will be established for Additional Programs of the Council. All funds of the Council (Aggregation and Additional Program Funds) shall be subject to the laws of the State concerning the investment and management of public funds, particularly Revised Code Chapter 135, and shall be the responsibility of the Fiscal Agent.

The Fiscal Agent of the Council shall deposit in the Aggregation Fund the amounts received from the Members for Aggregation Costs of the Council and any interest earned by the Aggregation Fund. Disbursements may be made from the Aggregation Fund by the Fiscal Agent at the direction of the Board of Directors or the Assembly for any proper purpose of the Council, including but not limited to payment of Aggregation Costs, costs incurred in connection with the establishment of the Council, salaries of any persons employed to carry out the functions related to the Aggregation Program, fees and expenses of the Fiscal Agent, consultants and attorneys, and payment of other operating expenses.

The Fiscal Agent of the Council shall maintain records which identify all receipts of the Aggregation Fund by source. The Fiscal Agent shall maintain records which account for all disbursements from the Aggregation Fund. The Fiscal Agent shall make monthly reports to the Board of Directors on or before the twentieth (20th) day of each month concerning all receipts and disbursements from the Aggregation Fund.

Section 8. Estimate of Aggregation Costs; Payments by Members.

On or before the annual meeting of the Assembly he Board of Directors shall: (a) submit to the Assembly a written estimate of the Aggregation Costs and any Additional Program Costs for the next Fiscal Year of the Council, and (b) if a fee is to be collected, provide the Assembly and each Member with an estimate of each Member's share of the Aggregation Costs and any Additional Program Costs. Any Additional Program Costs shall be apportioned among the participating members as provided in any Additional Program Costs shall be apportioned among the participating members as provided in any Additional Program Agreement. Any Aggregation Costs of the Council shall be apportioned among the Members in the manner determined by the Board of Directors. The estimates shall be presented in enough detail so that the Assembly can determine their sufficiency.

The Assembly shall consider the estimates and accept or modify the same. If an assessment or fee is to be paid by the Members to the Aggregation Fund or any Additional Program Fund, the Fiscal Agent shall deliver to the Members, the estimated appropriation for the next Fiscal Year and each Member's share of such costs. Each Member shall include its share of the Aggregation Costs and any Additional Program Costs in its appropriations (pursuant to Chapter 5705 of the Revised Code). Each member shall thereafter remit its share of Aggregation Costs and any Additional Program Costs to the Fiscal Agent.

If the aggregate contributions made pursuant to that estimated budget prove to be insufficient to pay the Aggregation Costs and any Additional Program Costs for that Fiscal year of the Council, the Board of Directors shall direct the Fiscal Agent to promptly notify in writing each Member of any additional Aggregation Costs and Additional Program Costs, the amount of any deficiencies and each Member's share of those additional costs, all as determined by the Board of Directors, whereupon each Member shall appropriate (pursuant to Chapter 5705 of the Revised Code) the amount stated in the notice and remit the same to the Fiscal Agent within forty-five (45) days after receipt of that written notice.

Failure by a Member to appropriate and remit any of its share of the Council Costs and Additional Program Costs pursuant to these Bylaws within sixty (60) days after the same shall become due shall be deemed a withdrawal by such Member pursuant to Section 6 of the Agreement unless the Member has petitioned the Board of Directors for an extension of time for payment and the Board of Directors has, by resolution, approved an extension to a date certain and the Member has remitted at least twenty-five percent of its share of the Aggregation Costs and any Additional Program Costs to the Fiscal Agent.

Under no circumstances shall the Fiscal Agent have the power to incur obligations for Aggregation Costs and Additional Program Costs in an amount which exceeds the total unspent amount appropriated for Aggregation Costs or any Additional Program Costs, respectively, and remitted to the Fiscal Agent by the Members pursuant to this Agreement, except as may be permitted by law.

Section 9. Conduct of Meetings.

All meetings provided for in these Bylaws shall be conducted in accordance with the latest edition of Robert's Rules of Order, Revised unless otherwise directed by these Bylaws or by resolution of the Assembly, the Board of Directors, or any Advisory Committee with respect to the meetings of each of those bodies. The chairman of each of those bodies shall be the parliamentary procedure officer and his or her decisions with respect to matters of parliamentary procedure shall be final.

Section 10. Amendments.

These Bylaws may be modified, amended or supplemented in any respect upon approval of the modification, amendment or supplement by at least two-thirds of the Members' representatives, and the approved amendment, modification, or supplement shall only thereupon become binding upon all Members.

Section 11. Initial Operation of the Council.

In the first Fiscal Year of the Council's operation, actions required by these Bylaws to be taken at the annual meeting of the Assembly or the first meeting of the Board of Directors shall be taken as soon as practical upon the establishment of the Council.

Section 12. Authorization of the Council to Initiate, Intervene, and Participate in Federal and State Proceedings.

Pursuant to R.C. Chapter 167, the Agreement, these Bylaws and Ohio law, the Members authorize the Council to initiate, intervene, and/or participate in any utility or other case or proceeding, federal or state, that relates to any electric or natural gas rate, charge, policy, service, regulation, rulemaking, practice or condition affecting any Council Member or Council electricity or natural gas aggregation customer, including, without limitation, those involving transmission, distribution, generation, production, commodity, market design, competition, or otherwise. The Chairman and/or the Executive Director of the Council are authorized to engage legal counsel and consultants in connection with the Council's involvement in any such case or proceeding.

ADOPTED this 29th day of November, 2000.

AMENDED this 13th day of November, 2008.

AMENDED this 10th day of November, 2015.

AMENDED this 15th day of November, 2016.

AMENDED this 12th day of November, 2019.

NORTHEAST OHIO PUBLIC ENERGY COUNCIL

Exhibit A

The definition of the Northeast Ohio Region, the Northwest Ohio Region, the Central Ohio Region, the Southwest Ohio Region and the Southeast Ohio Region as used in these Bylaws shall mean the counties identified in each Region as follows on the attached map:

Northeast Ohio Region:	Ashtabula Columbiana Cuyahoga Erie Geauga Huron Lake Lorain Mahoning Medina Portage Richland Sandusky Seneca Stark Summit Trumbull
Northwest Ohio Region:	Allen Auglaize Defiance Fulton Hancock Hardin Henry Lucas Mercer Ottawa Paulding Putnam Van Wert Williams Wood

Central Ohio Region:	Ashland Coshocton Crawford Delaware Fairfield Franklin Holmes Knox Licking Marion Morrow Muskingum Perry Tuscarawas Wayne Wyandot
Southwest Ohio Region:	Adams Brown Butler Champaign Clark Clermont Clinton Darke Fayette Greene Hamilton Highland Logan Madison Miami Montgomery Pickaway Pike Preble Ross Shelby Union Warren

Southeast Ohio Region:	Athens Belmont Carroll Gallia Guernsey Harrison Hocking Jackson Jefferson Lawrence Meigs Monroe Morgan Noble Scioto Vinton Washington

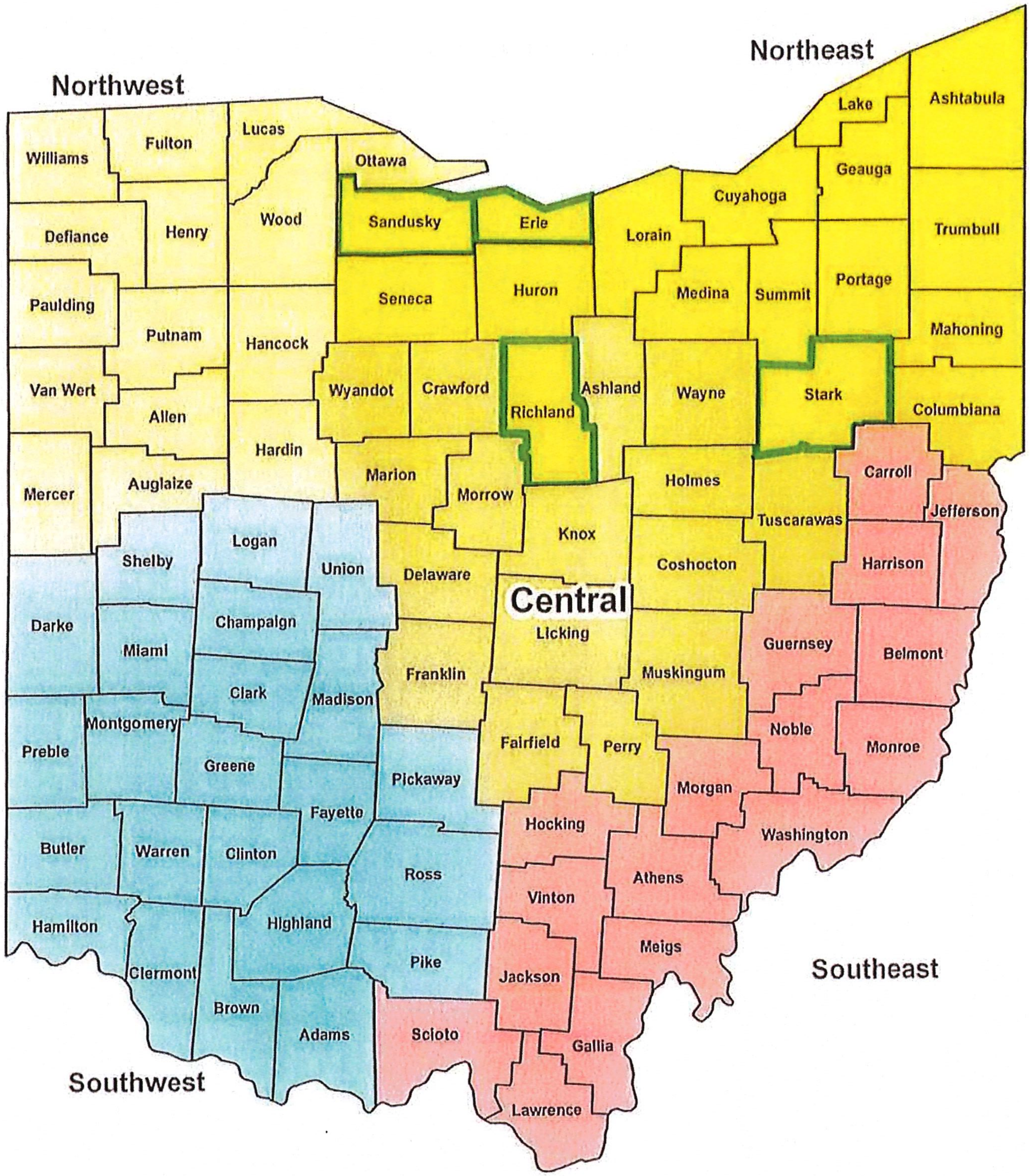

Northwest
Northeast
Central
Southwest
Southeast
Williams
Fulton
Lucas
Ottawa
Defiance
Henry
Wood
Sandusky
Erie
Lorain
Cuyahoga
Lake
Ashtabula
Geauga
Trumbull
Paulding
Putnam
Hancock
Seneca
Huron
Medina
Summit
Portage
Mahoning
Van Wert
Allen
Wyandot
Crawford
Richland
Ashland
Wayne
Stark
Columbiana
Mercer
Auglaize
Hardin
Marion
Morrow
Holmes
Carroll
Jefferson
Shelby
Logan
Union
Delaware
Knox
Coshocton
Tuscarawas
Harrison
Darke
Miami
Champaign
Licking
Guernsey
Belmont
Clark
Madison
Franklin
Muskingum
Noble
Monroe
Preble
Montgomery
Greene
Fairfield
Perry
Pickaway
Morgan
Washington
Fayette
Hocking
Butler
Warren
Clinton
Ross
Athens
Hamilton
Highland
Vinton
Meigs
Clermont
Pike
Jackson
Brown
Adams
Scioto
Gallia
Lawrence

EXHIBIT B

CITY OF ATHENS, OHIO

NATURAL GAS PROGRAM AGREEMENT
OF
THE NORTHEAST OHIO PUBLIC ENERGY COUNCIL

This Natural Gas Program Agreement of the Northeast Ohio Public Energy Council (the "Agreement") is entered into as of _________________, 2013, by and among the Northeast Ohio Public Energy Council, a regional council of governments organized pursuant to Revised Code Chapter 167 ("NOPEC" or "Council") and the municipal corporations, counties, townships and regional councils of government of the State of Ohio (each a "Participant" and together, the "Participants") that have executed this Agreement, listed on Exhibit A hereto.

RECITALS:

WHEREAS, each Participant entered into an Agreement Establishing the Northeast Ohio Public Energy Council pursuant to Revised Code Chapter 167, for the purpose of carrying out an electricity aggregation program (the "Council Agreement") and any Additional Programs which the Participants may approve, from time to time, and which are authorized under the laws of the State;

WHEREAS, NOPEC has determined to undertake an opt-out natural gas program on a cooperative basis (the "Gas Aggregation Program") by which eligible natural gas consumers located within a Member's jurisdiction will purchase natural gas from the Supplier unless the consumer opts out of the Gas Aggregation Program;

WHEREAS, each Participant that is a signatory to this Agreement has adopted the necessary resolutions and/or ordinances to submit a ballot question to its electors and such electors have authorized each such Participant to undertake a natural gas opt-out program in such participating community, and each Participant has been authorized to participate in the Gas Aggregation Program and execute and deliver this Agreement; and

WHEREAS, it is necessary to create and adopt guidelines for the management and administration of the Gas Aggregation Program.

NOW, THEREFORE, it is agreed by and among NOPEC and the Participants whose representatives have executed this Agreement in accordance with the authorizing resolution(s) and/or ordinance(s) that:

Section 1. Definitions.

As used in this Agreement, capitalized words and phrases shall have the meanings given to them in the Agreement Establishing the Northeast Ohio Public Energy Council, herein called the "Council Agreement," and the Bylaws Governing the Northeast Ohio Public Energy Council, herein called the "Bylaws." In addition, the following words shall have the following meanings:

"Agreement" means this Natural Gas Program Agreement of the Northeast Ohio Public Energy Council, as the same may be amended, modified or supplemented in accordance with Section 6 hereof.

"Customer(s)" means those natural gas customers located within the jurisdiction of a Participant that is participating in the Gas Aggregation Program and who is not a person described in Revised Code Section 4929.26(A)(2).

"Gas Aggregation Program" means the Natural Gas Program of NOPEC.

"Supplier" means any person, corporation, partnership or other entity with which NOPEC may contract for the purchase of natural gas.

Section 2. Arrangements for Aggregation of Natural Gas.

On behalf of the Participants, NOPEC may enter into one or more contracts with one or more Supplier(s) to supply Customers with natural gas. The selection of each Supplier shall be determined and approved at the sole and absolute discretion of the Board of Directors.

Section 3. Management and Operation of Program.

The Board of Directors of the Council, established pursuant to the Council Agreement, shall have, in addition to its powers and duties under the Council Agreement and the Bylaws adopted by the representatives to the Council, the power and authority to oversee and manage the operation of the Gas Aggregation Program in accordance with the NOPEC Natural Gas Aggregation Program Plan of Operation and Governance adopted pursuant to division (C) of Section 4929.26 of the Revised Code.

