



AGENDA
ATHENS CITY COUNCIL
MONDAY, AUGUST 19, 2024 AT 7:00 PM

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

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

- 1. Establish Quorum**
- 2. Communications**
- 3. Reports and Communications from Other Elected Officials**
- 4. Ordinances for Third Reading:**

0-64-24

AN ORDINANCE GRANTING A SPECIAL RIGHT-OF-WAY USE PERMIT AT 810 EAST STATE STREET FOR OFF-STREET VEHICLE PARKING AND LIGHT POLES LOCATED IN THE CITY RIGHT-OF-WAY.

Introduced by Council Member Swank

0-65-24

AN ORDINANCE AMENDING ATHENS CITY CODE TITLE 23, ZONING, CHAPTER 23.04, PERMITTED USES, FOR TOBACCO AND CANNABIS ESTABLISHMENTS.

Introduced by Council Member Swank

0-67-24

AN ORDINANCE AMENDING ORDINANCE 108-17, THE ATHENS CITY AFFORDABLE HOUSING COMMISSION.

Introduced by Council Member Spjeldnes

0-68-24

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

Introduced by Council Member Spjeldnes

0-69-24

AN ORDINANCE AMENDING ORDINANCE NO. 0-103-20, AS AMENDED BY ORDINANCE NO. 0-42-21, WITH RESPECT TO THE CREATION OF THE UNIVERSITY ESTATES INCENTIVE DISTRICT WITHIN THE CITY OF ATHENS; AUTHORIZING THE EXECUTION OF A FIRST AMENDED AND RESTATED TAX INCREMENT FINANCING AGREEMENT WITH THE PROPERTY OWNER IN SUCH INCENTIVE DISTRICT; AUTHORIZING THE

EXECUTION OF A FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND CONDITIONS RELATIVE TO SERVICE PAYMENTS IN LIEU OF TAXES, MINIMUM SERVICE PAYMENT OBLIGATIONS, AND OTHER MATTERS.

Introduced by Council Member Swank

0-70-24

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN ECONOMIC DEVELOPMENT REVOLVING LOAN FUND ADMINISTRATION AGREEMENT WITH THE OHIO DEVELOPMENT SERVICES AGENCY.

Introduced by Council Member Risner

0-72-24

AN ORDINANCE GRANTING A SPECIAL RIGHT-OF-WAY USE PERMIT AT 85 ELMWOOD PLACE, TO REPLACE/REPAIR AN EXISTING FENCE AND POOL HOUSE LOCATED IN THE CITY RIGHT-OF-WAY ON SHANNON AVENUE.

Introduced by Council Member Swank

5. Ordinances for First Reading:

0-77-24

AN ORDINANCE APPROVING THE PETITION, PLAN, AND ARTICLES OF INCORPORATION OF THE ATHENS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC. AND DECLARING THE NECESSITY OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF ATHENS, OHIO IN COOPERATION WITH THE ATHENS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.

Introduced by Council Member Swank

0-78-24

AN ORDINANCE DETERMINING TO PROCEED WITH THE ACQUISITION, CONSTRUCTION, AND IMPROVEMENT OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF ATHENS, OHIO IN COOPERATION WITH THE ATHENS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT.

Introduced by Council Member Swank

0-79-24

AN ORDINANCE LEVYING SPECIAL ASSESSMENTS FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF ATHENS, OHIO IN COOPERATION WITH THE ATHENS ENERGY SPECIAL IMPROVEMENT DISTRICT, APPROVING AN ENERGY PROJECT COOPERATIVE AGREEMENT AND A SPECIAL ASSESSMENT AGREEMENT.

Introduced by Council Member Swank

0-80-24

AN ORDINANCE GRANTING A SPECIAL RIGHT-OF-WAY USE PERMIT AT 49 CENTRAL AVENUE FOR PRE-EXISTING PATIO, STAIRS AND PARKING IN THE CITY RIGHT-OF-

WAY.

Introduced by Council Member Swank

0-81-24

AN ORDINANCE AFFIRMING THE SERVICE-SAFETY DIRECTOR'S EXECUTION OF EASEMENTS WITH THE STATE OF OHIO NECESSARY FOR THE CONSTRUCTION OF CITY SEWER SYSTEM IMPROVEMENTS, PROJECT #330.

Introduced by Council Member McCarey

0-82-24

AN ORDINANCE AUTHORIZING THE MAYOR TO SUBMIT AN APPLICATION TO PARTICIPATE IN THE STATE CAPITAL IMPROVEMENT AND/OR LOCAL TRANSPORTATION IMPROVEMENT PROGRAM(S) FOR ISSUE I FUNDS; AND TO EXECUTE CONTRACTS AS REQUIRED; AND DECLARING AN EMERGENCY.

Introduced by Council Member Spjeldnes

0-83-24

AN ORDINANCE AMENDING THE 2024 APPROPRIATION ORDINANCE AND AMENDING ORDINANCE 51-23; AUTHORIZING THE PURCHASE OF A NEW DUMP TRUCK.

Introduced by Council Member Spjeldnes

0-84-24

AN ORDINANCE AMENDING THE 2024 APPROPRIATION ORDINANCE 130-23; AND AUTHORIZING AN INTERFUND TRANSFER.

Introduced by Council Member Risner

0-85-24

AN ORDINANCE APPROVING A THEN-AND-NOW CERTIFICATE FOR PAYMENT TO WEBSTAURANT STORE, LLC; AND DECLARING AN EMERGENCY.

Introduced by Council Member Risner

6. One-Reading Resolution

- **R-05-24**

A RESOLUTION CONGRATULATING OSTROH, UKRAINE, SISTER CITY WITH THE CITY OF ATHENS, OHIO, ON THE OCCASION OF UKRAINIAN INDEPENDENCE DAY, AUGUST 24, 2024.

Introduced by All Members of Council

7. Announcements & Other Business:

- Motion to Accept the July 2024 Financial Reports
Motion to Accept the June 2024 Credit Card Transactions
- Motion to Remove 0-48-24 from the Table: **0-48-24** AN ORDINANCE AMENDING ATHENS CITY CODE TITLE 25, FLOOD DAMAGE PREVENTION, CHAPTER 25.01, GENERAL PROVISIONS, SECTION 25.02.07, BASIS FOR ESTABLISHING

THE AREAS OF SPECIAL FLOOD HAZARD. Introduced by Council Member
McCarey

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

9. Adjournment

Sam Crawl
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.

0-64-24

Introduced by Alan Swank, Chair
Planning & Development Committee

AN ORDINANCE GRANTING A SPECIAL RIGHT-OF-WAY USE PERMIT AT 810 EAST STATE STREET FOR OFF-STREET VEHICLE PARKING AND LIGHT POLES LOCATED IN 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 810 East State Street, to Good Inc., owner, on behalf of applicant Don Wood Hyundai, LLC, for off-street vehicle parking located in the city right-of-way on Grand Park Boulevard and light poles located in the City right-of-way on Grand Park Boulevard and East State street, as indicated on the application attached hereto and incorporated herein by reference.

SECTION II: Good Inc., owner, 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 permittee upon property of the City of Athens that is the subject of this ordinance.

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. Good Inc., owner, 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

0-65-24

Introduced by Alan Swank, Chair
Planning & Development Committee

AN ORDINANCE AMENDING ATHENS CITY CODE TITLE 23, ZONING, CHAPTER 23.04, PERMITTED USES, FOR TOBACCO AND CANNABIS ESTABLISHMENTS.

WHEREAS, on May 15, 2024, the Athens City Planning Commission recommended approving Case #24-05, modifications to the City Zoning Code for tobacco and cannabis retail establishments; and

WHEREAS, on August 5, 2024, Athens City Council will hold a public hearing to discuss the Planning Commission's recommendation on said Case #24-05;

SECTION I: Athens City Code Title 23, Zoning, Chapter 23.04, Permitted Uses, Section 23.04.04(B), B-1 Neighborhood Business Zone, Conditionally permitted uses, is hereby amended to read as follows:

Chapter 23.04. - Permitted Uses.

23.04.04. - B-1 Neighborhood Business Zone.

(B) Conditionally permitted uses:

(1) Accessory uses and structures as permitted and regulated in the R-3 zone and any other accessory uses and structures customarily accessory and incidental to any of the foregoing permitted B-1 uses.

(2) Licensed cigarette, vapor product, or other tobacco product retail dealers. Establishments shall be at least five hundred (500) feet from a school, public library, public playground, public park, or any other licensed cigarette, vapor product, and other tobacco product retail dealer.

(32) Any other retail business or service establishment determined by the board to be of the same general character as the above permitted uses, not including those which first permitted or are not permitted in the B-2 zone.

SECTION II: Athens City Code Title 23, Zoning, Chapter 23.04, Permitted Uses, Section 23.04.05(A), B-2 Business District, is hereby amended to add the following:

23.04.05. - B-2 Business District.

(A) Principal permitted uses. Any convenience business or general business or services establishment, subject to the following general conditions:

(6) Licensed cigarette, vapor product, or other tobacco product retail dealers. Establishments shall be at least Five hundred (500) feet from a school, public library, public playground, public park, or any other licensed cigarette, vapor product, and other tobacco product retail dealer.

(7) Cannabis establishments. No more than two (2) establishments are allowed within the B-2 Business District and they shall be at least five hundred (500) feet from a school, public library, public playground, public park, or any other cannabis establishment.

SECTION III: Athens City Code Title 23, Zoning, Chapter 23.04, Permitted Uses, Section 23.04.06, B-2D Downtown Business Zone, is hereby amended to add (C) and (D) to read as follows:

23.04.06. - B-2D Downtown Business Zone.

Same as specified in B-2, except for schedule of bulk controls Table A.

(C) Licensed cigarette, vapor product, or other tobacco product retail dealers. Establishments shall be at least five hundred (500) feet from a school, public library, public playground, public park, or any other licensed cigarette, vapor product, and other tobacco product retail dealer.

(D) Cannabis Establishments. No more than five (5) establishments are allowed within the B-2d Downtown Business Zone and they shall be at least five hundred (500) feet from a school, public library, public playground, public park, or any other cannabis establishment.

SECTION IV: Athens City Code Title 23, Zoning, Chapter 23.04, Permitted Uses, Section 23.04.07(A), B-3 General Business Zone, is hereby amended to add the following:

23.04.07. - B-3 General Business Zone.

(A) Principal permitted uses: Any use permitted and as regulated in the B-2 and B-2D Zones, except as hereinafter modified in the following general conditions:

(14) Licensed cigarette, vapor product, or other tobacco product retail dealers. Establishments shall be at least Five hundred (500) feet from a school, public library, public playground, public park, or any other licensed Cigarette, vapor product, and other tobacco product retail dealer.

(15) Cannabis Establishments. No more than twelve (12) establishments are allowed within the B-3 General Business Zone and they shall be at least five hundred (500) feet from a school, public library, public playground, public park, or any other cannabis establishment.

(164) Other uses—Any other use which is determined by the BZA to be of the same general character as the above permitted uses, but not including any use which is first permitted in the M-Zone, or which is prohibited in the M-Zone.

SECTION V: Athens City Code Title 23, Zoning, Chapter 23.04, Permitted Uses, Section 23.04.08(A), Industrial Zone, is hereby amended to add the following:

23.04.08. – M-Industrial Zone.

(A) Principal permitted uses: Any use permitted and regulated in the B-3 Zone and any industrial use, except as hereinafter modified in the following general conditions:

(5) Licensed cigarette, vapor product, or other tobacco product retail dealers. Establishments shall be at least five hundred (500) feet from a school, public library, public playground, public park, or any other licensed cigarette, vapor product, and other tobacco product retail dealer.

(6) Cannabis establishments. No more than five (5) establishments are allowed within the M-Industrial Zone and they shall be at least five hundred (500) feet from a school, public library, public playground, public park, or any other cannabis establishment.

(75) Other uses—Any other use that is determined by the BZA to be of the same general character as the above permitted uses but not including any use that is conditionally permitted in the M Zone under Section 23.04.07(B) or prohibited under Section 23.04.07(C).

SECTION VI: 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

0-67-24

Introduced by Solveig Spjeldnes, Member
Planning & Development Committee

**AN ORDINANCE AMENDING ORDINANCE 108-17, THE ATHENS CITY
AFFORDABLE HOUSING COMMISSION.**

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

SECTION I: Section I of Ordinance 108-17, hereby amends Sections 3.07.76 (B) and 3.07.76 (C), Establishment of the Athens City Affordable Housing Commission, is hereby amended to read as follows:

3.07.76. Establishment of the Affordable Housing Commission.

(B) Initial appointments of the seven representatives shall be as follows: two of the appointed members shall serve terms of one year; two of the appointed members shall serve terms of two years; and three of the appointed members shall serve terms of three years. After the initial appointments establishing the affordable housing commission, all members shall be appointed to three-year terms ~~commencing on May 1~~ **as needed**. Members may be considered for reappointment and may serve consecutive three-year terms. Vacancies on the affordable housing commission occurring otherwise than by the expiration of terms, shall be filled for the unexpired term and appointed in the same manner as the original appointments. All members shall serve without compensation.

(C) All meetings are open to the public in accordance with applicable state and federal laws and regulations.

A quorum for the Affordable Housing Commission shall consist of ~~a simple majority of the~~ **six members (6)** members, ~~with a~~ **with a** majority vote of the full voting membership is necessary to take any official action. ~~Voting may be done by being present at the meeting, by real time conferencing, or by proxy vote.~~

The commission shall elect its own chairperson from among its members, shall maintain a record of its proceedings, and shall adopt such rules and regulations of self-government as may be necessary to carry out the purposes and provisions of this section.

A member who misses three (3) consecutive meetings, without an excused absence, shall automatically cease to be a member and his/her seat shall become vacant.

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

0-68-24

Introduced by Solveig Spjeldnes, Chair
Transportation Committee

AN ORDINANCE AUTHORIZING DISPOSAL OF A 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 no longer
needed for a municipal purpose:

<u>VEHICLES</u>	<u>SERIAL/VIN #</u>	<u>FIXED ASSET#</u>
2017 City Bus #1701	1FDFE4FS2HDC73937	801049

SECTION II: The above-listed vehicle has reached its useful life
(240,869 miles) and will be sold for scrap and is hereby authorized for disposal.

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

0-69-24

Introduced by Alan Swank, Chair
Planning & Development Committee

AN ORDINANCE AMENDING ORDINANCE NO. 0-103-20, AS AMENDED BY ORDINANCE NO. 0-42-21, WITH RESPECT TO THE CREATION OF THE UNIVERSITY ESTATES INCENTIVE DISTRICT WITHIN THE CITY OF ATHENS; AUTHORIZING THE EXECUTION OF A FIRST AMENDED AND RESTATED TAX INCREMENT FINANCING AGREEMENT WITH THE PROPERTY OWNER IN SUCH INCENTIVE DISTRICT; AUTHORIZING THE EXECUTION OF A FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND CONDITIONS RELATIVE TO SERVICE PAYMENTS IN LIEU OF TAXES, MINIMUM SERVICE PAYMENT OBLIGATIONS, AND OTHER MATTERS.

WHEREAS, Howard and Lawson, LTD (the “Developer”) has proposed to develop several parcels of real property specifically identified and depicted on EXHIBIT A attached hereto (with each such parcel referred to herein individually as a “Parcel” and collectively as the “Project Site”) within the corporate boundaries of the City of Athens, Ohio (the “City”) by constructing Woods Edge, an affordable housing development to be known as the “University Estates Development” as identified and described in greater detail on EXHIBIT B attached hereto (the “Development”); and

WHEREAS, pursuant to Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (collectively, the “TIF Statute”), this City Council of the City (the “City Council”) passed Ordinance No. 0-103-20 on October 19, 2020 (the “Original TIF Ordinance”), as amended by Ordinance No. 0-42-21 on May 3, 2021 (the “First TIF Ordinance Amendment”), as further amended by this Ordinance (the “Second TIF Ordinance Amendment” and, together with the Original TIF Ordinance and the First TIF Ordinance Amendment, the “TIF Ordinance”), otherwise creating the “University Estates Incentive District” within the City and authorizing a seventy-five percent (75%) exemption from real property taxation with respect to the increase assessed value of the Parcels occurring as a result of the Development for a period of ten (10) years (the “TIF Exemption”), all as further defined by the TIF Ordinance; and

WHEREAS, pursuant to Ohio Revised Code Section 5709.42, the TIF Ordinance requires the present and future owners of the Project Site, including, but not limited to, the Developer (the “Owners”) to make service payments in lieu of taxes (the “Service Payments”) to the Athens County Treasurer for the duration of the TIF Exemption; and

WHEREAS, in accordance with Ohio Revised Code Section 5709.83, the City delivered notice to the Boards of Education of both the Athens City School District and Tri-County Joint Vocational School District, stating the City’s intent to adopt the Original TIF Ordinance and the City delivered such notice not less than fourteen (14) days prior to the adoption of the Original TIF Ordinance; and

WHEREAS, the City entered into a Tax Increment Financing Agreement with the Developer on October 27, 2020 (the “Original TIF Agreement”), as amended on May 3, 2021 pursuant to the First TIF Ordinance Amendment (the “Amended TIF Agreement”), and as further amended by this Ordinance (the “First Amended and Restated TIF Agreement” and, together with the Original TIF Agreement and the Amended TIF Agreement, the “TIF Agreement”), otherwise requiring the City to reimburse the Developer for the “Costs of Public Infrastructure Improvements” (as defined by the TIF Agreement) incurred by the Developer to construct various Public Infrastructure Improvements (as defined by the TIF Ordinance); and

WHEREAS, pursuant to the requirements of the TIF Ordinance, the Developer entered into a *Declaration of Covenants and Conditions Relative to Service Payments in Lieu of Taxes and Other Matters* with respect to Service Payments on the Project Site on October 27, 2020; and

WHEREAS, as a result of changing market conditions, the Developer informed the City that the Developer would no longer be in a financial position to incur the Costs of Public Infrastructure Improvements pursuant to the TIF Agreement; and

WHEREAS, the City has determined that it is willing to provide for the construction of the Public Infrastructure Improvements by incurring the Costs of Public Infrastructure Improvements in order to encourage the Development, provided, that the TIF Agreement is amended to reimburse the City for its incurred Costs of Public Infrastructure Improvements from Service Payments and Minimum Service Payments (as defined by the TIF Agreement, and which such First Amended and Restated TIF Agreement in substantially the form of EXHIBIT C is attached hereto and incorporated herein) and the Developer enter into a *First Amended and Restated Declaration of Covenants and Conditions Relative to Service Payments In Lieu of Taxes, Minimum Service Payment Obligations, and Other Matters* (the “Amended Service Payment Declaration” in substantially the form of EXHIBIT D attached hereto) to provide for the allocation of a portion of such Service Payments and Minimum Service Payments to its Costs of Public Infrastructure Improvements; and

WHEREAS, pursuant to the First Amended and Restated TIF Agreement, the Developer as Owner of the Project Site shall execute in favor of, and in form and substance acceptable to the City, an option to purchase the Parcels comprising the Project Site (the “Option”) to further ensure completion of the Developer in order to generate Service Payments and Minimum Service Payments sufficient to pay Costs of Public Infrastructure Improvements; and

WHEREAS, this City Council is desirous that the Development proceed in order to encourage the fulfillment of the “Affordable Housing Commission Goals” associated with the Development in the City and now desires to amend the TIF Ordinance and authorize the City to enter into the First Amended and Restated TIF Agreement and the Amended Service Payment Declaration pursuant to the terms of this Ordinance.

Now, therefore, be it ordained by the City Council of the City of Athens, Ohio, that:

SECTION I: Except where specifically amended by this Ordinance, the terms of the Original TIF Ordinance, the First TIF Ordinance Amendment, and the TIF Exemption authorized therein, shall continue in full force and effect. For the avoidance of doubt, the recitals to this Ordinance shall supersede the recitals of the Original TIF Ordinance and the First TIF Ordinance Amendment, where

the application of the recitals to this Ordinance conflict. This City Council hereby amends the Original TIF Ordinance, as amended by the First TIF Ordinance Amendment, as follows:

SECTION I to the TIF Ordinance, as amended by the First TIF Ordinance Amendment, is further AMENDED and REPLACED as follows:

Pursuant to Ohio Revised Code Section 5709.40(C), this Council hereby creates the “University Estates Incentive District” No. 1, No. 2, No. 3, and No. 4, each of which consist of the parcels of real property specifically identified and depicted in Exhibit A, attached hereto (with each of those parcels referred to herein individually as a “Parcel” and collectively as the “Project Site”). The boundaries of the University Estates Incentive District No. 1, No. 2, No. 3, and No. 4 will be coextensive with the boundaries of the Project Site, as indicated by Exhibit A attached hereto and incorporated herein.