Section 4. Withdrawal of a Participant.

(a) Any Participant wishing to withdraw from participation in the Gas Aggregation Program shall notify NOPEC at least nine (9) months prior to the end of any the NOPEC Gas Aggregation Program's primary two (2) year opt-out period in such Member's community in strict compliance with the procedure described in Section 4(b) hereof. Such withdrawal shall cause such Participant's participation in the Gas Aggregation Program to be terminated which termination shall not be effective until (i) the end of any such two (2) year opt-out period in such Member's community; and (ii) such withdrawing Participant has paid to NOPEC the Gas Withdrawal Fee (as defined in Section 4 (c) hereof).

(b) Any notification of withdrawal of a Participant must include a (i) certified copy of duly adopted legislation of the governing body of the withdrawing Participant authorizing such withdrawal; and (ii) fiscal officer's certificate executed by the appropriate fiscal officer of such withdrawing Participant evidencing that the withdrawing Participant has appropriated funds sufficient to pay NOPEC the Gas Withdrawal Fee.

(c) Provided that NOPEC does not charge its Participants a fee to be a member of NOPEC, any Participant seeking to withdraw from NOPEC's Gas Aggregation Program, prior to its withdrawal, shall pay NOPEC a withdrawal fee for withdrawing from the Gas Aggregation Program. Such withdrawal fee shall be calculated by NOPEC (whose calculation shall be final and presumed conclusively correct) and shall be the amount NOPEC would have received as an administrative fee from the Supplier to the Gas Aggregation Program with respect to the Customers served in the withdrawing Participant's community during a one (1) year period (the "Gas Withdrawal Fee").

(d) After withdrawal, the withdrawing Participant may not become a Participant again until it has fully complied with the procedures contained in Section 5 hereof.

Section 5. Inclusion of Additional Participants.

Any Ohio municipal corporation, county or township may apply to the Board of Directors for inclusion in the Gas Aggregation Program by submitting an application in writing. In such case, such application shall be accompanied by a duly adopted ordinance or resolution of the applicant's governing body submitting a ballot question to its electors; certified election results showing passage of such ballot issue; and a duly adopted ordinance or resolution requesting inclusion in the NOPEC's Gas Aggregation Program and authorizing execution of this Agreement by the applicant. The applicant shall submit to the Board of Directors information concerning its natural gas requirements and any other documentation or other records requested by the Board of Directors or the Fiscal Agent. Thereafter, the Board of Directors shall determine whether and at what time the applicant should be included in the Gas Aggregation Program. The applicant shall be included in the Gas Aggregation Program and deemed a Participant on the date recommended by the Board of Directors if its participation is approved by the Board of Directors, the applicant executes this Agreement and adopts the NOPEC Plan of Operation and Governance.

Section 6. Amendments.

This Agreement may be modified, amended or supplemented in any respect not prohibited by law upon approval of the modification, amendment or supplement by the governing bodies of at least two-thirds (2/3) of the Participants.

Section 7. Term of the Agreement.

It is the express intention of the Participants that this Agreement shall continue for an indefinite term, but may be terminated as provided in Section 8.

Section 8. Termination.

In the event that two-thirds (2/3) of the governing bodies of the Participants, by duly adopted resolutions, determine that this Agreement shall be terminated, the Board of Directors shall meet, within thirty (30) days following receipt of certified copies of such resolutions, to determine the date upon which this Agreement and the activities and operations of the Program shall terminate and to make recommendations to the Participants with respect to matters which must be resolved upon termination of the Program which are not addressed by this Agreement.

Section 9. Miscellaneous.

This Agreement shall be construed under the laws of the State of Ohio. If the date on which any action or payment required to be taken or made under this Agreement is a Saturday, Sunday or legal holiday in the State of Ohio, that action shall be taken or that payment shall be made on the next succeeding day which is not a Saturday, Sunday or legal holiday.

Section 10. Effectiveness.

This Agreement shall be effective when executed by at least ten (10) of the Participants listed in Appendix A attached to this Agreement. Each Participant executing this Agreement shall deliver to the Fiscal Agent a certified copy of the resolution of its governing body authorizing execution of this Agreement.

Section 11. Notices; Reports; Miscellaneous.

Any notice to a Participant required to be in writing shall be deemed given if left at the office of the Assembly representative of such Participant or deposited in the United States mail, postage prepaid, by registered mail addressed to that representative. As to NOPEC, any notice required to be in writing shall be deemed given if deposited in the United States mail, postage prepaid, by certified mail addressed to:

Northeast Ohio Public Energy Council
31320 Solon Road
Suite 33
Solon, OH 44139
Attention: Chairman

IN WITNESS WHEREOF, the undersigned representatives of the respective Participants, pursuant to the duly adopted authorizing resolutions of their governing boards, have on behalf of their respective Participants signed this Agreement.

NORTHEAST OHIO PUBLIC ENERGY COUNCIL

By:____________________________________
Ron McVoy, Chairman

PARTICIPANT:

[___________________________]

____

By:____________________________________

Its:____________________________________

APPENDIX A

Participants

Village/City/Township of ________________, ____________ County

0-83-23

Introduced by Sarah Grace, Chair
Planning & Development Committee

AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO EXECUTE A 25-YEAR EASEMENT WITH OHIO UNIVERSITY TO REPLACE A WATERLINE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: Athens City Council does hereby authorize the Service-Safety Director to execute a 25-year easement agreement with Ohio University, commencing on August 1, 2023 and expiring on July 31, 2048, to replace a waterline, for the total consideration of Eighteen and 04/100 Dollars ($18.04), a copy of said agreement is attached hereto and incorporated herein by reference.

SECTION II: This Ordinance shall be in effect and full force upon passage and approval by the Mayor.

____
President of Council

ATTEST: APPROVED:

____
Clerk of Council

____
Mayor

STATE OF OHIO EASEMENT

This Agreement (hereinafter referred to as "Agreement"), dated as of ____________________________, 2023, is made and entered into by and between the State of Ohio, acting by and through the Department of Administrative Services, General Services Division, Office of Real Estate and Planning, 4200 Surface Road, Columbus, Ohio 43228-1395, the Grantor (hereinafter referred to as "State"), for and on behalf of the Ohio University (hereinafter referred to as "Agency"), and The City of Athens, a ,municipality, duly formed and existing under the laws of the State of Ohio (hereinafter referred to as "Grantee"), having its principal place of business located at 8 East Washington Street, Athens, Ohio 45701, pursuant to the provisions of Section 123.01(A)(5) of the Ohio Revised Code.

RECITALS

WHEREAS, State is the owner, in fee simple, of the land described in Exhibit "A" attached hereto and made a part hereof and more particularly depicted in Exhibit "B" attached hereto and made a part hereof (hereinafter referred to as "Easement Area"). Further reference is made to DAS File No. 886 on file with the State; and

WHEREAS, Grantee desires to obtain from State an easement in order to permit the installation, construction, reconstruction, use, operation, maintenance, repair, replacement, removal, servicing and improvement of a certain 14-inch water main line upon the Easement Area; and

WHEREAS, Agency requested the State prepare this Agreement; and

NOW, THEREFORE, in consideration of the terms and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

I. USE OF PREMISES.

State does hereby grant a non-exclusive easement unto Grantee to be used solely to install, construct, reconstruct, use, operate, maintain, repair, replace, remove, service and improve in, on, over, under, across, through and upon the Easement Area a 14-inch water line (hereinafter referred to as "Improvement"). On or before the Expiration Date (as defined below) or earlier if this Agreement is terminated pursuant to the provisions hereof, Grantee shall remove, or cause the removal of, all component parts of the Improvement and restore the ground to its original condition at its own cost and expense, unless the parties agree otherwise in writing.

II. TERM.

The term of this Agreement shall be for Twenty Five (25) years, commencing on August 1, 2023 (hereinafter referred to as "Commencement Date"), and expiring on July 31, 2048 (hereinafter referred to as "Expiration Date"), unless earlier terminated pursuant to a subsequent agreement between the parties or in accordance with the provisions of Paragraph X hereof.

III. CONSIDERATION.

Grantee shall pay to Agency the total sum of Eighteen and 04/100 Dollars ($18.04) in consideration of State's granting an easement. Grantee shall tender such payment payable to the "Treasurer, State of Ohio" to Agency upon delivery to Grantee of a fully executed counterpart of this Agreement.

IV. CONSTRUCTION/MAINTENANCE.

(A) Grantee agrees that the Improvement shall be installed, constructed, reconstructed, used, operated, maintained, repaired, replaced, removed, serviced and improved at all times in accordance with all local, state or federal laws, rules and regulations and applicable industry guidelines, including compliance with all applicable Equal Employment Opportunity laws. If no such laws, rules, regulations or industry guidelines are applicable to the Improvement, then responsible engineering practices shall be the control.

(B) If the surface of the ground in the Easement Area is disturbed at any time, Grantee shall provide necessary fill, re-sod or re-seed any grassed areas, and make such repairs and replacements for a period of not less than one (1) year after the date of such disturbance as may be needed to restore the ground to its former condition or pay State for all damages caused thereto.

(C) Grantee shall notify State immediately when any installation belonging to a party other than Grantee, or any unusual condition, is encountered in the Easement Area.

(D) Grantee shall prior to the commencement of any work permitted hereunder obtain and thereafter maintain, at its sole cost and expense, all licenses, permits, etc. required by law with respect to said work or the Improvement.

(E) State or Agency may locate, relocate, install, construct, reconstruct, maintain, operate, repair, remove, use and place property improvements in, on, over, under, across, through and upon the Easement Area, so long as State's or Agency's improvements do not unreasonably impair the strength of or unreasonably interfere with Grantee's ability to use the Easement Area and maintain its Improvement.

(F) Grantee shall comply with the provisions of Chapter 4115 of the Ohio Revised Code, Prevailing Wage Requirements, as applicable.

(G) Grantee shall maintain and repair its Improvement at its own cost and expense on a continuous and ongoing basis for the term of this Agreement. Any maintenance and repairs shall be performed in a good and workmanlike manner.

V. LIABILITY.

Grantee shall indemnify and hold State harmless, so far as permitted by Ohio law, from any claims, demands, causes, actions and damages arising out of any act, omission or neglect by Grantee or any of its successors, assigns, agents, servants, employees, contractors, subcontractors and invitees ensuing from or in connection with Grantee's occupation and use of the Easement Area and operation or maintenance of the Improvement. Nothing contained herein shall be deemed to be a waiver by State of any legal or factual defenses, which State may enjoy.

The provisions of this Paragraph V shall survive the expiration or termination of the term of this Agreement.

VI. INSURANCE.

At all times during the term of this Agreement, Grantee shall maintain adequate reserves and funding to compensate for bodily injury, personal injury, wrongful death and property damage or other claims including defense costs and other loss adjustment expenses arising out of or related to the Easement Area. At State's request, Grantee shall provide written proof to assure that the appropriate levels of financial responsibility are being retained. Failure to comply with this clause shall constitute a default of this Agreement.

VII. MECHANIC'S LIENS.

(A) Nothing contained in this Agreement shall be construed as constituting State's consent, express or implied, to or for the performance of any labor or services or furnishing of any materials for the installation, construction, reconstruction, usage, operation, maintenance, repair, replacement or improvement of the Easement Area or any portion thereof or the Improvement or any portion thereof.

(B) Grantee shall not allow any liens or encumbrances to be filed against the Easement Area, or any portion thereof, other than (i) liens created by or resulting from any act or status of State or failure by State to perform any obligation not required to be performed by Grantee hereunder, or (ii) liens created by or resulting from any act or status or failure to act by Grantee to which State shall have expressly consented in writing. If such a lien or encumbrance is placed of record against the Easement Area, or any portion thereof, Grantee shall, within thirty (30) days after receiving notice thereof, remove or discharge same or bond off such lien or encumbrance.

VIII. TAXES/ASSESSMENTS.

If as a result of this Agreement any taxes and/or assessments, whether general or special, ordinary or extraordinary, unforeseen or foreseen, of any kind or nature whatsoever, shall be assessed, levied, confirmed, imposed upon, or grow or become due and payable out of or in respect of, or become a lien on the Easement Area and/or the Improvement, Grantee shall be fully responsible for and shall pay same before any fine, penalty, interest or costs may be added thereto, or become due or be imposed by operation of law for the nonpayment thereof.

IX. ASSIGNMENT.

Grantee may not assign or transfer this Agreement, in whole or in part, without the prior written consent of the State, whose consent may be withheld for any reason. Should consent to any such assignment be approved, Grantee shall notify the Agency. Any approved assignment or transfer shall not relieve Grantee of its obligations and duties under the terms, covenants and conditions of this Agreement. Grantee shall cause any assignee or transferee to expressly assume, and by reason of such assignment or transfer shall be deemed as having assumed, all of the obligations and duties of Grantee hereunder.

X. TERMINATION.

This Agreement may be terminated by State upon ninety (90) days' notice given to Grantee if the Easement Area, or any portion thereof, is needed by State for any public or quasi-public use or purpose. On or before the date stated in such notice of termination, Grantee shall remove, or cause the removal of all component parts of the Improvement and restore the Easement Area to its original condition, at its own cost and expense, if State so requests. Grantee shall have no claim against State for the value of any unexpired portion of the original term of this Agreement or for the Improvement. Upon termination of this Agreement, State shall have the immediate right to re-enter and repossess all or any portion of the Easement Area.

This Agreement may be terminated at any time by Grantee by delivering written notice to State and Agency setting forth the date Grantee intends to terminate. Upon either the voluntary termination of this Agreement, or the end of the term hereof, Grantee shall remove all of the Improvement prior to termination, at its own cost and expense, if State so requests, and shall restore the Easement Area to its original condition, unless otherwise agreed to in writing by State and Agency. Grantee's obligations hereunder shall continue until such time as the Improvement is fully removed and the Easement Area fully restored as required herein, notwithstanding the stated date of termination in the notice provided by Grantee, or in the Agreement. Failure to remove the Improvement shall not be considered an extension of the term of the Agreement. No portion of any consideration paid pursuant to the terms of the Agreement will be refunded to Grantee.

XI. DEFAULT.

(A) State may find Grantee in default of this Agreement when any one or more of the following events shall have occurred and shall not have been remedied as hereinafter provided: (i) Grantee's failure to make any payment required to be paid by Grantee when the same shall become due and payable or (ii) Grantee's failure to perform or observe any other covenant, term, or condition herein contained on Grantee's part to be performed or observed.

(B) If the State finds Grantee to be in default under Paragraph XI(A), Grantee must cure such default within fifteen (15) days after the giving of notice to Grantee by State of such failure. If Grantee proceeds to promptly and continuously cure the same default with due diligence, then upon receipt by State of notice from Grantee stating the reason that such default cannot be cured within fifteen (15) days and stating that Grantee is proceeding with due diligence to cure such default, the State may extend such time within which such default may be cured for such period as may be necessary to complete the curing of same with due diligence.

(C) If Grantee fails to cure such default, then State may give to Grantee, at State's option, a notice of election to terminate this Agreement upon the date specified in such notice, which date shall not be less than ten (10) days after the date of such notice, and upon the date specified in such notice the term of this Agreement shall expire and terminate as fully and completely and with the same effect as if such date were the Expiration Date, and all rights of Grantee shall thereupon expire and terminate, and Grantee shall remove or cause the removal of the Improvements and restore the Easement Area to its original condition at its own cost and expense, if State so requests.