SECTION II to the TIF Ordinance, as amended by the First TIF Ordinance Amendment, is further AMENDED and REPLACED as follows:

Pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.40(C), this Council declares that seventy-five percent (75%) of the increase in assessed value of each Parcel (the “TIF Exemption”), subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the “Improvement” as defined in Ohio Revised Code Section 5709.40(A), is a public purpose and exempt from taxation for a period coextensive with the University Estates Incentive District No. 1, No. 2, No. 3, and No. 4, which commences, for each individual incentive district, with the first tax year that begins after the effective date of this Ordinance and in which an Improvement attributable to a new structure located on any Parcel within an University Estates Incentive District would first appear on the tax list and duplicate of real and public utility property (the “Commencement Date”) were it not for the exemption granted in this Ordinance, and ends on the earlier of (a) ten (10) years after the Commencement Date or (b) the date on which the City can no longer require service payments in lieu of taxes, either by law, or because the costs of all Public Infrastructure Improvement are paid for, all in accordance with the requirements of the TIF Statutes. Upon the expiration of all the tax exemptions granted with respect to a particular University Estates Incentive District, the respective University Estates Incentive District shall be dissolved.

SECTION IV to the TIF Ordinance, as amended by the First TIF Ordinance Amendment, is further AMENDED and REPLACED as follows:

This City Council hereby authorizes and directs the City Auditor to establish, pursuant to Ohio Revised Code Section 5709.43 a municipal public improvement tax increment equivalent fund, together with such other accounts and sub-accounts as the City Auditor deems appropriate

from time to time, to be known as the “University Estates Tax Increment Fund” (the “TIF Fund”). The City shall deposit the Service Payments collected and distributed to the City by the County Treasurer into the TIF Fund and allocate the money in such fund as specified in the First Amended and Restated TIF Agreement. Money in the TIF Fund shall be used to finance the Public Infrastructure Improvements, and is hereby pledged, in part, to the repayment of the City’s costs of the Public Infrastructure Improvements, all as provided in the First Amended and Restated TIF Agreement, and any subsequent amendments thereto. The TIF Fund will exist so long as such Service Payments are collected and used for the aforesaid purposes, after which time the TIF Fund will be dissolved and any surplus funds remaining will be transferred to the City’s general fund and applied as provided by then-current law.

SECTION VI to the TIF Ordinance, as amended by the First TIF Ordinance Amendment, is further AMENDED and REPLACED as follows:

The public infrastructure improvements, as more particularly described on EXHIBIT B attached hereto (the “Public Infrastructure Improvements”), shall be acquired, constructed and improved in accordance with the First Amendment and Restated TIF Agreement. The cost of such Public Infrastructure Improvements will be paid from the Service Payments and “minimum service payment obligations” made by the Owners, including any future owners of all or a portion of the Project Site, as set forth herein. The City hereby determines that the Public Infrastructure Improvements will benefit or serve the University Estates Incentive District.

EXHIBIT A to the TIF Ordinance, as amended by the First TIF Ordinance Amendment, is further AMENDED and REPLACED with EXHIBIT A attached to this Ordinance and incorporated herein.

SECTION II: The Service-Safety Director of the City (the “Service-Safety Director”) is hereby authorized to execute on behalf of the City, together with such revisions or additions as approved by the Service-Safety Director as are consistent with the objectives and requirements of this Ordinance and not otherwise materially adverse to the City, which approval and determinations shall be conclusively evidenced by the signing of the following agreements:

- (i) the First Amended and Restated TIF Agreement substantially in the form attached hereto as EXHIBIT C, which First Amended and Restated TIF Agreement includes provisions regarding the construction of the Development and the Public Infrastructure Improvements (as defined by the TIF Ordinance) providing for, among other things, the payment of Service Payments and the use of the TIF Funds (as defined in the TIF Ordinance); and
- (ii) the Amended Service Payment Declaration substantially in the form attached hereto as EXHIBIT D, which Amended Service Payment Declaration includes

provisions regarding the payment of minimum service payments obligations (as defined by the Amended Service Payment Declaration).

The Service-Safety Director and other appropriate City officials are further authorized to provide such information and to execute, certify or furnish such other documents, and to do all other things as are necessary for and incidental to carrying out the provisions of the First Amendment to TIF Agreement and the Amended Service Payment Declaration.

SECTION III: The Clerk of City Council is hereby directed to deliver, not later than fifteen (15) days after the effective date of this Ordinance, a copy hereof to the Director of the Ohio Department of Development (together with any successor, the "ODOD") and the Service-Safety Director is hereby directed to deliver to the Director of ODOD, not later than March 31 of each year during which the TIF Exemption remains in effect, a status report outlining the progress of the Development herein described.

SECTION IV: The Service-Safety Director is hereby authorized to take all actions, including but not limited to the execution of all documents, certificates, agreements, and amendments thereto, necessary to establish the TIF Exemption and implement and administer the TIF Fund (as defined by the TIF Ordinance), that are not substantially inconsistent with this Ordinance.

SECTION V: It is hereby found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were passed in an open meeting of this City Council, and that all deliberations of this City Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

SECTION VI: This Ordinance shall be effective from and after the earliest time provided by law.

President of City Council

ATTEST:

APPROVED:

Clerk of City Council

Mayor

CERTIFICATE

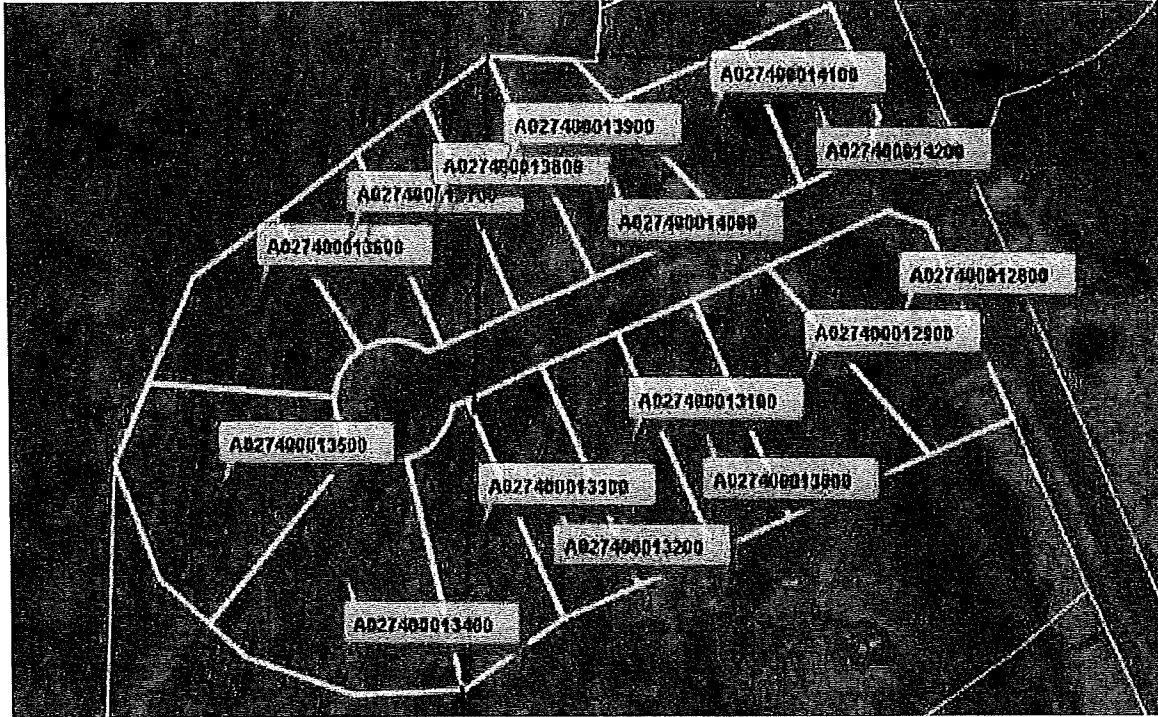
The undersigned Clerk of City Council hereby certifies that the foregoing is a true copy of Ordinance No. []-24 duly adopted by the City City Council of the City of Athens, Ohio on [] [], 2024 and that the Ordinance was published in accordance with the Ohio Revised Code.

Clerk of City Council
City of Athens, Ohio

EXHIBIT A

DESCRIPTION OF THE PROJECT SITE

The Project Site includes the following Parcels identified in the records of the Athens County Auditor, as of calendar year 2024, including as such Parcels may be divided, combined, re-combined, re-numbered, or otherwise altered from time to time. For the avoidance of doubt, the Parcels included within each, individual University Estates Incentive District are listed below.



Parcel Numbers

Incentive District No.	Included Parcels
University Estates Incentive District No. 1	A027400014100 A027400014200 A027400012900 A027400012800
University Estates Incentive District No. 2	A027400013700 A027400013800 A027400013900 A027400014000
University Estates Incentive District No. 3	A027400013600 A027400013500 A027400013400
University Estates Incentive District No. 4	A027400013300 A027400013200 A027400013100 A027400013000

EXHIBIT B

DESCRIPTION OF DEVELOPMENT

[See Attached]

Woods Edge

A Premier University Estates Community



Townhomes

1780 sq. ft., two bedroom, 2.5 baths

Or

2160 sq. ft., three bedroom, 3 baths

Single car garage

HOWARD AND LAWSON, LTD.