(D) Upon termination of this Agreement, State shall have the immediate right to re-enter and repossess all or any portion of the Easement Area.

(E) Upon the termination of this Agreement by reason of the happening of any event of default specified in this Paragraph XI, or in any other manner or circumstances whatsoever pursuant to legal process, by reason of or based upon or arising out of the occurrence of any such event of default under this Agreement, Grantee shall pay to Agency all sums required to be paid by Grantee up to the time of such termination.

XII. RECORDATION.

At its expense and within thirty (30) days of its receipt, Grantee shall present for recording a fully executed Agreement in accordance with Chapter 5301 of the Ohio Revised Code in the office of the County where the Easement Area is located. Grantee shall do likewise with respect to any addendum to this Agreement which may be entered into hereafter by the parties. As proof of recording, Grantee shall promptly return a copy of the recorded Agreement to the State.

XIII. RIGHTS CUMULATIVE.

All rights and remedies of State enumerated in this Agreement shall be cumulative and, except as specifically contemplated otherwise by this Agreement, none shall exclude any other right or remedy allowed at law or in equity, and said rights or remedies may be exercised or enforced concurrently and all obligations, rights or remedies shall survive formal termination of this Agreement.

XIV. WAIVER.

The waiver by State of, or the failure of State to take action with respect to, any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition, or subsequent breach of the same, or any other term, covenant or condition herein contained. The subsequent acceptance of any payment hereunder by State shall not be deemed to be a waiver of any preceding breach by Grantee of any term, covenant or condition of this Agreement.

XV. NOTICES, DEMANDS OR INSTRUMENTS.

All notices, demands, requests, consents, approvals and other instruments required or permitted to be given pursuant to the terms of this Agreement shall be in writing and shall be deemed to have been properly given when hand-delivered or sent by U.S. certified mail, return receipt requested, postage prepaid,

(a) with respect to State, addressed to:
Ohio Department of Administrative Services
General Services Division
Office of Real Estate and Planning

4200 Surface Road
Columbus, Ohio 43228-1395
Attention: Administrator

(b) with respect to Agency, addressed to:
Office of Real Estate
1 Ohio University
Athens, Ohio 45701
Attention: Director of Real Estate

and,

(c) with respect to Grantee, addressed to:
City of Athens
City Service-Safety Director
8 E. Washington Street
Athens, Ohio 45701
Attention: Andrew Stone, Service-Safety Director

With copy to:

City of Athens
Legal Department
8 E. Washington Street, Suite 301
Athens, Ohio 45701
Attention: Law Director

Each party shall have the right from time-to-time to specify as its address for purposes of this Agreement any other address in the United States of America upon giving not less than fifteen (15) days' notice thereof, similarly given, as provided for in this paragraph.

XVI. MODIFICATIONS.

This Agreement may not be changed, modified or discharged except by a writing signed by duly authorized representatives of both State and Grantee.

XVII. GOVERNING LAW.

This Agreement shall be governed by and interpreted under the laws of the State of Ohio. Any action or proceeding arising out of the terms of this Agreement shall be brought only in a court of competent jurisdiction located in Franklin County, Ohio.

XVIII. HEADINGS.

The headings to the various paragraphs and exhibits to this Agreement have been inserted for reference only and shall not to any extent have the effect of modifying, amending or changing the express terms and provisions of this Agreement.

XIX. CAMPAIGN CONTRIBUTIONS & ETHICS COMPLIANCE.

Grantee hereby certifies that neither Grantee nor any of Grantee's partners, officers, directors, shareholders, nor the spouse of any such person have made contributions in excess of the limitations specified in Section 3517.13 of the Ohio Revised Code.

Grantee, by signature on this document, certifies that it has reviewed and understands the Ohio ethics and conflict of interest laws, is currently in compliance and will continue to adhere to the requirements of such laws and will take no action inconsistent with those laws.

XX. INDEPENDENT CONTRACTOR STATUS.

It is fully understood and agreed that Grantee is an independent contractor and neither Grantee nor its personnel shall at any time, or for any purpose, be considered agents, servants, or employees of the Agency, or the State of Ohio, or public employees for the purpose of Ohio Public Employees Retirement Systems benefits.

Intentionally Left Blank

The terms of the within State of Ohio Easement are accepted and agreed to by Ohio University.

By: ______________________________ Date: ______________________

Mark Heil
Vice President of Finance and Administration

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have executed and delivered this Agreement as of the date first set forth above.

GRANTOR
The STATE OF OHIO

By: ______________________________
Director of Administrative Services or
Signatory Designee
Statutory Agent, RC 123.01(A)(5)

ACKNOWLEDGMENT

State of Ohio, Franklin County, ss:

On this ____________ day of ________________________, 2023, before me personally appeared ______________________________ who acknowledged that the foregoing document is being executed for and on behalf of the Department of Administrative Services, acting on behalf of the State of Ohio, that the same is his/her own and the Department of Administrative Services' free and voluntary act and deed and that he/she is duly authorized to enter into said document for and on behalf of the Department of Administrative Services.

____
Notary Public, State of Ohio
My Commission Expires:___________

GRANTEE
The City of Athens
an Ohio Municipality

By: ______________________________
Andrew Stone

Title: City Service-Safety Director

ACKNOWLEDGMENT

State of Ohio, Athens County, ss:

On this ______ day of ____________________, 2023, before me personally appeared Andrew Stone, City Service-Safety Director, for the City of Athens, an Ohio municipality, who acknowledged that he executed the foregoing State of Ohio Easement for and on behalf of The City of Athens and that the same is his and the Grantee's free and voluntary act and deed, and that he is duly authorized to execute the same on behalf of The City of Athens.

____
Notary Public, State of Ohio
My Commission Expires__________________

This State of Ohio Easement prepared by:
Ohio Department of Administrative Services
General Services Division
Office of Real Estate and Planning
4200 Surface Road
Columbus, Ohio 43228-1395
Phone No. (614) 387-6049

Exhibit "A"

Legal Description

Being an easement over and through the following described premises being in the city of Athens, Athens County and state of Ohio, said easement being thirty (30) feet in width, being fifteen (15) feet on either side of the following described lines:

Beginning at a point eighteen (18) feet southerly and fifteen (15) feet westerly of the southeast corner of Outlot No. 7; thence South eight degrees thirteen minutes West, a distance of 142.3 feet, parallel to and fifteen (15) feet westerly of the right-of-way line of Richland Avenue, to a point and containing 0.10 acres, more or less.

Exhibit "B"

Drawing

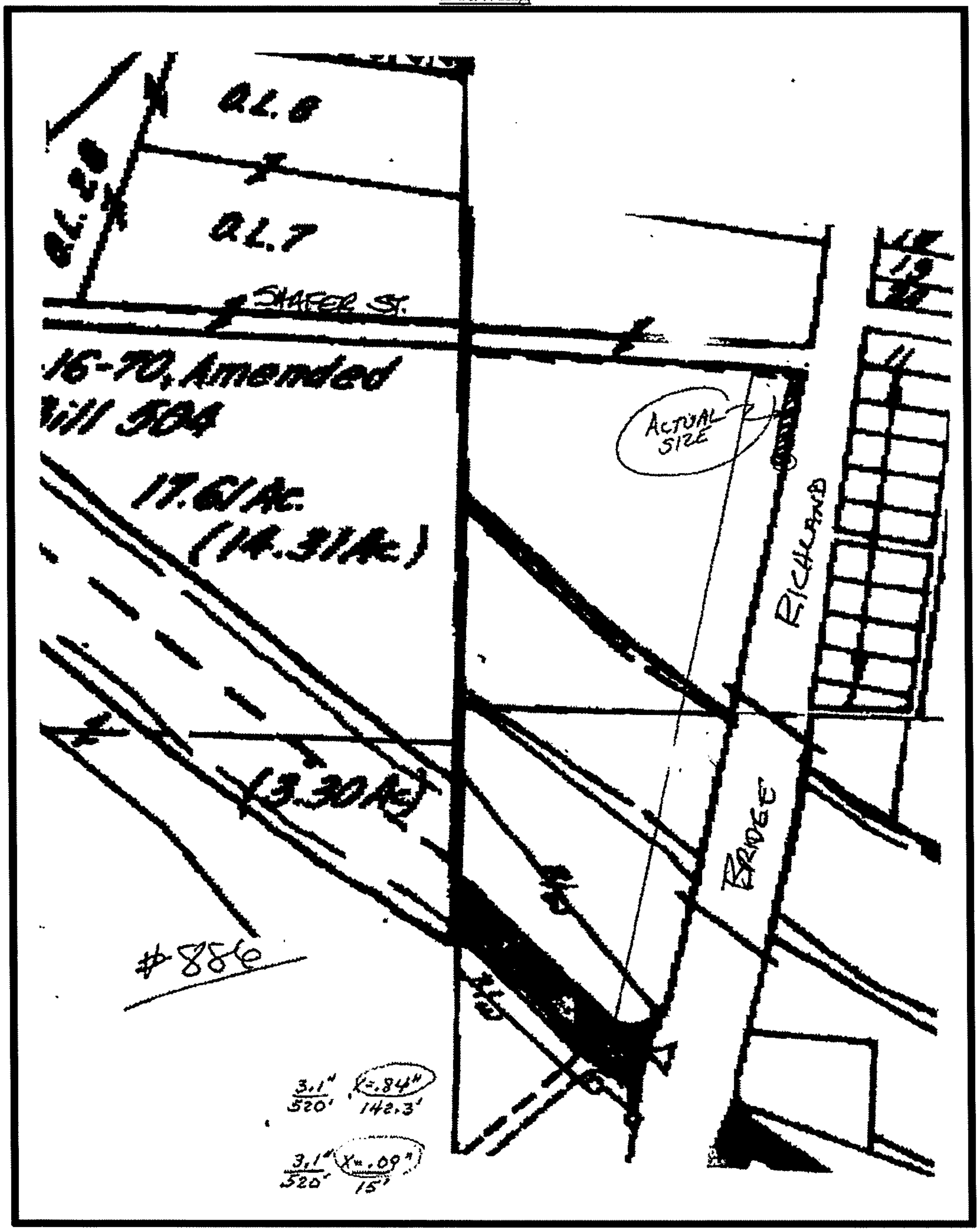
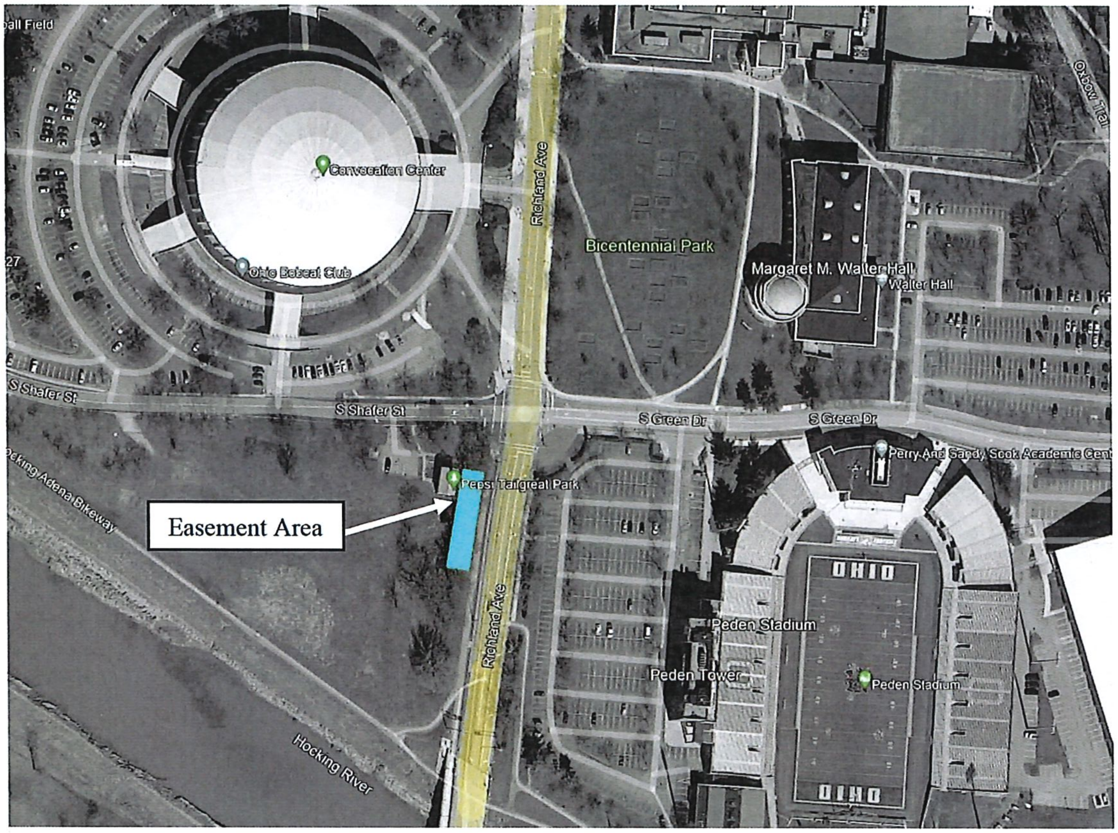


Exhibit "B"
(continued)



0-84-23

Introduced by Sarah Grace, Chair
Planning & Development Committee

AN ORDINANCE GRANTING A SPECIAL RIGHT-OF-WAY USE PERMIT AT 39 HOOPER STREET TO PATRICK AND JAMES BALDING, OWNERS, FOR CONTINUED USE OF THE CITY RIGHT-OF-WAY FOR AN EXISTING FENCE.

WHEREAS, Ordinances 108-99 and 88-13 approved a 10-year revocable licenses for said use of the City right-of-way;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: Having satisfactorily met the regulations established pursuant to Title 49, Management, Administration, and Control of the Use of the City's Public Rights-of-Way, a special right-of-way use permit is hereby granted at 39 Hooper Street, to Patrick and James Balding, owners, for continued use of the City right-of-way for an existing fence, as indicated on the application attached hereto and incorporated herein by reference.

SECTION II: Patrick and James Balding, owners, shall agree to indemnify, and save the City of Athens harmless from all claims, demands, costs, expenses, real estate taxes, if any, and compensation which might arise from the encroachment of permittees upon property of the City of Athens that is the subject of this ordinance. Permittees, Patrick and James Balding, owners, also shall agree that the City of Athens is maintaining the rights to install, repair and/or replace its utility lines that it determines are located within the permit area and that the City of Athens, its agents or assigns shall not be responsible for any damages that might occur to permittee's property as a result of the installation, repair, and/or replacement of its utility lines that are within the permit area.

SECTION III: Said permit shall be subject to the following conditions:

1. This special right-of-way permit is personal in nature and will be in effect for a maximum of seven (7) years from the date of issuance unless revoked by City Council ordinance, or there is a change of ownership or use, whichever comes first.
2. Patrick & James Balding, owners, shall be responsible for the maintenance and upkeep of said right-of-way.