UNIVERSITY ESTATES - PHASE II

BROADMOOR CT AND HOMESTEAD CT

ATHENS, OH

OWNER

HOWARD & LAWSON LTD
39403 STATE ROUTE 689
ALBANY, OH 45710
CONTACT: PATRICK LAWSON
PHONE: 740-591-8547

FUTURE OWNER

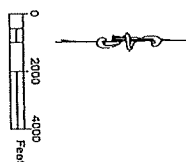
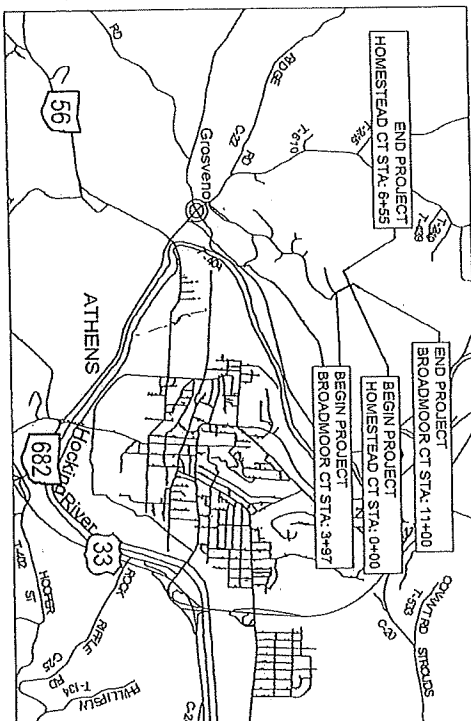
CITY OF ATHENS
ENGINEERING & PUBLIC WORKS
30 CURRAN DR.
ATHENS, OHIO 45701
PHONE: (740) 593-7636
CONTACT: SALEM ELDABAJA, P.E.

CITY OFFICIALS
STEVE PATTERSON.....MAYOR
ANDREW B. STONE, P.E.....SERVICE-SAFETY DIRECTOR
LISA ELIASON.....LAW DIRECTOR
KATHY HECHT.....AUDITOR
JOSH THOMAS.....TREASURER

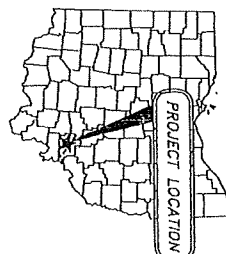
COUNCIL MEMBERS
CHRISTINE KINSELY, PRESIDENT
SARAH GRACE
JEFFREY RISNER
MICAH MCCAREY
DEBBIE WALKER, CLERK
SOLVEIG SPRELDNES
ALAN SWANK
SAM CROWL
BEN ZIFF

ENGINEER / SUPERVISOR

BUCKLEY GROUP, LLC
6801 STATE ROUTE 56
ATHENS, OH 45701
PHONE: (740) 589-5001
FAX: (740) 592-5817
CONTACT: CLINTON KUENZLU, P.E.



SHEET NO.	SHEET INDEX DESCRIPTION
C-1	TITLE SHEET
C-2	TYPICAL SECTION
C-4 TO C-7	GENERAL NOTES
C-8	SITE OVERVIEW
C-9	GRADING PLAN
C-10	EROSION CONTROL PLAN
C-11 & C-12	BROADMOOR CT PLAN AND PROFILE & ESTIMATED QUANTITIES
C-13 & C-14	HOMESTEAD CT PLAN AND PROFILE & ESTIMATED QUANTITIES
C-15 & C-16	SANITARY SEWER PLAN AND PROFILE & ESTIMATED QUANTITIES
C-17 & C-18	STORM SEWER PLAN AND PROFILE & ESTIMATED QUANTITIES
C-19	INTERSECTION DETAILS
C-20	



LOCATION MAP
NOT TO SCALE

PROJECT DESCRIPTION
THIS PROJECT CONSISTS OF THE CONSTRUCTION OF THE EXTENSION OF BROADMOOR CT, AND HOMESTEAD CT, IN THE UNIVERSITY ESTATES SUBDIVISION IN THE CITY OF ATHENS, OHIO.

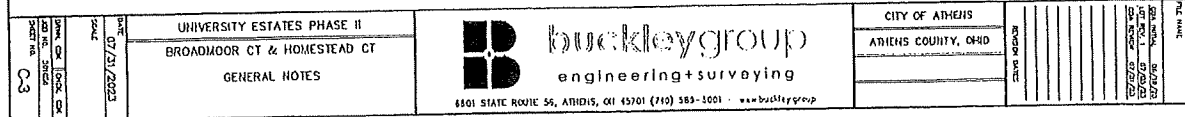
SPECIFICATIONS

THE CITY OF ATHENS DIVISION OF SEWER CONSTRUCTION SPECIFICATIONS FOR SEWER LINE INSTALLATION, CITY OF ATHENS WATER CONSTRUCTION SPECIFICATIONS, AND OHIO DEPARTMENT OF TRANSPORTATION 2019 CONSTRUCTION AND MATERIAL SPECIFICATIONS AND ASSOCIATED STANDARD DRAWINGS AND SUPPLEMENTAL SPECIFICATIONS SHALL GOVERN THIS IMPROVEMENT.

UNDERGROUND UTILITIES
BEFORE YOU DIG
CALL 811
OHIO
Digging Protection
TOLL FREE 1-800-485-2746
NON-EMERGENCY
CALLS DIRECTLY

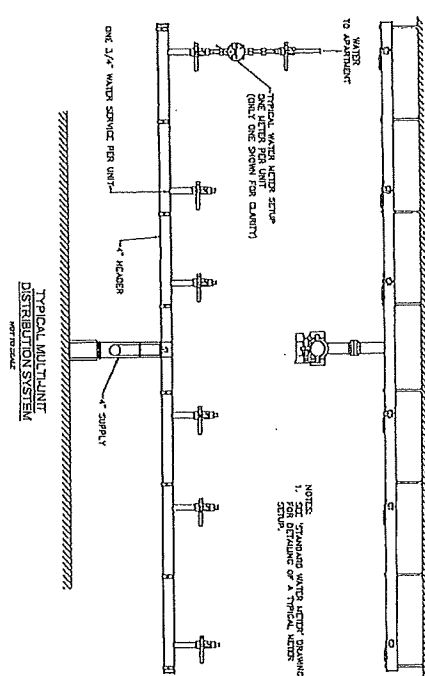
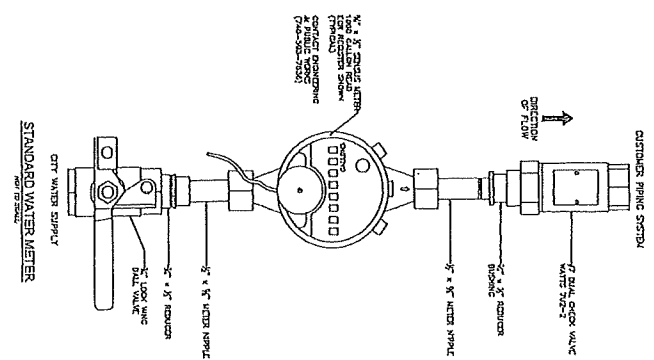
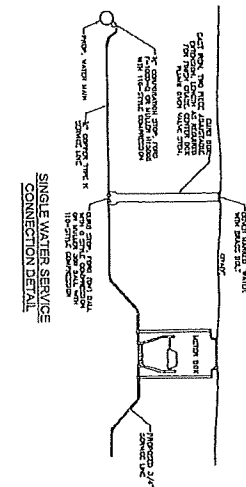
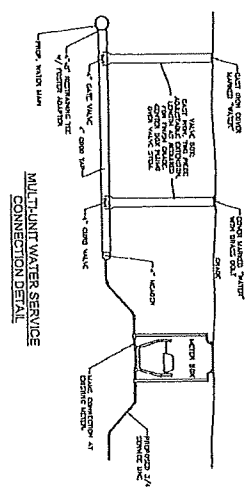
DATE 07/27/2023	PROJECT UNIVERSITY ESTATES PHASE II BROADMOOR CT & HOMESTEAD CT	SHEET NO. C-1	buckleygroup engineering+surveying 6801 STATE ROUTE 56, ATHENS, OH 45701 (740) 589-5001	CITY OF ATHENS ATHENS COUNTY, OHIO REVISIONS 	DATE 07/27/2023 DRAWN BY CHECKED BY
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-
- 3'-0" MIN.
- 12" MIN. OR TO 1/2" MIN. HOLE
- 12" MIN. OR TO 1/2" MIN. HOLE
- 12" MIN. OR TO 1/2" MIN. HOLE
- 6" TOP SOIL SEED & STRAW
- SELECT EXCAVATED MATERIAL (USE MECHANICAL COMPACTION METHODS)
- LOCATOR WIRE
- TYPE 2 BACKFILL MATERIAL
- TYPE 2 BEDDING MATERIAL
- 12" MIN. OR TO 1/2" MIN. HOLE
- 3'-0" MIN.
- 12" MIN. OR TO 1/2" MIN. HOLE

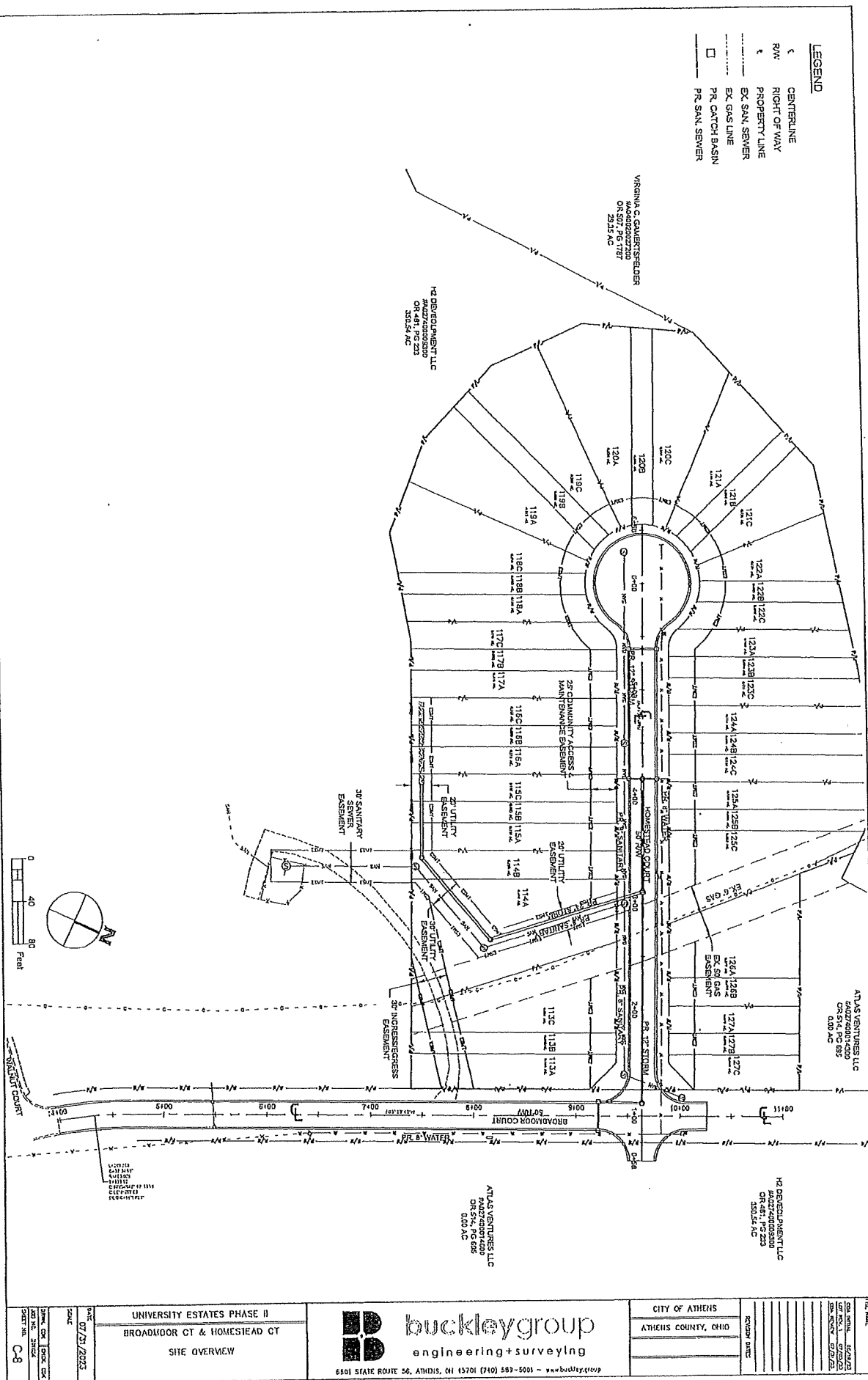


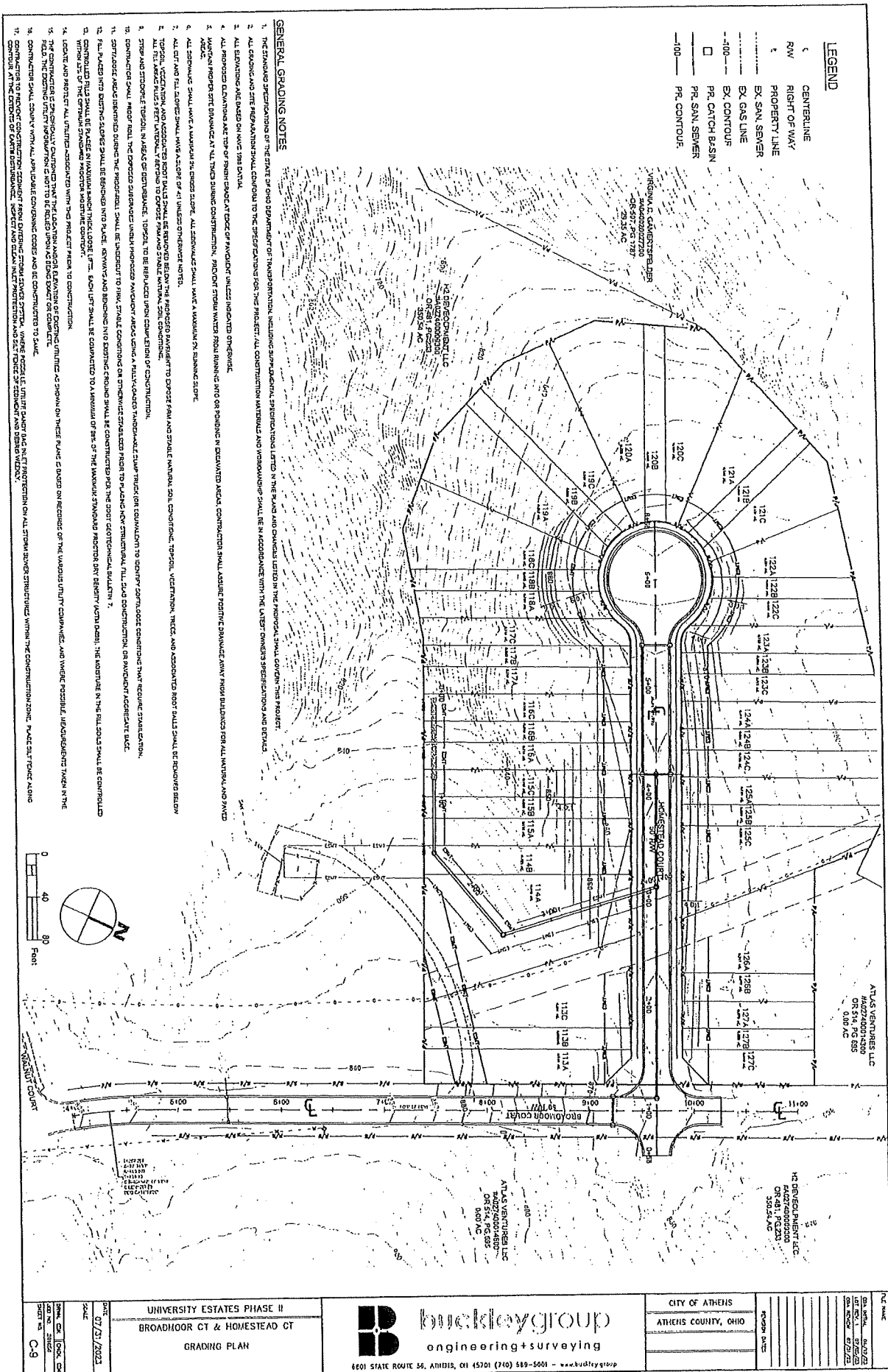
- [illegible]

DATE 07/21/2023	UNIVERSITY ESTATES PHASE II BROADMOOR CT & HOMESTEAD CT GENERAL NOTES	 buckleygroup engineering+surveying 8801 STATE ROUTE 56, ATHENS, OH 43101 (710) 583-5001 - www.buckleygroup.com	CITY OF ATHENS ATHENS COUNTY, OHIO	JOB NO. SHEET NO. DATE DRAWN BY CHECKED BY APPROVED BY	JOB NAME SURVEY LOT 1 6/15/23 001-00000 07/23
PROJECT 001-00000 C4					



- NOTE: IF GAS TRANSMISSION LINE HAS LESS THAN 5 FT OF COVER, THE 8" WATERLINE SHALL CROSS BELOW WITH A 24" VERTICAL SEPARATION

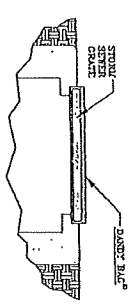
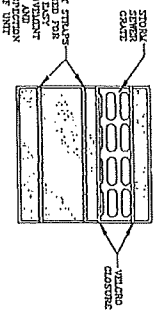




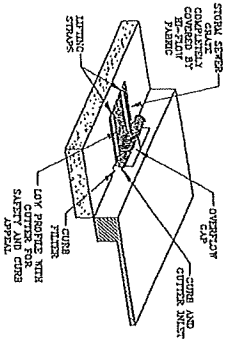
GENERAL EROSION CONTROL NOTES

1. ALL CONSTRUCTION MUST BE IN ACCORDANCE WITH THE LATEST OF ANY APPLICABLE CODES AND ORDINANCES.
2. EROSION CONTROL MEASURES SHALL BE INSTALLED PRIOR TO THE START OF ANY CONSTRUCTION ACTIVITY.
3. EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
4. EROSION CONTROL MEASURES SHALL BE REMOVED UPON COMPLETION OF CONSTRUCTION.
5. EROSION CONTROL MEASURES SHALL BE REINSTALLED IF THEY BECOME DAMAGED OR INEFFECTIVE.
6. EROSION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT EROSION OF THE SOIL SURFACE.
7. EROSION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT POLLUTION OF ADJACENT WATERSHEDS.
8. EROSION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT POLLUTION OF ADJACENT AIRWAYS.
9. EROSION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT POLLUTION OF ADJACENT PROPERTIES.
10. EROSION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT POLLUTION OF ADJACENT PUBLIC AREAS.
11. EROSION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT POLLUTION OF ADJACENT NATURAL AREAS.
12. EROSION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT POLLUTION OF ADJACENT HISTORIC AREAS.
13. EROSION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT POLLUTION OF ADJACENT CULTURAL AREAS.
14. EROSION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT POLLUTION OF ADJACENT RECREATION AREAS.
15. EROSION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT POLLUTION OF ADJACENT AESTHETIC AREAS.