SECTION IV: This Ordinance shall be in full force and effect at the earliest moment permitted by law upon its passage and approval by the Mayor.

President of Council

ATTEST:

APPROVED:

Clerk of Council

Mayor

TITLE 49 APPLICATION

Use of the City's Public Rights of Way

In accordance with Title 49, Application Fee: "At the time that a person submits an application for Use of Right of Way Permit, such person shall pay a non-refundable application fee of $50 payable to the City of Athens."

(For Office Use Only)
Permit # T4923-000006
Date Rec'd 7/13/2023

Applicant shall comply with all sections of Athens City Code Title 49 Right of Way. All required information shall be attached to application, including such things as but not limited to detailed site plans, a certificate of liability insurance listing City of Athens Ohio as certificate holder. Property owner shall be solely responsible for the maintenance and upkeep of said right-of-way.

Applicant Patrick Balding Phone 740-591-2441

Mailing Address 39 Hooper St. Athens OH 45701

Email Address baldingpat@gmail.com

Address of Project/ Site 39 Hooper St Athens OH 45701

Parcel Number A0290700000700, A0290700000701, A0290700000800, A0290700000900 Zoning Designation R

Property Owner Patrick + James Balding Phone 740-591-2441

Property Owner Mailing Address 39 Hooper St Athens OH 45701

Project Description To occupy Alley

I HEREBY SWEAR OR AFFIRM THAT ALL THE INFORMATION PROVIDED AND ATTACHED REQUIRED DOCUMENTATION ARE TO THE BEST OF MY KNOWLEDGE TRUTHFUL AND ACCURATE.

By signing this application, the applicant agrees to comply with all facets of Athens City Code Title 49.

Applicant Signature Patrick Balding Date 7/13/23

By signing property owner agrees to indemnify, and save the City of Athens harmless from all claims, demands, costs, expenses, real estate taxes, if any, and compensation which might arise from the encroachment of permittee upon property of the City of Athens that is the subject of this application.

Property Owner Signature Patrick Balding Date 7/13/23

For Official Use Only

1. **Code Enforcement Admin:** Signature ______ Date ______

   ☒ Supporting Documents Attached ☒ Fee Paid Amount $ ______

2. **Code Directors Review:** ☒ Approved ☐ Refused ☐ Missing Documentation

   Remarks ______

   Signature [signature] Date 7-17-23

3. **City Engineer Review:** ☒ Approved ☐ Refused ☐ Missing Documentation

   Remarks ______

   Signature [signature] for Saleh Eldeebaje Date 7-17-23

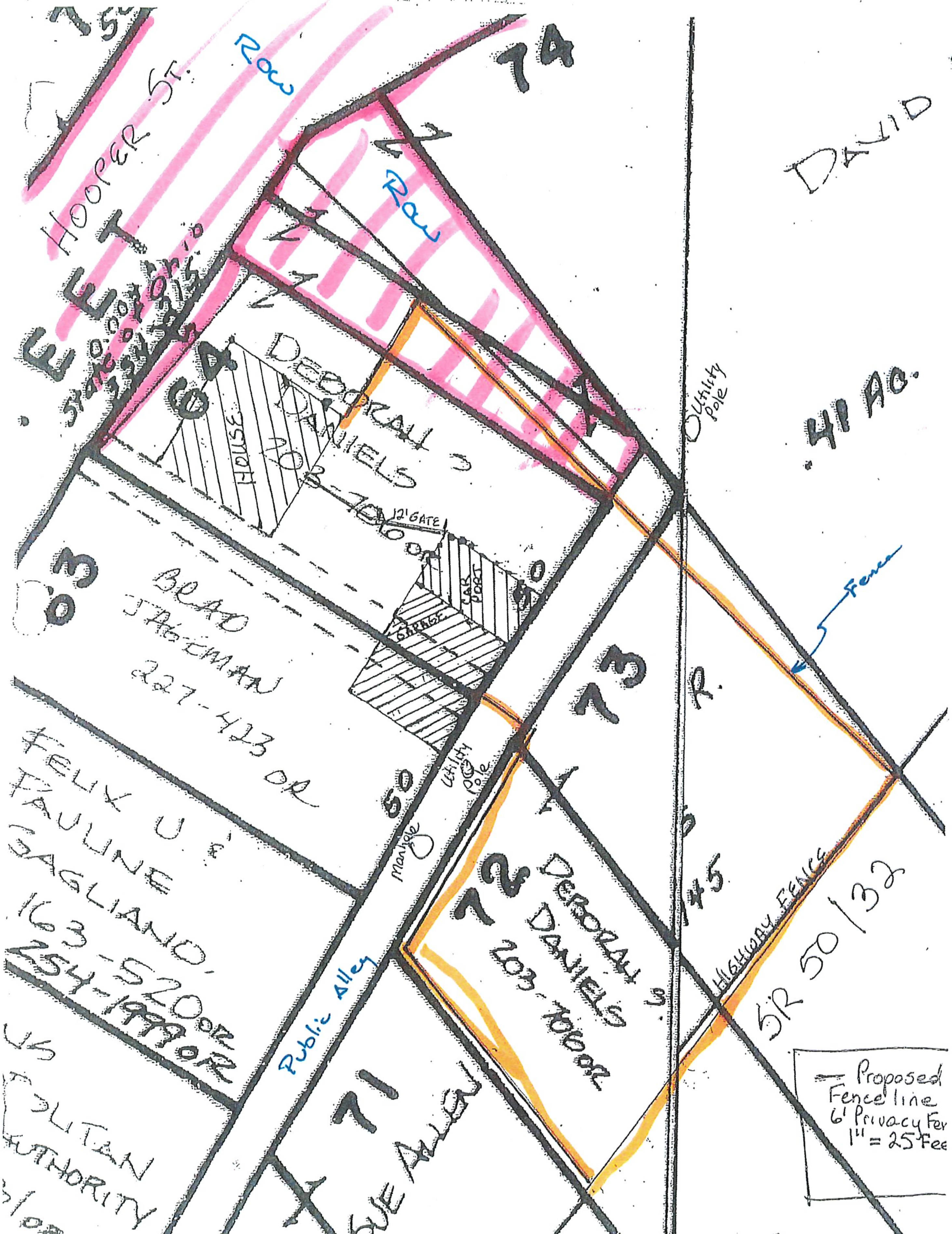
4. **Service Safety Director:** ☒ Approved ☐ Refused ☐ Missing Documentation

   Remarks ______

   Signature [signature] Date 7/17/2023

Rev. 04/2023

EXHIBIT "A"


Row
HOOPER ST.
Row
74
DAVID
.41 AC.
Utility Pole
DEBORAH DANIELS 203-706 OR
HOUSE
12' GATE
CAR PORT
GARAGE
BRAD JACKMAN 227-423 OR
50
FELIX U. & PAULINE SAGLIANO
163-520 OR
254-1999 OR
Utility Pole
Manhole
Public Alley
73
72
71
DEBORAH DANIELS 203-706 OR
145
Fence
HIGHWAY FENCE
SR 50 / 32
SUE ALLEN
AUTHORITY
— Proposed Fence line
6' Privacy Fen
1" = 25 Fee

American Strategic Insurance Corp
1 ASI Way
St. Petersburg, FL 33702

PROGRESSIVE HOME

Homeowners Declaration Page

Total Policy Premium: $1,457
Policy Number: OHA265462

Named Insured:
PATRICK J BALDING
39 HOOPER ST
ATHENS, OH 45701

Agent:
Progressive Ameriprise
P.O. Box 23039
Saint Petersburg, FL 33742

Agent Code: 444493
For Policy Service, Call: (855)643-4319
To File a Claim, Call: (866) 274-5677

Effective Date of This Transaction: 7/11/2023

Activity of This Transaction: Other

Residence Premises:
39 HOOPER ST
ATHENS, OH 45701

Policy Period: From: 04/29/2023 To: 04/29/2024
(At 12:01 AM Standard Time at the residence premises)

Plan Type: HOH

Coverage at the residence premises is provided only where a limit of liability is shown or a premium is stated.

Coverages and Limits of Liability		Limit	Premium
SECTION I:	A. Dwelling Coverage	$273,000	880.82
	B. Other Structures	$27,300	41.50
	C. Personal Property	$191,100	120.33
	D. Loss of Use	$54,600	Included
SECTION II:	E. Personal Liability - Each Occurrence	$300,000	25.00
	F. Medical Payments to Others - Each Person	$5,000	10.00

OTHER COVERAGES AND ENDORSEMENTS:
(Printed on the following page)

DEDUCTIBLE:

All Other Perils:	$1000
Wind & Hail:	$1000

Special Messages: OTHER COVERAGES, LIMITS AND EXCLUSIONS APPLY - REFER TO YOUR POLICY FOR DETAILS
THIS POLICY DOES NOT INCLUDE COVERAGE FOR FLOOD LOSSES.
A MINIMUM EARNED PREMIUM OF $50 APPLIES TO ALL POLICIES REGARDLESS OF HOW LONG THE POLICY IS IN FORCE. THIS IS NOT REFUNDED WHEN THE POLICY IS CANCELLED.

Mortgagee:

<u>1st Mortgagee</u>
The Citizens Bank Of Logan
188 W Main St
Logan, OH 43138
Loan #357757 Escrow: Yes

<u>2nd Mortgagee</u>

David L Pratt
President

Other Coverages and Endorsements:	Form Number	Limit	Premium
Homeowners Protection Policy	ASI HOH OH 04 21		
Coverage Explanation for Home Day Care Business	ASI HO NHDB 02 19		
Additional Interest	ASI HO AINT 06 15		
Functional Replacement Cost Loss Settlement	ASI HO FRC 07 19		
Progressive Home & Auto Bundle Package	ASI HO PHAA 01 21		
Scheduled Personal Property Endorsement	ASI HO SPP 02 21		
PC / Construction Factor			40.03
Ordinance or Law		27300	Included
Personal Prop Replmnt Cost	ASI HO PPRC 05 21		22.61
Household Factor			24.73
Number of Residents			-0.88
Paid in Full Discount			-108.24
Tier Factor Premium			-206.11
Package Policy Discount			-62.96
Roof Material			345.41
Claims Free Discount			-43.20
Updated Home			-4.15
Age of Dwelling			45.21
All Other Perils Deductible		1000	-13.54
Wind/Hail Deductible		1000	-27.85
Square Footage			-190.75
Mine Subsidence Coverage	OH MSI 2	273000	1.00
Total Water Peril Premium			297.33
Fixed Base Premium			95.00
Personal Injury Coverage	ASI HO PNJ 04 17		15.00
Water Backup Coverage	ASI HO WBU 02 19	5000	53.00
Number of Stories			14.64
Increased Repl Cost on Dwelling	ASI HO IRC 10 19	68250	32.70

Scheduled Items:

Category	Description of Property	Value	Premium
Misc Personal Property	Ameriprise Quoting: Misc Personal Property 1	5000	
Misc Personal Property		5000	$50.00

Additional Insured:

Interest:

Additional Interest:
City of Athens Ohio
28 Curran Dr
Athens, OH 45701
Interest:
Other

The ASI Group is an affiliate of The Progressive Corporation

Rating Information:

Construction Type:	Frame		
Type of Residence:	Single Family	Total Square Feet:	1,196
Year Built:	1946	ASI Territory:	601
Roof Year:	2003	County:	ATHENS

Special Conditions:

PLEASE READ YOUR POLICY DOCUMENTS CAREFULLY AS SPECIAL CONDITIONS AND EXCLUSIONS APPLY.
THESE INCLUDE, AMONG OTHERS:

1. LIMITED LIABILITY COVERAGE FOR WATERCRAFT AND RECREATIONAL VEHICLES
2. NO LIABILITY COVERAGE FOR EXCLUDED ANIMALS

Notes:

Added Additional Interest

0-85-23

Introduced by Sarah Grace, Chair
Planning & Development Committee

AN ORDINANCE ACCEPTING A CERTIFICATE OF REGISTRATION FROM MADISON ENERGY COOPERATIVE ASSOCIATION/UTILITY PIPELINE LTD, FOR USE OF THE CITY'S RIGHT-OF-WAY.

WHEREAS, the applicant will have a total of 3 miles of utility in the public right-of-way;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: Pursuant to Title 49, Management, Administration, and Control of the Use of the City's Public Right-of-Way, Chapter 49.03.02, Certificate of Registration Application, existing users of the City's public right-of-way must be registered with the City. The City hereby accepts the Certificate of Registration of Madison Energy Cooperative Association/Utility Pipeline LTD, as indicated on the application and exhibits attached hereto and incorporated herein by reference.

SECTION II: The term of said registration for Madison Energy Cooperative Association/Utility Pipeline LTD, shall be continuous unless revoked or terminated by the City of Athens.

SECTION III: This Ordinance shall be in full force and effect at the earliest moment permitted by law upon its passage and approval by the Mayor.

____
President of Council

ATTEST:

APPROVED:

____
Clerk of Council

____
Mayor

Office of Code Enforcement
& Community Development
28 Curran Drive
Athens, OH 45701
(740)592-3306
(740)594-6304 Fax
http://www.ci.athens.oh.us
codeoffice@ci.athens.oh.us

(For Office Use Only)

Registration # TR23-000001

Date Rec'd 7/13/2023

Certificate of Registration Application

Title 49

In accordance with Title 49 Application Fee: "At the time that a person submits an application for Certificate of Registration Application, such person shall pay a non-refundable application fee of $50 payable to the City of Athens."

Applicant Information:

Legal Status*: ☒ ***Corporation*** ☐ ***Partnership*** ☐ ***Other***

*identification of applicant's legal status (i.e., partnership, corporation, etc.) and ownership and control. If a corporation, a copy of the certificate of incorporation or its legal equivalent as recorded and certified to by the secretary of state or legal equivalent in the state or country in which applicant is incorporated.

Corporation Name Madison Energy Cooperative Association

Mailing Address 4100 Holiday St. NW, Suite 201, Canton ***State*** OH ***Zip*** 44719

Applicant Name Joseph Monaco **Phone #** 330-498-9130 ext. 307

Email Address jmonaco@utilitypipelineltd.com

24 HR Contact Information

Contact Name Tim Lantz

Emergency Phone # (can be reached 24 HRS a day) 740-270-4188

Total number of miles (rounded up to the nearest mile) of right-of-way being used or occupied by provider:

3 miles

Registered with The City of Athens Tax Department:

Withholding Tax Account: yes ☐ no ☒

Net Profit/Loss Account: yes ☐ no ☒

APPLICATION for Title 49 Registration
Pg. 2

Required Attachments:

Attached	N/A	
☒	☐	Certificate of insurance (if applicable) to be provided to meet the requirements of this chapter (The City of Athens listed as the Certificate Holder).
☐	☒	Copy of the applicant's certificate of authority from the PUCO and/or the FCC and/or FERC if the applicant is lawfully required to have or actually does possess such certificate(s) from said commission(s) and any other approvals, permits, or agreements including, but not limited to, any pole attachment and/or conduit use agreements existing between applicant and an owner of said poles and/or conduit.
☐	☒	A detailed description of applicant's proposed facilities, including, but not limited to, credible information detailing applicant's financial, managerial, and technical ability to fulfill applicant's obligations under this chapter and carry on applicant's proposed activities, and other information as described in this chapter and any rules and regulations.
☒	☐	Any information considered reasonably necessary and lawful to demonstrate willingness to comply with the requirements of this chapter and information that the city may request of the applicant that is relevant to the city's consideration of the application.