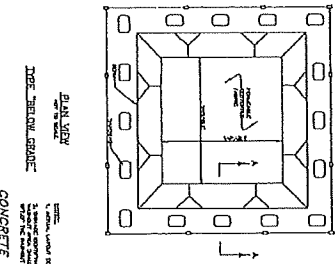
DANDY BLOC



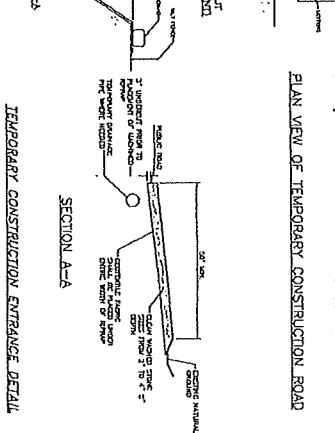
DANDY CURE BLOC



DANDY BAG INLET PROTECTION DETAIL



DANDY BAG CONCRETE WASHOUT DETAIL



TEMPORARY CONSTRUCTION ENTRANCE DETAIL

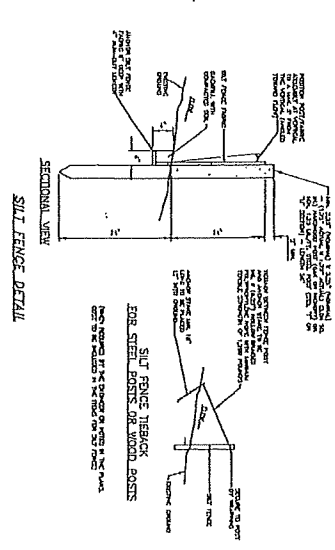
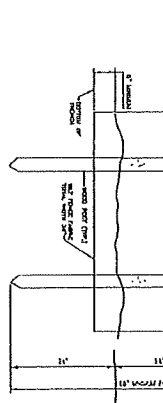
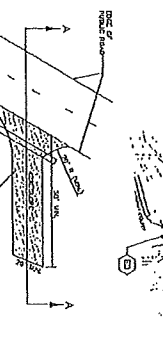


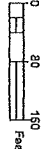
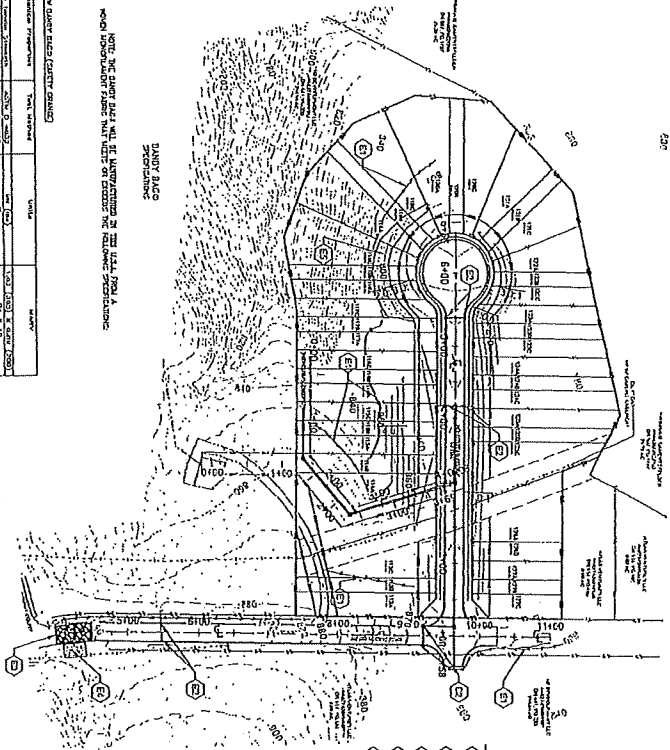
TABLE 1: DANDY BAG SPECIFICATIONS

ITEM	DESCRIPTION	QUANTITY	UNIT
1	DANDY BAG	100	SQ. YD.
2	DANDY CURE BLOC	100	SQ. YD.
3	DANDY BAG INLET PROTECTION	100	SQ. YD.
4	DANDY BAG CONCRETE WASHOUT	100	SQ. YD.
5	TEMPORARY CONSTRUCTION ENTRANCE	100	SQ. YD.

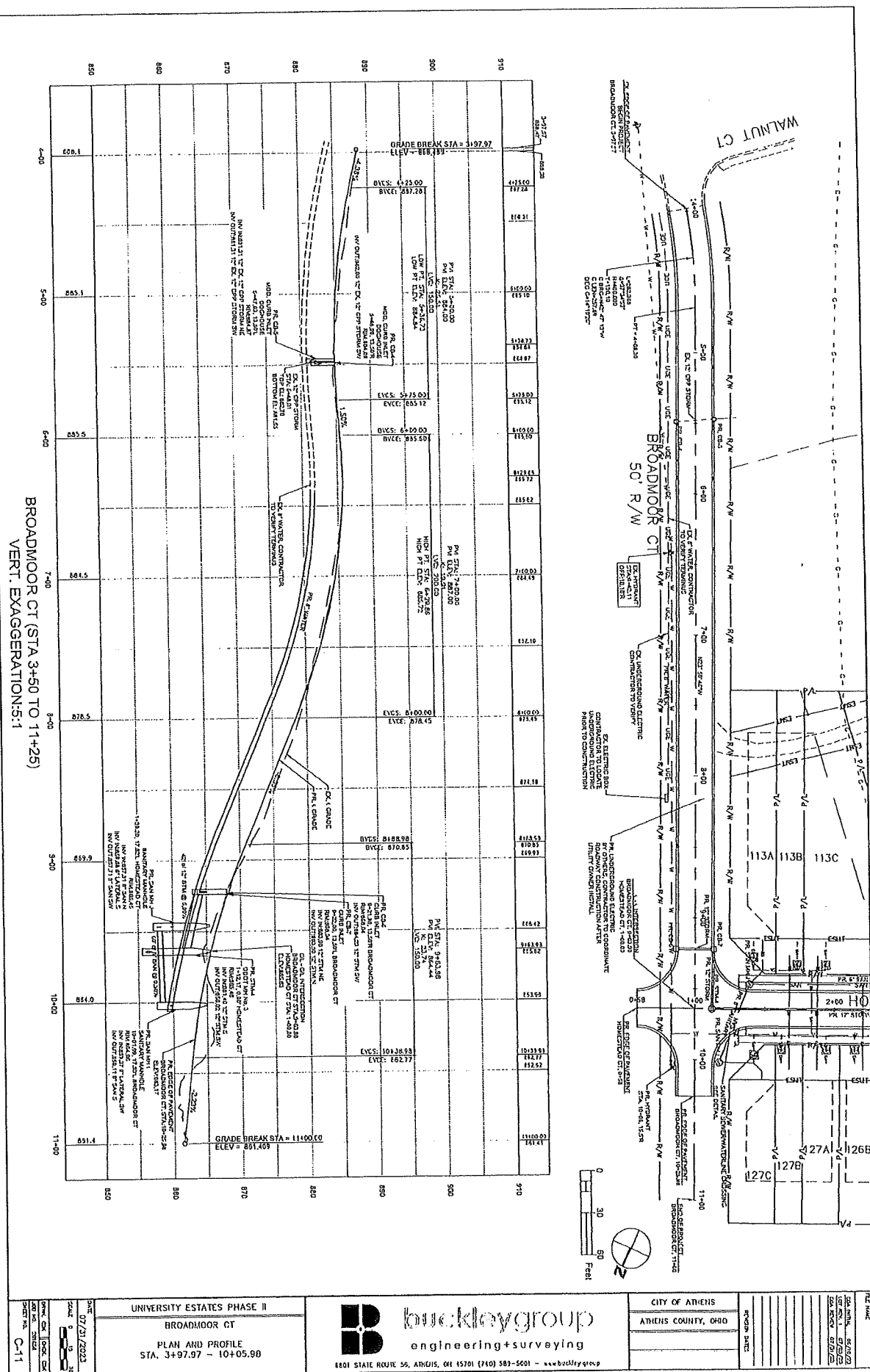


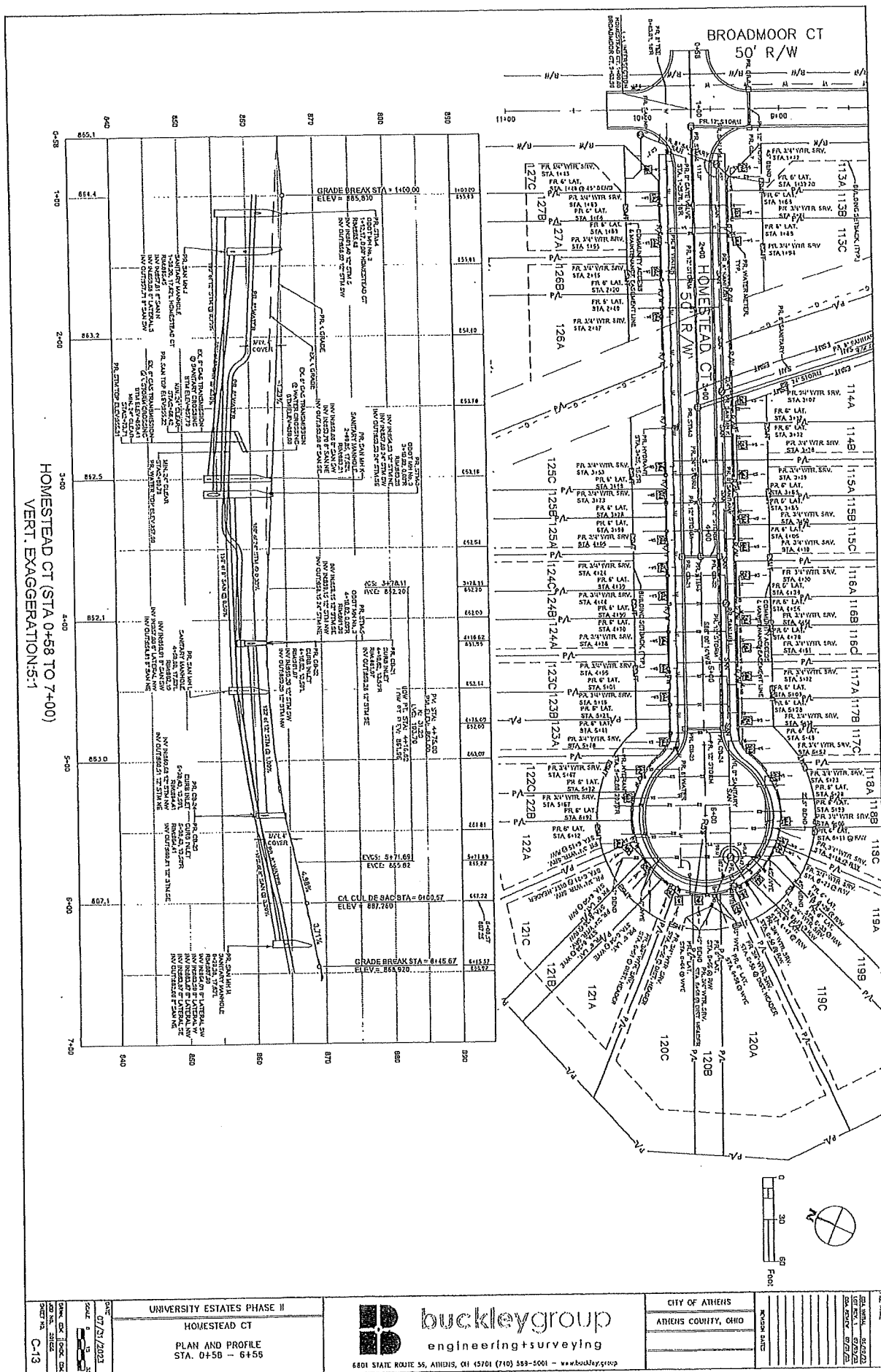
NOTE: THE DANDY BAG SHALL BE MAINTAINED IN THE AREA FROM A MINIMUM OF 10 FEET TO A MAXIMUM OF 100 FEET FROM THE CONSTRUCTION SITE.