I HEREBY SWEAR OR AFFIRM THAT ALL THE INFORMATION PROVIDED IS TO THE BEST OF MY KNOWLEDGE TRUTHFUL AND ACCURATE. NEITHER I, NOR ANY PERSON CONTROLLING ME, HAVE BEEN ADJUDGED BANKRUPT OR BEEN FOUND BY ANY COURT OR ADMINISTRATIVE AGENCY TO HAVE VIOLATED A SECURITY OR ANTITRUST LAW, OR TO HAVE COMMITTED A FELONY, OR ANY CRIME INVOLVING MORAL TURPITUDE.

By signing this application, the applicant acknowledges the enforceability of application commitments, certifying that the application meets, and that the applicant will comply with, all federal, state and local law requirements, including without limitation, the requirements of Athens City Code Title 49.

Applicant Signature Joseph G Monaco, CFO

Dated this day the 10 **day of** July 2023

NOTARIAL SEAL STATE OF OHIO

ROBERT YODER
Notary Public, State of Ohio
My Commission Expires 12-05-2023

Notary Public, Robert G Yoder

My Commission Expires 12-5-2023

(Office Use Only) Registration #________

Reviewed by: [signature] Documents: ____ Fee ____ COI ____ Cert. Auth. ____ Descript. ____ Other

Director: [signature] ☒ Approved ☐ Denied Date: 7-17-23

Service-Safety Director: [signature] ☒ Approved ☐ Denied Date: 7/17/2023

City Council President: ________ ☐ Approved ☐ Denied Date: ________

UTILPIP-01 MWILMOTH

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 8/11/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
Schauer Group, Inc. 200 Market Ave. N Suite 100 Canton, OH 44702	PHONE (A/C, No, Ext): (330) 453-7721	FAX (A/C, No): (330) 453-4911
	E-MAIL ADDRESS: insure@schauergroup.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Starr Indemnity & Liability Co	
INSURED	INSURER B :	
Utility Pipeline, LTD. 4100 Holiday Street NW Suite 201 Canton, OH 44718	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC OTHER:			1000090738221	10/18/2022	10/18/2023	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 500,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
								$
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY			1000679514221	10/18/2022	10/18/2023	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $			1000095588221	10/18/2022	10/18/2023	EACH OCCURRENCE	$ 5,000,000
							AGGREGATE	$ 5,000,000
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					PER STATUTE / OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER	CANCELLATION
City of Athens 28 Curran Dr Athens, OH 45701	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

ACORD 25 (2016/03)

0-86-23

Introduced by Jeff Risner, Chair
Transportation Committee

AN ORDINANCE AUTHORIZING DISPOSAL OF A POLICE DEPARTMENT VEHICLE NO LONGER NEEDED FOR A MUNICIPAL PURPOSE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: Athens City Council hereby declares the following Athens Police Department vehicle no longer needed for a municipal purpose:

VEHICLE	SERIAL/VIN #	FIXED ASSET#
(APD) 2017 Jeep	1C4NJRBB9HD129560	850331

SECTION II: The above-listed vehicle is hereby authorized for disposal by donation to other governmental agencies, auction, sealed bids, trade-in, sell for scrap, or by Enterprise wholesale auctions or other Enterprise outlets.

SECTION III: This Ordinance shall be in full force and effect at the earliest moment permitted by law upon its passage and approval by the Mayor.

President of Council

ATTEST: APPROVED:

Clerk of Council Mayor

0-87-23

Introduced by Sam Crowl, Chair
Finance & Personnel Committee

AN ORDINANCE AMENDING THE 2023 APPROPRIATION ORDINANCE 155-22.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: The 2023 Appropriation Ordinance 155-22 is hereby amended by appropriating from the unappropriated balance the following sums:

Three Thousand Six Hundred Forty Dollars ($3,640.00) to General Fund, Lands & Buildings, 101.112, T.C. 200, for the 2023 NOPEC Energized Community Grant; and

Twenty Thousand Dollars ($20,000.00) to Water Fund, Administration 740.636, T.C. 300, for payments to Le-Ax Rural Water District under the Kershaw Greene agreement, and increasing the total appropriations by the same amounts.

SECTION II: This Ordinance shall be in effect and full force upon passage and approval by the Mayor.

President of Council

ATTEST: APPROVED:

Clerk of Council Mayor

0-88-23

Introduced by Micah McCarey, Chair
City & Safety Services Committee

AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO ENTER INTO AN AGREEMENT WITH THE LE-AX REGIONAL WATER DISTRICT FOR RELEASE OF CERTAIN REAL ESTATE PARCELS TO THE CITY FOR WATER SERVICE ALONG DAIRY LANE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: The Service-Safety Director is hereby authorized to enter into an agreement with the Le-Ax Regional Water District for the release of certain real estate parcels to the City for water service along Dairy Lane, a copy of the Agreement and Athens County Parcel Numbers are attached hereto and incorporated herein by reference.

SECTION II: The 2023 Appropriation Ordinance 155-22 is amended by appropriating from the unappropriated balance the sum of One Hundred Seventy-Eight Thousand Dollars ($178,000.00) to Water Fund, Administration, 740.636, T.C. 300, and increasing the total appropriations by said amount.

SECTION III: The Service-Safety Director is further authorized to expend up to One Hundred Seventy-Eight Thousand Dollars ($178,000.00) to Water Fund, Administration, 740.636, T.C. 300, for said Le-Ax release agreement.

SECTION IV: This ordinance shall be in full force and effect at the earliest moment permitted by law upon its passage and approval by the Mayor.

President of Council

ATTEST: APPROVED:

Clerk of Council

Mayor

AGREEMENT
TO RELEASE CERTAIN PARCELS
FROM THE LE-AX REGIONAL WATER DISTRICT
TO THE CITY OF ATHENS
FOR WATER SERVICE

WHEREAS, certain property with street addresses of 7990 Dairy Lane, Athens, OH 45701; 8000 Dairy Lane, Athens, OH 45701; 8225 Dairy Lane, Athens, OH 45701; 8044 Dairy Lane, Athens, OH 45701; 8133 Dairy Lane, Athens, OH 45701; and 8181 Dairy Lane, Athens, OH 45701 and other undeveloped parcels along Dairy Lane, being within the Athens City boundaries, listed on Exhibit A by Athens County Auditor Parcel Numbers, attached hereto and incorporated herein by reference, are currently provided water service by Le-Ax Regional Water District; and

WHEREAS, the Le-Ax Regional Water District Board of Trustees previously adopted a policy that permits the release of certain parcels from the Le-Ax Regional Water District so water service can be provided by the City of Athens when such parcel or parcels are at the perimeters of the Le-Ax Service Area, either within or sufficiently close to the City, and can be accommodated by the City of Athens, after payment to Le-Ax Regional Water District of an amount determined by Le-Ax Regional Water District for release of such acreage.

NOW THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS, in consideration of $178,000.00 paid by the City of Athens to Le-Ax Regional Water District, an ORC Chapter 6119 Regional Water District, Le-Ax Regional Water District hereby releases the parcels listed in Exhibit A from its District so those parcels can be served and provided municipal water by the City of Athens.

LE-AX REGIONAL WATER DISTRICT

By: ________________________________Date__________
John Simpson, General Manager

CITY OF ATHENS

By: ________________________________Date__________
Andy Stone, Athens City Service Director

Dairy Lane Parcel #/Address/Owner

Parcel #: A029050100200/ 8493 Dairy Lane/ City of Athens

Parcel #: A029050100300/ City of Athens

Parcel #: A029050100500/ S Park Dr (added just in case you needed it)/ City of Athens

Parcel #: A029050100400/ City of Athens

Parcel #: A029050100700/ 8225 Dairy Lane/ President and Board of Trustees of Ohio University

Parcel #: A029050101600/ 9 Dairy Lane/ State of Ohio

Parcel #: A029050100800/ President and Board of Trustees of Ohio University

Parcel #: A029050100900/ President and Board of Trustees of Ohio University

Parcel #: A029050101000/ Judith E Jones

Parcel #: A029050101100/ 8181 Dairy Lane/ Judith E Jones

Parcel #: A029050101200/ State of Ohio for the Benefit of the President & Trustees of Ohio University

Parcel #: A029050101300/ President and Board of Trustees of Ohio University

Parcel #: A029050101400/ President and Board of Trustees of Ohio University

Parcel #: A029050101500/ 8133 Dairy Lane/ Ohio University

Parcel #: A029050103000/ State of Ohio

Parcel #: A029050101700/ 8044 Dairy Lane/ Comm. Mental Health and Mental Retardation Service and Facilities

Parcel #: A029050101800/ Athens, Hocking, and Vinton Comm. Mental Health Board

Parcel #: A029050101900/ Athens, Hocking, and Vinton Comm. Mental Health Board

Parcel #: A029050102400/ Dairy Barn of Southeastern Ohio Cultural Arts Center

Parcel #: A029050102000/ Dairy Barn of Southeastern Ohio Cultural Arts Center

Parcel #: A029050102100/ 8000 Dairy Lane/ Dairy Barn of Southeastern Ohio Cultural Arts Center

Parcel #: A029050102300/ 7976 Dairy Lane/ Athens, Hocking, and Vinton Comm. Mental Health Board

Parcel #: A029050102200/ 7990 Dairy Lane/ Comm. Mental Health and Mental Retardation Service and Facilities

Parcel #: A029050101600/ State of Ohio

Parcel #: A010010064404/ Ohio Department of Mental Health

Parcel #: A029050100200/ City of Athens

Parcel #: A029050001100/ BVSHSSF Athens, LLC

0-89-23

Introduced by Micah McCarey, Chair
City & Safety Services Committee

AN ORDINANCE DECLARING CERTAIN POLICE DEPARTMENT FIREARMS NO LONGER NEEDED FOR A MUNICIPAL PURPOSE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: Athens City Council hereby declares forty-nine (49) firearms, eight (8) cases of ammunition, and assorted firearms related equipment, as per the list attached hereto and incorporated herein by reference, no longer needed for a municipal purpose:

SECTION II: The Service-Safety Director is hereby authorized to dispose of said firearms, ammunition and related items as trade-in to a Federally Licensed Firearms Dealer, or disposal by destruction.

SECTION III: This Ordinance shall be in full force and effect at the earliest moment permitted by law upon its passage and approval by the Mayor.

President of Council

ATTEST: APPROVED:

Clerk of Council Mayor

	Make	Model	Caliber	Serial #
1	Bersa	BP9CC	9x19	J73111
2	Canik	TP9	9x19	T6472-21BH23115
3	CZ	Scorpion EVO 3	9x19	E000333
4	Davis Industries	P-380	380	AP195657
5	Glock	30s	45	BAWK254
6	Glock	22	40	DKL988
7	Glock	19	9x19	XTK835
8	Glock	43x	9x19	BKG682
9	Glock	17	9x19	UUC528
10	High Standard	Sentinel	22	damaged
11	Iver Johnson	50 Sidewinder	32	E4984
12	Jennings	Bryco 59	9x19	1047759
13	Kahr	CW45	45	damaged
14	Lorcin	L25	25	117197
15	Lorcin	L380	380	133171
16	Magnum Research	Micro Desert Eagle	380	ME12876
17	Mossburg	185k-a	20 gauge	none
18	Remington	870	12 gauge	794182V
19	Ruger	P89	9x19	312-13633
20	Ruger	LCP	380	372127738
21	Ruger	SR40c	40	343-07252
22	SAR	CM9	9x19	T1102-17BD00582
23	SCCY	CPX-2	9x19	73333
24	Sig Sauer	P226	9x19	U434745
25	SMG	M16	22	damaged
26	Smith and Wesson	5906	9x19	TDE8884
27	Smith and Wesson	M&P Shield 40	40	HWA4897

	Make	Model	Caliber	Serial #
28	Smith and Wesson	SW40VE	40	PBP1296
29	Smith and Wesson	10-6	38	21351
30	Smith and Wesson	M&P	9x19	DTF6194
31	Smith and Wesson	SD9	9x19	FDT3574
32	Smith and Wesson	MP Shield 2.0	45	JEP3192
33	Smith and Wesson	SD40	40	FEB 1701
34	Springfield	XD	45	S3300571
35	Springfield	XD	45	AT105369
36	Springfield	Saint	5.56	ST185514
37	Taurus	PT745pro	45	NCP59654
38	Taurus	none	38	TJ65002
39	Taurus	G3c	9x19	ABL090812
40	Taurus	Ultra-Lite	38	UG19563
41	Taurus	G3	9x19	ABA253563
42	Taurus	GX4	9x19	1GC15950
43	Thames	none	32	54278
44	TISAS	none	45	T0620-22AP02174
45	Titan	none	25	B43435
46	Traf.	Hammerless	32	89185
47	US Revolver Co.	none	22	21179
48	Walther	CCP	9x19	WK091316
49	Winchester	1400 mkII	12 ga	damaged

Ammunition		
Brand	**Quantity**	**Caliber**
Winchester	480	12 gauge
Federal	140	40 S&W
Winchester	1500	40 S&W
PMC	50	308
UMC	242	308
UMC	320	5.56
Federal	100	308
Simunition	900	38/357

Assorted Items
22 caliber rifle conversion kit
7 Glock magazines, 2 Kahr magazines
Matthews Compound Bow
Daisy BB air rifle
5 Simuntions Kits
Bushnell Spotting Scope
15 broken/junk firearms without value
Parts and Supplies for S&W and Glock

0-90-23

Introduced by Jeff Risner, Chair
Transportation Committee

AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO ENTER INTO AN LPA FEDERAL LOCAL-LET PROJECT AGREEMENT WITH THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION, FOR SIDEWALK, ACCESSIBILITY, AND TRAFFIC SIGNAL IMPROVEMENTS IN THE UPTOWN AREA, PROJECT (#329); AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: The Service-Safety Director is hereby authorized to enter into an LPA Federal Local-Let Project Agreement with the State of Ohio, Department of Transportation (ODOT), for sidewalk, accessibility, and traffic signal improvements in the uptown area, Project (#329), a copy of which is attached hereto and incorporated herein by reference.

SECTION II: This Ordinance shall be an emergency measure necessary for the preservation of the health, welfare and safety of the residents of the City of Athens, Ohio, in order to meet the timeline for federal funding, and that it shall be in full force and effect upon its passage and approval by the Mayor.

____
President of Council

ATTEST:

APPROVED:

____
Clerk of Council

____
Mayor

SAM Unique Entity ID: _081281289_

CFDA 20.205

LPA FEDERAL LOCAL-LET PROJECT AGREEMENT

THIS AGREEMENT is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the *City of Athens, 8 East Washington Street, Athens, Ohio 45701,* hereinafter referred to as the LPA.

1. PURPOSE

1.1 The National Transportation Act has made available certain Federal funding for use by local public agencies. The Federal Highway Administration (hereinafter referred to as FHWA) designated ODOT as the agency in Ohio to administer FHWA's Federal funding programs.

1.2 Section 5501.03 (D) of the **Ohio Revised Code** (hereinafter referred to as ORC) provides that ODOT may coordinate its activities and enter into contracts with other appropriate public authorities to administer the design, qualification of bidders, competitive bid letting, construction, inspection, and acceptance of any projects administered by ODOT, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.

1.3 The *SIDEWALK, ACCESSIBILITY AND TRAFFIC SIGNAL IMPROVEMENTS IN THE UPTOWN AREA OF ATHENS* (hereinafter referred to as the PROJECT) is a transportation activity eligible to receive Federal funding, and which is further defined in the PROJECT scope.

1.4 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities for the local administration of the PROJECT.

2. LEGAL REFERENCES AND COMPLIANCE

2.1 This Agreement is authorized and/or governed by the following statutes and/or policies, which are incorporated, by reference, in their entirety:

a. National Transportation Act, Title 23, U.S.C.; 23 CFR 635.105;
b. Federal Funding Accountability and Transparency Act of 2006 (FFATA);
c. 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
d. ODOT Locally Administered Transportation Projects, Manual of Procedures; and
e. State of Ohio Department of Transportation Construction and Material Specifications Manual (applicable to dates of PROJECT).

2.2 The LPA shall comply with all applicable Federal and State laws, regulations, executive orders, and applicable ODOT manuals and guidelines. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement.

2.3 The LPA shall have on file a completed and approved Local-let Participation Requirement Review Form before the first required submission of the Project's Stage Plan Set. Failure to comply will result in the delay of the Federal Authorization, for Construction, until the Form has been completed and approved. Failure to submit a completed Form will result in the Project reverting to ODOT-let and the LPA will be prohibited from participating in the Local-let Program, until the Form is completed and approved by the Department.

3. FUNDING

3.1 The total cost for the PROJECT is estimated to be $ 2,248,277.65 as set forth in Attachment 1. ODOT shall provide to the LPA 95 percent of the eligible costs, up to a maximum of $_505,000.00_ in Transportation Alternatives Federal funds (which includes 15% Toll Revenue Credit); 95 percent of the eligible costs, up to a maximum of $_500,000.00_ in Safety Federal funds (which includes 15% Toll Revenue Credit); and 95 percent of the eligible costs, up to a maximum of $_91,726.99_ in RTPO Federal funds (which includes 15% Toll Revenue Credit). These maximum amounts reflect the funding limit for the PROJECT set by the applicable Program Managers. Unless otherwise provided, funds through ODOT shall be applied only to the eligible costs associated with the actual construction of the transportation project improvements and construction engineering/inspection activities.

3.2 The LPA shall provide all other financial resources necessary to fully complete the PROJECT, including all 100 percent Locally-funded work, cost overruns and contractor claims.

4. PROJECT DEVELOPMENT AND DESIGN

4.1 The LPA and ODOT agree that the LPA is qualified to administer this PROJECT and is in full compliance with all LPA participation requirements.

4.2 The LPA and ODOT agree that the LPA has received funding approval for the PROJECT from the applicable ODOT Program Manager having responsibility for monitoring such projects using the Federal funds involved.

4.3 The LPA shall design and construct the PROJECT in accordance with a recognized set of written design standards. The LPA shall make use of ODOT's Location and Design Manual (L&D), or the appropriate AASHTO publication). Even though the LPA may use its own standards, ODOT may require the LPA to use a design based on the L&D Manual for projects that contain a high crash rate or areas of crash concentrations. Where the LPA has adopted ODOT standards for the PROJECT, the LPA shall be responsible for ensuring that any ODOT standards used for the PROJECT are current and/or updated. The LPA shall be responsible for periodically contacting the ODOT District LPA Coordinator or through the following Internet website for any changes or updates: ODOT's Office of Local Programs

4.4 The LPA shall either designate an LPA employee, who is a registered professional engineer, to act as the Project Design Engineer and serve as the LPA's principal representative for attending to project responsibilities or engage the services of a pre-qualified ODOT consultant, who has been chosen using a Qualification-Based Selection (QBS) process, as required pursuant to ORC Sections 153.65 through 153.71. The pre-qualified list is available on the ODOT website at: www.dot.state.oh.us/DIVISIONS/Engineering/CONSULTANT

4.5 If Federal funds are used for a phase of project development and the LPA executes an agreement with a consultant prior to the receipt of the "Authorization" notification from ODOT, ODOT may terminate this Agreement and cease all Federal funding commitments.

4.6 ODOT reserves the right to move this PROJECT into a future sale year if the LPA does not adhere to the established PROJECT schedule, regardless of any funding commitments.

5. ENVIRONMENTAL RESPONSIBILITIES

5.1 In the administration of this PROJECT, the LPA shall be responsible for conducting any required public involvement events, for preparing all required documents, reports and other supporting materials needed for addressing applicable environmental assessment, for clearance responsibilities for the PROJECT pursuant to the National Environmental Policy Act and related regulations, including the requirements of the National Historic Preservation Act; and for securing all necessary permits.

5.2 If the LPA does not have the qualified staff to perform any or all of the respective environmental responsibilities, the LPA shall hire an ODOT Pre-Qualified Consultant through a QBS process. The pre-qualified list is available on the ODOT web page at ODOT's Office of Contracts. If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.

5.3 ODOT shall be responsible for the review of all environmental documents and reports and shall complete all needed coordination activities with State and Federal regulatory agencies toward securing environmental clearance.

5.4 The LPA shall be responsible for assuring compliance with all commitments made as part of the PROJECT's environmental clearance and/or permit requirements during the construction of the PROJECT.

5.5 The LPA shall require its consultant, selected to prepare a final environmental document pursuant to the requirements of the National Environmental Policy Act, to execute a copy of a disclosure statement specifying that the consultant has no financial or other interest in the outcome of the PROJECT.

5.6 The LPA shall submit a NOI to Ohio EPA to obtain coverage under the National Pollution Discharge Elimination System (NPDES) Construction General Permit for all projects where the combined Contractor and Project Earth Disturbing Activity (EDA) are one acre or more. If the LPA chooses not to use ODOT's L&D Vol. 2 on Local-Let LPA projects, they may use an alternative post-construction BMP criterion with Ohio EPA approval.

6. RIGHT OF WAY/ UTILITIES/ RAILROAD COORDINATION

6.1 All right-of-way acquisition activities shall be performed by the LPA in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Public Law 91-646) as amended by 49 CFR Part 24 (hereinafter referred to as Uniform Act), any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT.

6.2 If existing and newly-acquired right of way is required for this PROJECT, the LPA shall certify that the all right of way has been acquired in conformity with Federal and State laws, regulations, policies, and guidelines. Per ODOT's Office of Real Estate, any LPA staff who perform real estate functions shall be prequalified. If the LPA does not have the qualified staff to perform any or all of the respective right of way functions, the LPA shall hire an ODOT Pre-qualified Consultant through a QBS process. The LPA shall not hire the same consultant to perform both the appraisal and appraisal review functions. Appraisal review shall be performed by an independent staff or fee reviewer and shall be hired directly by the LPA. Likewise, a consultant hired to perform right of way acquisition work is not permitted to perform both the relocation and relocation review functions. Relocation review shall be performed by an independent staff or fee reviewer.

6.3 If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.

6.4 All relocation assistance activities shall be performed by the LPA in conformity with Federal and State laws, including the Uniform Act, and any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. The LPA shall not hire a consultant to perform both the relocation and relocation review functions nor shall the LPA hire a sub-consultant for relocation and another sub-consultant for relocation review. Relocation review shall be performed by an independent staff person or independent fee reviewer and shall be hired directly by the LPA.

6.5 The LPA shall provide the ODOT District Office with its certification that all right of way property rights necessary for the PROJECT are under the LPA's control, that all right of way has been cleared of encroachments, and that utility facilities have been appropriately relocated or accounted for so as not to interfere with project construction activities. ODOT shall make use of the LPA's Right of Way Certification, as well as evaluate the LPA's and/or consultant's performance of the project real estate activities under Titles II and III of the Uniform Act, and, as appropriate, certify compliance to the FHWA. The LPA shall be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement if the certification of the LPA is found to be in error or otherwise invalid.

6.6 In the administration of this PROJECT, the LPA agrees to follow all procedures described in the ODOT Utilities Manual and 23 CFR Part 645. When applicable, the LPA shall enter into a utility relocation agreement with each utility prior to the letting of construction. No reimbursable construction costs shall be incurred by the LPA prior to the receipt of the "Authorization to Advertise" notification from ODOT. If such costs are incurred, ODOT may terminate this Agreement and cease all Federal funding commitments.

6.7 The LPA shall submit all subsequent modifications to the design of the PROJECT and/or any disposal of property rights acquired as part of the PROJECT to ODOT and FHWA for approval.

6.8 The LPA shall be responsible for any necessary railroad coordination and agreements. The LPA shall comply with the provisions of Title 23 of the Code of Federal Regulations and applicable chapters of the ORC regarding all activities relating to Railroad-Highway projects.

6.9 Consistent with Sections 10.1 and 10.4 of this Agreement, the LPA shall assure that, if any property acquired for this PROJECT is subsequently sold for less than fair market value, all Title VI requirements are included in the instrument which transfers the property. Consistent with sections 10.1 and 10.4 of this Agreement, the LPA shall assure that if the LPA grants a permit or license for the property acquired for this PROJECT that the license or permit require the licensee or permit holder to adhere to all Title VI requirements.

7. ADVERTISING, SALE AND AWARD

7.1 The LPA **shall not** advertise for bids prior to the receipt of the "Authorization to Advertise" notification from ODOT. Should advertising or work commence prior to the receipt of the "Authorization to Advertise" notification, ODOT shall immediately terminate this Agreement and cease all Federal funding commitments.

7.2 Any use of sole source or proprietary bid items must be approved by the applicable ODOT district. All sole source or proprietary bid items should be brought to the attention of the LPA Coordinator as soon as possible so as not to cause a delay in the plan package submission process. Bid items for traffic signal and highway lighting projects must be in conformance with ODOT's Traffic Engineering Manual.

7.3 Once the LPA receives Federal authorization to advertise, the LPA may begin advertising activities. Whenever local advertisement requirements differ from Federal advertisement requirements, the Federal requirements shall prevail. The period between the first legal advertising date and the bid opening date shall be a minimum of twenty-one (21) calendar days. The LPA shall submit to ODOT any addendum to be issued during the advertisement period that changes estimates or materials. ODOT shall review and approve such addendum for project eligibility. All addenda shall be distributed to all potential bidders prior to opening bids and selling the contracts.

7.4 The LPA must incorporate ODOT's LPA Bid Template in its bid documents. The template includes Form FHWA-1273, Required Contract Provisions, a set of contract provisions and proposal notices that are required by regulations promulgated by the FHWA and other Federal agencies, which must be included in all contracts as well as appropriate subcontracts and purchase orders.

7.5 The LPA shall require the contractor to be enrolled in, and maintain good standing in, the Ohio Bureau of Workers' Compensation Drug-Free Safety Program (DFSP), or a similar program approved by the Bureau of Workers' Compensation, and the LPA must require the same of any of its subcontractors.

7.6 Only pre-qualified contractors are eligible to submit bids for this PROJECT. Pre-qualification status must be in effect/current **at the time of award**. For work types that ODOT does not pre-qualify, the LPA must still select a qualified contractor. Subcontractors are not subject to the pre-qualification requirement. In accordance with FHWA Form 1273 Section VII and 23 CFR 635.116, the "prime" contractor must perform no less than 30 percent of the total original contract price. The 30-percent prime requirement does not apply to design-build contracts.

7.7 In accordance with ORC Section 153.54, et. seq., the LPA shall require that the selected contractor provide a performance and payment bond in an amount equal to at least 100 percent of its contract price as security for the faithful performance of its contract. ODOT shall be named an oblige on any bond. If the LPA has 100 percent locally-funded work product within this Agreement, the LPA must allocate the correct percent of the performance and payment bond cost to the 100 percent locally-funded work product.

7.8 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is not subject to a finding for recovery under ORC Section 9.24, that the contractor has taken the appropriate remedial steps required under ORC Section 9.24, or that the contractor otherwise qualifies under the exceptions to this section. Findings for recovery can be viewed on the Auditor of State's website at https://ohioauditor.gov/findings.html . If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all Federal funding commitments.

7.9 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is an active registrant on the Federal System for Award Management (SAM). Pursuant to 48 CFR 9.404, contractors that have an active exclusion on SAM are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits. If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all federal funding commitments.

7.10 The LPA is prohibited from imposing any geographical hiring preference on any bidder in the LPA's bid documents or on any successful contractor in the LPA's award or contract for the construction of the PROJECT.

7.11 After analyzing all bids for completeness, accuracy, and responsiveness, per ORC 153.12, the LPA shall approve the award of the contract in accordance with laws and policies governing the LPA within 60 days after bid opening. Within 45 days of that approval, the LPA shall submit to ODOT notification of the project award by submitting a bid tabulation, a copy of the ordinance or resolution, and direct payment information as required in Attachment 2 of this Agreement, if applicable.

8. CONSTRUCTION CONTRACT ADMINISTRATION

8.1 The LPA shall provide and maintain competent and adequate project management covering the supervision and inspection of the development and construction of the PROJECT. The LPA shall bear the responsibility of ensuring that construction conforms to the approved plans, surveys, profiles, cross sections and material specifications. If a consultant is used for engineering and/or inspection activities, the LPA must use a QBS process as required pursuant to ORC Sections 153.65 through 153.71. Any construction contract administration or engineering costs incurred by the LPA or their consultant prior to the construction contract award date will not be eligible for reimbursement under this Agreement.

8.2 The LPA must maintain a project daily diary that is up-to-date and contains the following information: all work performed, list of equipment utilized, project personnel and hours worked, pay quantities, daily weather conditions, special notes and instructions to the contractor, and any unusual events occurring on or adjacent to the PROJECT. Additionally, the LPA is responsible for documenting measurements, calculations, material quality, quantity, and basis for payment; change orders, claims, testing and results, traffic, inspections, plan changes, prevailing wage, EEO and DBE, if applicable. The LPA is responsible for ensuring all materials incorporated into the PROJECT comply with ODOT's Construction and Material Specifications and meet the requirements of Appendix J in the LATP Manual of Procedures.

8.3 The LPA shall certify both the quantity and quality of material used, the quality of the work performed, and the amount of construction engineering cost, when applicable, incurred by the LPA for the eligible work on the PROJECT, as well as at the completion of construction. The LPA shall certify that the construction is in accordance with the approved plans, surveys, profiles, cross sections and material specifications or approved amendments thereto.

8.4 The Federal-aid Highway Program operates on a reimbursement basis, which requires that costs actually be incurred and paid before a request is made for reimbursement. The LPA shall review and/or approve all invoices prior to payment and prior to requesting reimbursement from ODOT for work performed on the PROJECT. If the LPA is requests reimbursement, it must provide documentation of payment for the project costs requested. The LPA shall ensure the accuracy of any invoice in both amount and in relation to the progress made on the PROJECT. The LPA must submit to ODOT a written request for either current payment or reimbursement of the Federal/State share of the expenses involved, attaching copies of all source documentation associated with pending invoices or paid costs. To assure prompt payment, the measurement of quantities and the recording for payment should be performed on a daily basis as the items of work are completed and accepted.