DANDY BAG

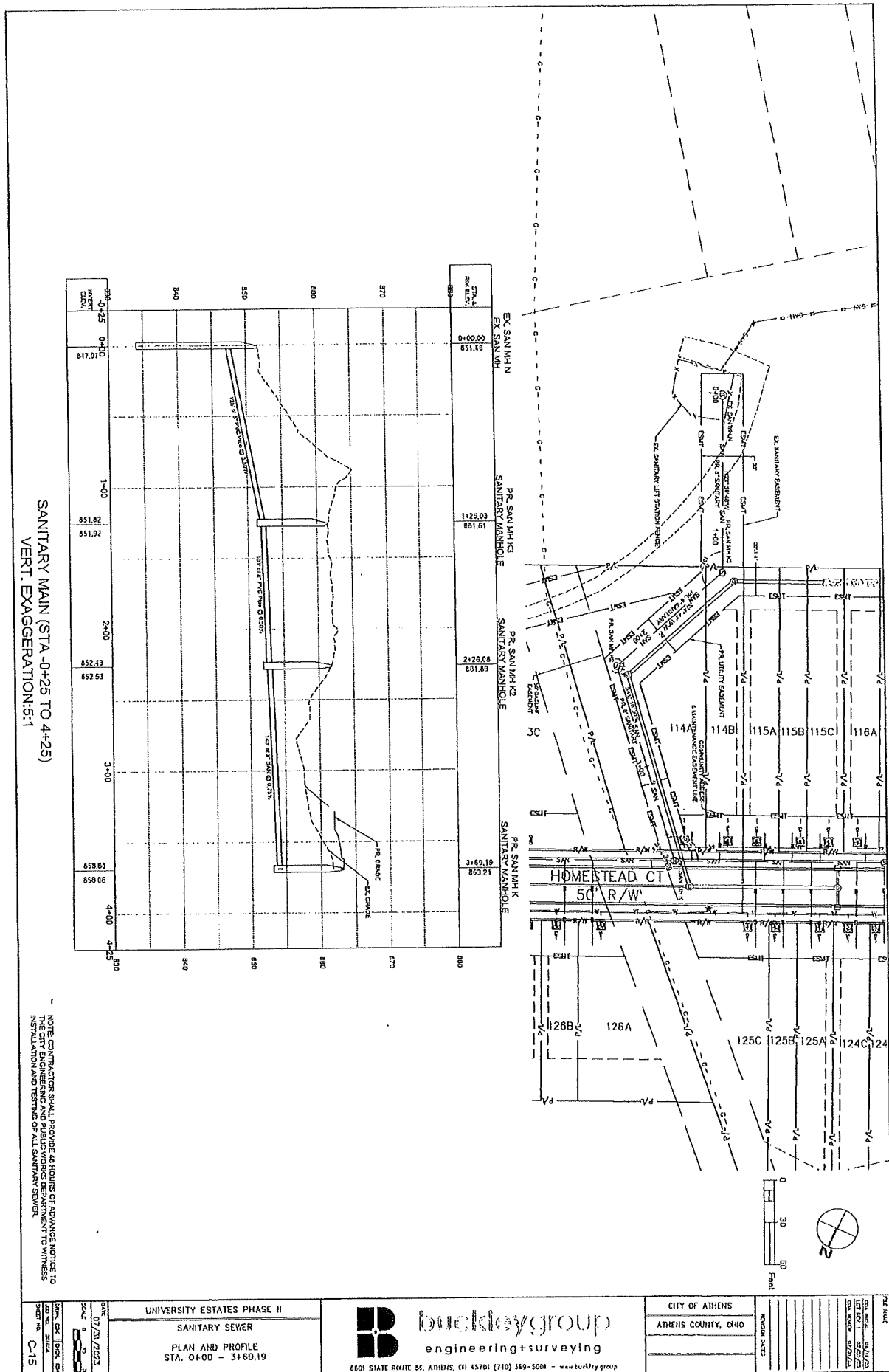


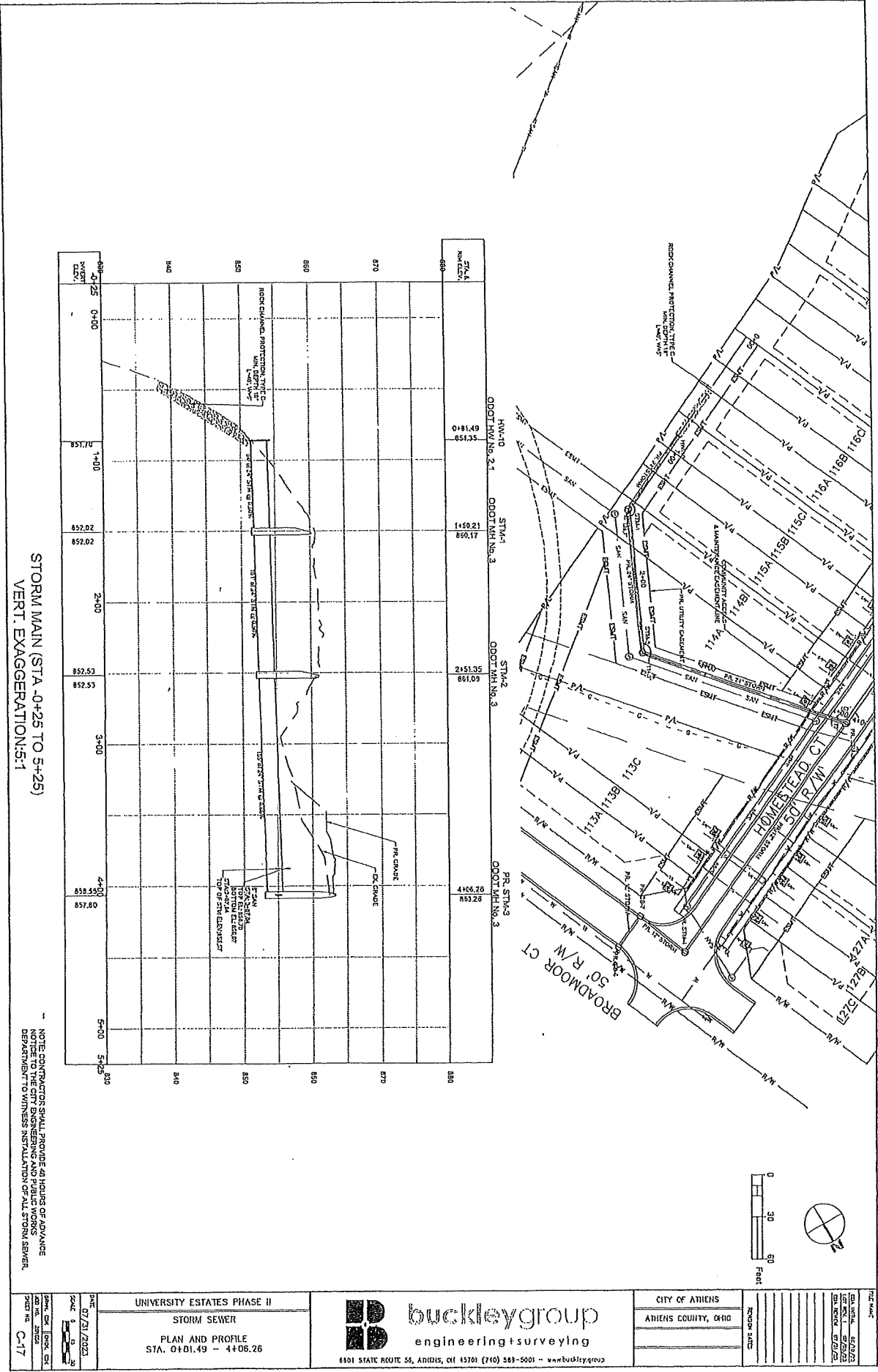
- LEGEND**
- PROPOSED DANDY BAG INLET PROTECTION
 - PROPOSED DANDY CURE BLOC
 - PROPOSED DANDY BAG CONCRETE WASHOUT
 - PROPOSED TEMPORARY CONSTRUCTION ENTRANCE
 - PROPOSED DANDY BAG INLET PROTECTION
 - PROPOSED DANDY CURE BLOC
 - PROPOSED DANDY BAG CONCRETE WASHOUT
 - PROPOSED TEMPORARY CONSTRUCTION ENTRANCE





UNIVERSITY ESTATES PHASE II HOMESTEAD CT PLAN AND PROFILE STA. 0+58 - 6+58	buckleygroup engineering+surveying 6801 STATE ROUTE 56, ATHENS, OH 45701 (710) 589-5001 - www.buckleygroup.com	CITY OF ATHENS ATHENS COUNTY, OHIO	
		DATE: 07/21/2023 SCALE: 1" = 40' (PLAN), 1" = 10' (PROFILE) DRAWN BY: J. L. L. (JLL) CHECKED BY: J. L. L. (JLL) PROJECT NO.: C-13	





UNIVERSITY ESTATES PHASE II STORM SEWER PLAN AND PROFILE STA. 0+01.49 - 4+06.26		buckleygroup engineering + surveying 6801 STATE ROUTE 54, ATHENS, OH 43101 (710) 583-5001 - www.buckleygroup.com	CITY OF ATHENS ATHENS COUNTY, OHIO	
DATE: 07/21/2023 DRAWN BY: [Signature] CHECKED BY: [Signature] PROJECT NO.: C-17			REVISIONS: NO. DESCRIPTION DATE 1.0 INITIAL 07/21/23 1.1 REVISED 07/21/23 1.2 REVISED 07/21/23	

EXHIBIT C

FORM OF FIRST AMENDED AND RESTATED TIF AGREEMENT

[See Attached]

FIRST AMENDED AND RESTATED TAX INCREMENT FINANCING AGREEMENT

This First Amended and Restated Tax Increment Financing Agreement (this “Agreement”) is made and entered into as of [_____] [____], 2024 by and between the CITY OF ATHENS, OHIO, a municipal corporation duly organized and validly existing under the constitution and the laws of the State of Ohio (the “City”), and HOWARD AND LAWSON, LTD, dba Cornerstone Home Builders of Southeast Ohio (the “Developer”), an Ohio limited liability company, whose mailing address is 39403 State Route 689, Albany, Ohio 45710.