8.5 ODOT shall pay, or reimburse, the LPA or, at the request of the LPA and with concurrence of ODOT, pay directly to the LPA's construction contractor ("Contractor"), the eligible items of expense in accordance with the cost-sharing provisions of this Agreement. If the LPA requests to have the Contractor paid directly, Attachment 2 to this Agreement shall be completed and submitted with the project bid tabulations, and the Contractor shall be required to establish Electronic Funds Transfer with the State of Ohio. ODOT shall pay the Contractor or reimburse the LPA within thirty (30) days of receipt of the approved Contractor's invoice from the LPA.

8.6 The LPA shall notify ODOT of the filing of any mechanic's liens against the LPA's Contractor within three (3) business days of receipt of notice of lien. Failure to so notify ODOT or failure to process a mechanic's lien in accordance with the provisions of Chapter 1311 of the ORC may result in the termination of this Agreement. Upon the receipt of notice of a mechanic's lien, ODOT reserves the right to (1) withhold an amount of money equal to the amount of the lien that may be due and owing to either the LPA or the Contractor; (2) terminate direct payment to the affected Contractor; or (3) take both actions, until such time as the lien is resolved.

8.7 Payment or reimbursement to the LPA shall be submitted to:

City of Athens
8 East Washington Street
Athens, Ohio 45701

8.8 If, for any reason, the LPA contemplates suspending or terminating the contract of the Contractor, it shall first seek ODOT's written approval. Failure to timely notify ODOT of any contemplated suspension or termination, or failure to obtain written approval from ODOT prior to suspension or termination, may result in ODOT terminating this Agreement and ceasing all Federal funding commitments.

8.9 If ODOT approves any suspension or termination of the contract, ODOT reserves the right to amend its funding commitment in paragraph 3.1 and, if necessary, unilaterally modify any other term of this Agreement in order to preserve its Federal mandate. Upon request, the LPA agrees to assign all rights, title, and interests in its contract with the Contractor to ODOT to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

8.10 Any LPA right, claim, interest, and/or right of action, whether contingent or vested, arising out of, or related to any contract entered into by the LPA for the work to be performed by the Contractor on this PROJECT (the Claim), may be subrogated to ODOT, and ODOT shall have all of the LPA's rights in/to the Claim and against any other person(s) or entity(ies) against which such subrogation rights may be enforced. The LPA shall immediately notify ODOT in writing of any Claim. The LPA further authorizes ODOT to sue, compromise, or settle any such Claim. It is the intent of the parties that ODOT be fully substituted for the LPA and subrogated to all of the LPA's rights to recover under such Claim(s). The LPA agrees to cooperate with reasonable requests from ODOT for assistance in pursuing any action on the subrogated Claim including requests for information and/or documents and/or to testify.

8.11 After completion of the PROJECT, and in accordance with Title 23 United States Code 116 and applicable provisions of the ORC, the LPA shall maintain the PROJECT to design standards and provide adequate maintenance activities for the PROJECT, unless otherwise agreed to by ODOT. The PROJECT must remain under public ownership and authority for 20 years unless otherwise agreed to by ODOT. If the PROJECT is not being adequately maintained, ODOT shall notify the LPA of any deficiencies, and if the maintenance deficiencies are not corrected within a reasonable amount of time, ODOT may determine that the LPA is no longer eligible for future participation in any Federally-funded programs.

8.12 The LPA must provide the final invoices, and final report (Appendix P located in the Construction Chapter of the LPA Manual) along with all necessary closeout documentation within 6 months of the physical completion date of the PROJECT. All costs must be submitted within 6 months of the established completion date. Failure to submit final invoices along with the necessary closeout documentation within the 6-month period may result in closeout of the PROJECT and loss of eligibility of any remaining Federal and or State funds.

8.13 The LPA shall be responsible for verifying that a C92 GoFormz has been completed by the prime contractor for each subcontractor and material supplier working on the project, prior to starting work. This requirement will be routinely monitored by the District Construction Monitor to ensure compliance.

9. <u>CERTIFICATION AND RECAPTURE OF FUNDS</u>

9.1 This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to the State for the purpose of this Agreement and to the certification of funds by the Office of Budget and Management, as required by ORC Section 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date funding expires.

9.2 Unless otherwise directed by ODOT, if for any reason the PROJECT is not completed in its entirety or to a degree acceptable to ODOT and FHWA, the LPA shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT. In turn, ODOT shall reimburse FHWA an amount equal to the total sum of Federal dollars it has received for the PROJECT. If the LPA has not repaid ODOT in full an amount equal to the total funds ODOT disbursed on behalf of the PROJECT, any funds recovered from the performance and payment bond as required under section 7.7 shall be used to offset the Federal dollars reimbursed to FHWA.

10. NONDISCRIMINATION

10.1 In carrying out this Agreement, the LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex (including pregnancy, gender identity and sexual orientation), national origin, ancestry, age, disability as that term is defined in the American with Disabilities Act, military status (past, present, or future), or genetic information. The LPA shall ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex (including pregnancy, gender identity and sexual orientation), national origin, ancestry, age, disability, military status, or genetic information. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

10.2 The LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and in all solicitations or advertisements for employees placed by it, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, sex (including pregnancy, gender identity and sexual orientation), national origin, ancestry, age, disability, military status, or genetic information. The LPA shall incorporate this nondiscrimination requirement within all of its contracts for any of the work on the PROJECT (other than subcontracts for standard commercial supplies or raw materials) and shall require all of its contractors to incorporate such requirements in all subcontracts for any part of such project work.

10.3 The LPA shall ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, will have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement. To meet this requirement, subcontractors who claim to be DBEs must be certified by ODOT. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

> Disadvantaged Business Enterprise (DBE) Requirement. DBE participation goals (subcontracts, materials, supplies) have been set on this PROJECT for those certified as DBEs pursuant to Title 23, U.S.C. section 140(c) and 49 CFR, Part 26, and where applicable qualified to bid with ODOT under Chapter 5525 of the **ORC**.
>
> ODOT shall supply the percentage goal to the LPA upon review of the Engineer's Estimate. Prior to executing the contract with the contractor, and in order for ODOT to encumber the Federal/State funds, the contractor must demonstrate compliance with the DBE Utilization Plan and Good Faith Efforts requirements.

GOOD FAITH EFFORTS

In the event that the DBE contract goal established by ODOT is not met on a project, the Contractor shall demonstrate that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so.

The Contractor shall demonstrate its Good Faith Effort(s) (GFEs) by submitting information including but not limited to the following to the LPA:

(1) All written quotes received from certified DBE firms;
(2) All written (including email) communications between the Contractor and DBE firms;
(3) All written solicitations to DBE firms, even if unsuccessful;
(4) Copies of each non-DBE quote when a non-DBE was selected over a DBE for work on the contract;
(5) Phone logs of communications with DBE firms.

The LPA will send the GFE documentation including their recommendation to ODOT at the following address:

Office of Small & Disadvantaged Business Enterprise
The Ohio Department of Transportation
1980 West Broad Street, Mail Stop 3270
Columbus, Ohio 43223

ODOT shall utilize the guidance set forth in 49 CFR §26.53 Appendix A in determining whether the Contactor has made adequate good faith efforts to meet the goal. ODOT will review the GFE documentation and the LPA's recommendation and issue a written determination on whether adequate GFEs have been demonstrated by the Contractor.

The Contractor may request administrative reconsideration within two (2) days of being informed that it did not perform a GFE. The Contractor must make this request in writing to the following official:

Ohio Department of Transportation
Division of Chief Legal Counsel
1980 West Broad Street, Mail Stop 1500
Columbus, Ohio 43223

The reconsideration official will not have played any role in the original determination that the Contractor did not document sufficient good faith effort.

As part of this reconsideration, the Contractor will have the opportunity to provide written documentation or an argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. ODOT will send the Contractor a written decision on reconsideration explaining the basis for finding that the Contractor did or did not meet the goal or make adequate good faith efforts. The result of the reconsideration process is not administratively appealable.

ODOT may issue sanctions if the Contractor fails to comply with the contract requirements and/or fails to demonstrate the necessary good faith effort. ODOT may impose any of the following sanctions:

(a) letter of reprimand;
(b) contract termination; and/or

(c) other remedies available by law including administrative suspension.

Factors to be considered in issuing sanctions include, but are not limited to:

(a) the magnitude and the type of offense;
(b) the degree of the Consultant's culpability;
(c) any steps taken to rectify the situation;
(d) the Contractor's record of performance on other projects including, but not limited to:
  (1) annual DBE participation over DBE goals;
  (2) annual DBE participation on projects without goals;
  (3) number of complaints ODOT has received from DBEs regarding the Contractor; and,
  (4) the number of times the Contractor has been previously sanctioned by ODOT; and,
(e) Whether the Contractor falsified, misrepresented, or withheld information.

10.4 During the performance of this contract, the LPA, for itself, its assignees and successors in interest agrees as follows:

(a) **Compliance with Regulations:** The LPA will comply with the regulations relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation (hereinafter "U.S. DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

In addition, the LPA will comply with the provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FHWA Guidance, and any other Federal, State, and/or local laws, rules and/or regulations (hereinafter referred to as "ADA/504").

(b) **Nondiscrimination:** The LPA, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status or limited English proficiency in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The LPA will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.

(c) **Solicitations for Contractors or Subcontractors, including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a contract or subcontract, including procurements of materials or leases of equipment, each potential contractor, subcontractor, or supplier will be notified by the LPA of the LPA's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status or limited English proficiency.

(d) **Information and Reports:** The LPA will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the STATE or FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the LPA is in the exclusive possession of another who fails or refuses to furnish this information, the LPA will so certify to the STATE or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

(e) **Sanctions for Noncompliance:** In the event of the LPA's noncompliance with the nondiscrimination provisions of this contract, the STATE will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:

(1) withholding of payments to the LPA under the contract until the LPA complies, and/or
(2) cancellation, termination or suspension of the contract, in whole or in part.

(f) **Incorporation of Provisions:** The LPA will include the provisions of paragraphs 10.4 (a) through (e) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The LPA will take such action with respect to any contractor or subcontractor procurement as the STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the LPA becomes involved in, or is threatened with, litigation with a contractor, subcontractor, or supplier as a result of such direction, the LPA may request the STATE to enter into such litigation to protect the interests of the STATE, and, in addition, the LPA may request the United States to enter into such litigation to protect the interests of the United States.

11. DATA, PATENTS AND COPYRIGHTS - PUBLIC USE

11.1 The LPA shall ensure that any designs, specifications, processes, devices or other intellectual properties specifically devised for the PROJECT by its consultants or contractors performing work become the property of the LPA, and that when requested, such designs, specifications, processes, devices or other intellectual properties shall become available to ODOT and FHWA with an unrestricted right to reproduce, distribute, modify, maintain, and use. The LPA's consultants and contractors shall not seek or obtain copyrights, patents, or other forms of proprietary protection for such designs, specifications, processes, devices or other intellectual properties, and in providing them to the PROJECT, shall relinquish any such protections should they exist.

11.2 The LPA shall not allow its consultants or contractors to utilize within the development of the PROJECT any copyrighted, patented or similarly protected design, specification, process, device or other intellectual property unless the consultant or contractor has provided for such use by suitable legal agreement with the owner of such copyright, patent or similar protection. A consultant or contractor making use of such protected items for the PROJECT shall indemnify and save harmless the LPA and any affected third party from any and all claims of infringement on such protections, including any costs, expenses, and damages which it may be obliged to pay by reason of infringement, at any time during the prosecution or after the completion of work on the PROJECT.

11.3 In the case of patented pavements or wearing courses where royalties, licensing and proprietary service charges, exacted or to be exacted by the patentees, are published and certified agreements are filed with the LPA, guaranteeing to prospective bidders free unrestricted use of all such proprietary rights and trademarked goods upon payment of such published charges, such patented pavements or wearing courses may be specifically designated in the proposal and competition secured upon the item exclusive of the patent or proprietary charges.

12. TERMINATION; DEFAULT AND BREACH OF CONTRACT

12.1 Neglect or failure of the LPA to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, may be an event of default, unless such failure or neglect are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or State of Ohio or any of their departments or political subdivisions, or any other cause not reasonably within the LPA's control. If a default has occurred, ODOT may terminate this Agreement with thirty (30) days written notice, except that if ODOT determines that the default can be remedied, then ODOT and the LPA shall proceed in accordance with sections 12.2 through 12.4 of this Agreement.

12.2 If notified by ODOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the LPA shall have thirty (30) days from the date of such notification to remedy the default or, if the remedy will take in excess of thirty (30) days to complete, the LPA shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days and failure by the LPA to remedy, or to satisfactorily commence the remedy of, the default whether payment of funds has been fully or partially made, shall result in ODOT, at its discretion, declining to make any further payments to the LPA, or in the termination of this Agreement by ODOT. If this Agreement is terminated, the LPA may be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement.

12.3 The LPA, upon receiving a notice of termination from ODOT for default, shall cease work on the terminated activities covered under this Agreement. If so requested by ODOT, the LPA shall assign to ODOT all its rights, title, and interest to any contracts it has with any consultants or contractors. Otherwise, the LPA shall terminate all contracts and other agreements it has entered into relating to such covered activities, take all necessary and appropriate steps to limit disbursements and minimize any remaining costs. At the request of ODOT, the LPA may be required to furnish a report describing the status of PROJECT activities as of the date of its receipt of notice of termination, including results accomplished and other matters as ODOT may require.

12.4 No remedy herein conferred upon or reserved by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or option accruing to ODOT upon any default by the LPA shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.

12.5 This Agreement and obligation of the parties herein may be terminated by either party with thirty days written notice to the other party. In the event of termination, the LPA shall cease work, terminate all subcontracts relating to such terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish all data results, reports, and other materials describing all work under this contract, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as ODOT may require.

12.6 In the event of termination for convenience, the LPA shall be entitled to compensation, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination, less any funds previously paid by or on behalf of ODOT. ODOT shall not be liable for any further claims, and the claims submitted by the LPA shall not exceed the total amount of consideration stated in this Agreement. In the event of termination, any payments made by ODOT in which services have not been rendered by the LPA shall be returned to ODOT.

13. <u>THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS</u>

13.1 Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies for the PROJECT sufficient to impose upon the Director any of the obligations specified in section 126.30 of the ORC.

13.2 The LPA hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees or agents in the performance of the LPA's obligations made or agreed to herein.

14. NOTICE

14.1 Notice under this Agreement shall be directed as follows:

If to the LPA: If to ODOT:

Andrew B. Stone, City Service-Safety Director	Rich Oster, Deputy District Director
City of Athens	Ohio Department of Transportation
8 East Washington Street	338 Muskingum Drive
Athens, Ohio 45701	Marietta, Ohio, 45750
astone@ci.athens.oh.us	rich.oster@dot.ohio.gov

15. GENERAL PROVISIONS

15.1 *Recovery of LPA's allocable project Direct Labor, Fringe Benefits, and/or Indirect Costs*:

To be eligible to recover any costs associated with the LPA's internal labor forces allocable to this PROJECT, the LPA shall make an appropriate selection below: [*LPA official must initial the option selected.*]

1. No cost recovery of LPA's project direct labor, fringe benefits, or overhead costs.

(A) The LPA ***does not*** currently maintain an ODOT approved federally compliant time-tracking system[1], ***and***

(B) The LPA ***does not*** intend to have a federally compliant time-tracking system developed, implemented, and approved by ODOT prior to the period of performance of this PROJECT, ***and/or***

(C) The LPA ***does not*** intend to pursue recovery of these project direct labor, fringe benefits, or overhead costs during the period of performance of this PROJECT Agreement.

2. Direct labor plus indirect costs calculated using the Federal 10% De Minimis Indirect Cost Rate. [2]

(A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved federally compliant time-tracking system, ***and***

(B) The LPA ***does not*** currently have, and ***does not*** intend to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT.

1 A "federally compliant time-tracking system" is supported by a system of internal controls and record-keeping that accurately reflects the work performed; which provides reasonable assurance that the time being charged is accurate, allowable, and properly allocated; is incorporated in official records such as payroll records; reasonably reflects the employee's total activity; provides a time or percentage breakdown on all activities, both Federally funded and non-Federally funded for the employee and complies with the LPA's pre-established accounting practices and procedures.

2 [Also be sure to read footnote # 1] The De Minimis Indirect Cost Rate is 10 percent of modified total direct costs (MTDC) per 2 CFR §200.414. The definition of MTDC is provided in the regulation at 2 CFR §200.68. Any questions regarding the calculation of MTDC for a specific project should be directed to the Office of Local Programs. Further, regardless of whether the LPA subrecipient negotiates overhead rates with ODOT or uses the 10-percent de minimis rate, LPAs are required to maintain Federally-compliant time-tracking systems. Accordingly, LPAs are permitted to bill for labor costs, and then potentially associated fringe/indirect costs, only if the labor costs are accumulated, tracked, and allocated in accordance with compliant systems. Before

☐ **3. Direct labor, plus fringe benefits costs calculated using the LPA's ODOT approved Fringe Benefits Rate, plus indirect costs calculated using the Federal 10% De Minimis Indirect Cost Rate.** [3]

(A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved federally compliant time-tracking system, ***and***

(B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT.

☐ **4. Direct labor, plus fringe benefits costs calculated using the LPA's ODOT approved Fringe Benefits Rate, plus indirect costs calculated using the LPA's ODOT approved Indirect Cost Rate.** [4]

(A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved federally compliant time-tracking system, ***and***

(B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT, ***and***

(C) Instead of using the Federal 10% De Minimis Indirect Cost Rate, the LPA currently has, or intends to negotiate, an ODOT approved indirect cost rate prior to the period of performance of this PROJECT.

For any allocable project labor costs to be eligible for reimbursement with Federal and/or State funds, the LPA must maintain compliance with all timekeeping requirements specified in 2 CFR Part 200 and the ODOT LPA Cost Recovery Guidance, including ODOT Questions and Answers and related supplementary guidance, as applicable. Additionally, if the LPA elects to recover fringe and/or indirect costs, the LPA shall maintain compliance with Appendix VII of 2 CFR Part 200 and the LATP Manual of Procedures.

15.2 If the LPA decides to change its indirect cost recovery option, the change shall not become effective until this Agreement is amended pursuant to section 15.12 below to reflect the indirect cost recovery option utilized by the LPA on the PROJECT.

15.3 *Financial Reporting and Audit Requirements*: One or more phases of this Agreement include a sub award of Federal funds to the LPA. Accordingly, the LPA must comply with the financial reporting and audit requirements of 2 CFR Part 200.

All non-federal entities, including ODOT's LPA sub recipients, that have aggregate federal awards expenditures from all sources of $750,000 or more in the non-federal entity's fiscal year must have

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an LPA is eligible to invoice ODOT for and recover the 10% de minimis indirect cost rate on any project, the LPA's time-tracking system and methods for tracking other project costs must be reviewed and approved by the ODOT Office of External Audits. A non-Federal entity that elects to charge the de minimis rate must meet the requirements in 2 CFR 200 Appendix VII Section D, Part 1, paragraph b.

3 [Also be sure to read footnotes # 1 and 2] The fringe benefits rate billed to this project must be determined in accordance with the Rate Agreement periodically negotiated with and approved by the ODOT Office of External Audits. The fiscal period when the LPA's direct labor costs are paid will be matched with the ODOT approved rate for that fiscal year to determine which rate is applicable. Accordingly, the fringe benefits rate applicable to different fiscal years throughout the period of performance of the project may fluctuate to match changes to the ODOT approved rate.

4 [Also be sure to read footnote # 1] The fringe benefits and indirect cost rates billed to this project must be determined in accordance with the Rate Agreement periodically negotiated with and approved by the Office of External Audits. The fiscal period when the LPA's direct labor costs are paid will be matched with the ODOT approved rates for that fiscal year to determine which rates are applicable. Accordingly, the rates applicable to different fiscal years throughout the period of performance of the project may fluctuate to match changes to the ODOT approved rates.

a Single Audit, or program-specific audit, conducted for that year in accordance with the provisions of 2 CFR Part 200.

Federal and State funds expended to or on behalf of a sub recipient must be recorded in the accounting records of the LPA subrecipient. The LPA is responsible for tracking all project payments throughout the life of the PROJECT in order to ensure an accurate Schedule of Expenditures of Federal Awards (SEFA) is prepared annually for all *Applicable Federal Funds*. *Applicable Federal Funds* are those that are identified with the various project phases of this Agreement as a subaward. *Applicable Federal Funds* include not only those LPA project expenditures that ODOT subsequently reimburses with Federal funds, but also those Federal funds project expenditures that are disbursed directly by ODOT upon the request of the LPA.

The LPA must separately identify each ODOT PID and/or Project and the corresponding expenditures on its SEFA. LPAs are responsible for ensuring expenditures related to this PROJECT are reported when the activity related to the Federal award occurs. Further, the LPA may make this determination consistent with Section 2 CFR §200.502 and its established accounting method to determine expenditures including accrual, modified accrual or cash basis.

When project expenditures are not accurately reported on the SEFA, the LPA may be required to make corrections to and republish the SEFA to ensure Federal funds are accurately reported in the correct fiscal year. An ODOT request for the restatement of a previously published SEFA will be coordinated with the Ohio Auditor of State.

15.4 *Record Retention*: The LPA, when requested at reasonable times and in a reasonable manner, shall make available to the agents, officers, and auditors of ODOT and the United States government, its records and financial statements as necessary relating to the LPA's obligations under this Agreement. All such books, documents, and records shall be kept for a period of at least three years after FHWA approves the LPA's final Federal voucher for reimbursement of project expenses. In the event that an audit-related dispute should arise during this retention period, any such books, documents, and records that are related to the disputed matter shall be preserved for the term of that dispute. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

> As the LPA, ODOT or the United States government may legitimately request from time to time, the contractor agrees to make available for inspection and/or reproduction by the LPA, ODOT or United States government, all records, books, and documents of every kind and description that relate to this contract.

Nothing contained in this Agreement shall in any way modify the LPA's legal duties and obligations to maintain and/or retain its records under Ohio public records laws.

15.5 *Ohio Ethics Laws*: LPA agrees that they are currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the ORC.

15.6 *State Property Drug-Free Workplace Compliance*: In accordance with applicable State and Federal laws, rules, and policy, the LPA shall make a good faith effort to ensure that its employees and its contractors will not purchase, transfer, use, or possess alcohol or a controlled substance while working on State property.

15.7 *Trade:* Pursuant to the federal Export Administration Act and Ohio Revised Code 9.76(B), the LPA and any contractor or sub-contractor shall warrant that they are not boycotting any jurisdiction with whom the United States and the State of Ohio can enjoy open trade, including Israel, and will not do so during the term of this Agreement.

The State of Ohio does not acquire supplies or services that cannot be imported lawfully into the United States. The LPA certifies that it, its Contractors, subcontractors, and any agent of the Contractor or its subcontractors, acquire any supplies or services in accordance with all trade control laws, regulations or orders of the United States, including the prohibited source regulations set forth in subpart 25.7, Prohibited Sources, of the Federal Acquisition Regulation and any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control. A list of those sanctions by country can be found at https://www.treasury.gov/resource- center/sanctions/Programs/Pages/Programs.aspx. These sanctions generally preclude acquiring any supplies or services that originate from sources within, or that were located in or transported from or through Cuba, Iran, Libya, North Korea, Syria, or the Crimea region of Ukraine.

15.8 *Lobbying*: Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, PL 104-65 (2 U.S.C. §1601, et seq.). LPA agrees that it will not use any funds for Lobbying, 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S. C. 1352. Each tier shall comply with Federal statutory provisions or the extent applicable prohibiting the use of Federal assistance funds for activities designed to influence congress to a State legislature on legislation or appropriations, except through proper official channels. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

15.9 *Debarment.* LPA represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either R.C. 153.02 or R.C. 125.25 or by the Federal Government pursuant to 2 CFR Part 1200 and 2 CFR Part 180.

15.10 *Governing Law*: This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.

15.11 *Assignment*: Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.

15.12 *Merger and Modification*: This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.

15.13 *Severability*: If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.

15.14 *Signatures*: Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

15.15 *Facsimile Signatures:* Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile or electronic signature on any other party delivered in such a manner as if such signature were an original.

The parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

LPA: CITY OF ATHENS	**STATE OF OHIO** **OHIO DEPARTMENT OF TRANSPORTATION**
By:	By:
Title:	Jack Marchbanks Director
Date:	Date:

Attachment 1

PROJECT BUDGET – SOURCES AND USES OF FUNDS

SOURCES / USES	LPA FUNDS			FHWA FUNDS			TOLL REVENUE CREDIT			TOTAL
	Amount	%	SAC	Amount	%	SAC	Amount	%	SAC	
PRELIMINARY DEVELOPMENT	$4,827.74	5	LNTP	$77,243.78	80	4TF7/ BH10	$14,483.21	15	4TF7/ BH10	$96,554.73
FINAL DESIGN, CONSTRUCTION PLANS & SPECIFICATIONS										
ACQUISITION OF RIGHT OF WAY & UTILITY RELOCATION										
PROJECT CONSTRUCTION COSTS	$26,578.95	5	LNTP	$425,263.16	80	4B37	$79,736.84	15	4B37	$531,578.95
	$26,315.79	5	LNTP	$421,052.53	80	4HJ7	$78,947.37	15	4HJ7	$526,315.79
	$953,061.26	100	LNTP							$953,061.26
INSPECTION	$140,766.92	100	LNTP							$140,766.92
TOTALS	$1,151,550.66			$923,559.57			$173,167.42			$2,248,277.65

Attachment 2

ATH-UPTOWN IMPROVEMENT PHASE 1
COUNTY-ROUTE-SECTION

______111668______
PID NUMBER

______38545______
AGREEMENT NUMBER

______081281289______
SAM NUMBER

DIRECT PAYMENT OF CONTRACTOR

At the direction of the LPA and upon approval of ODOT, payments for work performed under the terms of the Agreement by the LPA's contractor shall be paid directly to the contractor in the pro-rata share of Federal/State participation. The invoice package shall be prepared by the LPA as previously defined in this Agreement, and shall indicate that the payment is to be made to the contractor. In addition, the invoice must state the contractor's name, mailing address and OAKS Vendor ID. Separate invoices shall be submitted for payments that are to be made to the contractor and those that are to be made to the LPA.

When ODOT uses Federal funds to make payment to the contractor, all such payments are considered to be expenditures of Federal funds received and also expended by the LPA (sub recipient). Accordingly, the LPA is responsible for tracking the receipts and payments and reporting the payments Federal (Receipts) Expenditures on the Schedule of Expenditures of Federal Awards (SEFA). An LPA that fails to report these funds accurately and timely may be required to restate the SEFA to comply with Federal reporting requirements.

We,________the City of Athens,__________request that all payments for the Federal/State share of the construction costs of this Agreement performed by _______*(CONTRACTOR'S NAME)*__________be paid directly to ____________*(CONTRACTOR'S NAME)*________.

VENDOR Name:	
Oaks Vendor ID:	
Mailing Address:	
LPA signature:	

LPA Name:	City of Athens
Oaks Vendor ID:	0000056193
Mailing Address:	8 East Washington St
	Athens, Ohio 45701
ODOT Approval signature:	

0-91-23

Introduced by Jeff Risner, Chair
Transportation Committee

AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO ADVERTISE AND ACCEPT BIDS, WHERE NECESSARY, AND ENTER INTO CONTRACTS FOR CONSTRUCTION AND CONSTRUCTION ENGINEERING SERVICES FOR THE UPTOWN IMPROVEMENTS PROJECT (#329).

WHEREAS, the City received ($1,005,000.00) in grant funding from the Ohio Department of Transportation;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: The Service-Safety Director is hereby authorized to advertise and accept bids, where necessary, and enter into contract with the lowest and best bidder for construction, and an agreement for construction engineering services for the Uptown Improvements Project (#329).

SECTION II: The 2023 Appropriation Ordinance 155-22 is hereby amended by appropriating from the unappropriated balance the sum of One Million Two Hundred Thousand Dollars ($1,200,000.00) to Street Rehabilitation Fund, 572, T.C. 500, for said project.

SECTION III: The Service-Safety Director is hereby authorized to expend up to Two Million Two Hundred Five Thousand Dollars ($2,205,000.00) from the following funds:

One Million Two Hundred Thousand Dollars ($1,200,000.00) from Street Rehabilitation Fund, 572, T.C. 500; and

One Million Five Thousand Dollars ($1,005,000.00) from ODOT Small Cities Fund, 589, for Project (#329).

SECTION IV: This Ordinance shall be in full force and effect upon its passage and approval by the Mayor.

President of Council

ATTEST: APPROVED:

Clerk of Council Mayor

0-92-23

Introduced by Sam Crowl, Chair
Finance & Personnel Committee

AN ORDINANCE AMENDING THE 2023 APPROPRIATION ORDINANCE 155-22.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: The 2023 Appropriation Ordinance 155-22 is hereby amended by appropriating from the unappropriated balance the following sums:

Ten Thousand Dollars ($10,000.00) to General Fund, Law Director, 101.104, T.C. 300, for new flooring installation;

Fourteen Thousand Dollars ($14,000.00) to General Fund, Police, 101.207, T.C. 100, for medical expense;

Eighty-One Thousand Dollars ($81,000.00) to General Fund, Fire, 101.208, T.C.100, for a retention grant and retirement payout;

One Hundred Dollars ($100.00) to Cemetery Fund, 210, T.C. 100, for life insurance;

One Thousand Five Hundred Dollars ($1,500.00) to Cemetery Fund, 210, T.C. 200-300, for administrative fees; and

Ten Thousand Dollars ($10,000.00) to DUI Court Fund, 237, T.C. 100, for a grant, and increasing the total appropriations by the same amounts.

SECTION II: This Ordinance shall be in effect and full force upon passage and approval by the Mayor.

President of Council

ATTEST:

APPROVED:

Clerk of Council

Mayor