RECITALS:

WHEREAS, the Developer has proposed to develop several parcels of real property specifically identified and depicted on Exhibit A attached hereto (with each such parcel referred to herein individually as a “Parcel” and collectively as the “Project Site”) within the corporate boundaries of the City of Athens, Ohio (the “City”) by constructing Woods Edge, an affordable housing development to be known as the “University Estates Development” as identified and described in greater detail on Exhibit B attached hereto (the “Development”); and

WHEREAS, pursuant to Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (collectively, the “TIF Statute”), the City Council of the City (the “City Council”) passed Ordinance No. 0-103-20 on October 19, 2020 (the “Original TIF Ordinance”), as amended by Ordinance No. 0-42-21 on May 3, 2021 (the “First TIF Ordinance Amendment”), and as further amended by Ordinance No. [_____] -24 on [_____] [____], 2024 (the “Second TIF Ordinance Amendment” and, together with the Original TIF Ordinance and the First TIF Ordinance Amendment, the “TIF Ordinance”), otherwise creating the “University Estates Incentive District” No. 1, No. 2, No. 3, and No. 4, within the City and authorizing a seventy-five percent (75%) exemption from real property taxation with respect to the increase assessed value of the Parcels occurring as a result of the Development for a period of ten (10) years (the “TIF Exemption”), all as further defined by the TIF Ordinance; and

WHEREAS, pursuant to Ohio Revised Code Section 5709.42, the TIF Ordinance requires the present and future owners of the Project Site, including, but not limited to, the Developer (the “Owners”) to make service payments in lieu of taxes (the “Service Payments”) to the Athens County Treasurer for the duration of the TIF Exemption; and

WHEREAS, after passage of the Original TIF Ordinance, the City entered into a Tax Increment Financing Agreement with the Developer on October 27, 2020 (the “Original TIF Agreement”), as amended by the First TIF Ordinance Amendment (the “Amended TIF Agreement”), and this Agreement (collectively, the “TIF Agreement”) otherwise requiring the City to reimburse the Developer for the “Costs of Public Infrastructure Improvements” (as defined by the TIF Agreement) incurred by the Developer to construct various Public Infrastructure Improvements (defined by Exhibit C attached hereto) and the Developer entered into a *Declaration*

of Covenants and Conditions Relative to Service Payments in Lieu of Taxes and Other Matters with respect to Service Payments on the Project Site on October 27, 2020; and

WHEREAS, as a result of changing market conditions, the Developer informed the City that the Developer would no longer be in a financial position to incur the Costs of Public Infrastructure Improvements pursuant to the TIF Agreement; and

WHEREAS, the City has determined that it is willing to provide for the construction of the Public Infrastructure Improvements by incurring the Costs of Public Infrastructure Improvements in order to encourage the Development and, pursuant to the Second TIF Ordinance Amendment, has authorized the City to enter into this Agreement with the Developer, to provide for the allocation of a portion of Service Payments to its Costs of Public Infrastructure Improvements in accordance with the TIF Statutes, the TIF Ordinance, and this Agreement; and

WHEREAS, pursuant to this Agreement, the Developer as Owner of the Project Site shall, or has, executed in favor of, and in form, substance, and on terms acceptable to the City (i) an option to purchase one or more Parcels comprising the Project Site (the "Option") and (ii) a joint life insurance policy in the minimum amount of \$2,000,000.00 naming Bret Howard and Pat Lawson (the "Partners") as insured and naming the City as the sole beneficiary in the event of the death of both Partners (the "Life Insurance Policy"), all to further ensure completion of the Development in order to generate Service Payments sufficient to pay Costs of Public Infrastructure Improvements; and

WHEREAS, the City has further determined and the Developer has further agreed, pursuant to this Agreement, that each Owner of a Parcel specified herein may be required to make certain payments (the "Minimum Service Payments"), which are "minimum service payment obligations" pursuant to Ohio Revised Code Section 5709.91, all pursuant to a formula specified for each Parcel as described by the *First Amended and Restated Declaration of Covenants and Conditions Relative to Service Payments In Lieu of Taxes, Minimum Service Payment Obligations, and Other Matters* attached to this Agreement substantially in the form of Exhibit D (the "Amended Service Payment Declaration"); and

WHEREAS, the Developer agrees that the Option, the Service Payments, and the Minimum Service Payments, and the Life Insurance Policy are necessary to ensure there are sufficient funds to reimburse the City for its Costs of Public Infrastructure Improvements identified by this Agreement.

NOW, THEREFORE, in consideration of the premises and covenants contained in this Agreement and to induce the City to proceed with the construction of the Public Infrastructure Improvements, the Developer and the City hereby agree as follows:

Section 1. Covenants of the Developer with Respect to the Development. In consideration of the incentives provided by the City in this Agreement, the Developer agrees to the following:

A. Affordable Housing Commission Goals. The Developer agrees to complete the Development in accordance with the City's Affordable Housing Commission Goals, which include, but are not limited to:

1. Building approximately 50 units +/- in 2 or 3 bedroom configurations.
2. Incorporate principles of "universal design" in the three-bedroom units (https://en.wikipedia.org/wiki/Universal_design). The City will provide examples of the specific elements expected. Once design is complete the Developer must gain letters of support from the Athens Affordable Housing Commission and Disabilities Commission prior to construction.
3. Incorporate concepts of cluster design, **ENERGY EFFICIENCY**, and solar readiness.

(a) **FOR PURPOSES OF THIS AGREEMENT "CLUSTER DESIGN" MEANS A RESIDENTIAL HOUSING PROJECT WHERE HOUSING UNITS ARE LOCATED RELATIVELY CLOSE TOGETHER OR SHARE COMMON WALLS IN ORDER TO YIELD MORE DWELLING UNITS THAN A TYPICAL RESIDENTIAL SUBDIVISION OF THE SAME ACREAGE WOULD.**

(b) **FOR PURPOSES OF THIS AGREEMENT "ENERGY EFFICIENCY" MEANS PLANNING AND DESIGN OF HOUSING UNITS, THAT INCLUDES, TO THE FULL EXTENT POSSIBLE, UTILIZATION OF BUILDING MATERIALS, APPLIANCES, FIXTURES, WINDOWS, LIGHTING, INSULATION, AND WEATHERIZATION IN ORDER TO REDUCE THE AMOUNT OF ENERGY WASTED.**

(c) **FOR PURPOSES OF THIS AGREEMENT 'SOLAR READY' MEANS PLANNING AND DESIGN OF HOUSING UNITS, THAT INCLUDES TO THE FULL EXTENT POSSIBLE, UTILIZATION OF THE HOUSING CONSTRUCTION GUIDELINES OF THE NATIONAL RENEWABLE ENERGY LABORATORY'S SOLAR READY BUILDINGS PLANNING GUIDE (TECHNICAL REPORT NREL/TP-7A-46078, DECEMBER 2009).**
<https://www.nrel.gov/docs/fy10osti/4607.pdf>.

4. Setting the initial **BASE** sale price of each unit at an amount not to exceed \$260,000 in calendar year 2024 and increasing not more than three percent (3%) per year for any succeeding year (i.e., \$267,800 in calendar year 2025, \$275,834 in calendar year 2026, \$284,109 in calendar year 2027, \$292,632 in calendar year 2028, and so forth). **FOR PURPOSES OF THIS AGREEMENT, "BASE SALE PRICE" MEANS THE LEAST EXPENSIVE OFFERED SALE PRICE FOR A COMPLETELY FINISHED DWELLING UNIT THAT INCLUDES**

STANDARD FIXTURES, TRIMS, FLOORING, COUNTERTOPS AND THE LIKE. A BUILDER MAY OPT TO PURCHASE MORE EXPENSIVE FIXTURES, TRIMS, FLOORING, COUNTERTOPS, AND THE LIKE THAT EXCEEDS THE BASE SALE PRICE.

5. Include as a covenant running with the land for each parcel in the Development a provision requiring that each unit is owner-occupied for the first 5-years from initial sale, and any buyer must declare such housing unit as their principle residence for tax purposes.
 6. Providing that housing units may be rented during the period between construction completion and sale, as necessary, prior to sale to the first buyer of such unit, at which time the covenants described in this Section 1(A) shall commence.
- B. Compliance with City Development Requirements. The Developer agrees to undertake the following with respect to the Development:
1. Comply with the City's Planned Unit Development process and secure all necessary development permits.
 2. Hire an engineering firm acceptable to the City to update subdivision design including meeting current City construction standards (including sidewalks) and new platting to match proposed number of units.
 3. Pay all capacity fees due in accordance with current law—with all housing units treated as 2 or 3 bedroom apartments.
 4. Provide, at no cost to the City, all easements and other real property rights necessary for the City to construct the Public Infrastructure Improvements.

Section 2. Construction of Public Infrastructure Improvements.

A. Authorization, Cooperation, Dedication, and Maintenance. The City shall design and construct or cause to be constructed the Public Infrastructure Improvements within and adjacent to the Project Site after the approval of the plans required by Section 2.B hereof.

B. Approval of Plans. The Public Infrastructure Improvements shall be constructed in accordance with construction plans complying with Section 29.08.01 of the City's Code of Ordinances and approved by the Service-Safety Director prior to commencement of construction.

C. Reimbursement from Service Payments and Minimum Service Payments. The City shall use the Service Payments in the "TIF Fund" (as defined in the TIF Ordinance) and any Minimum Service Payments it may receive pursuant to the Amended Service Payment Declaration, to reimburse the City for the Costs of Public Infrastructure Improvements. The

Costs of Public Infrastructure Improvements shall include costs the City incurs in order to construct the Public Infrastructure Improvements, including the items of “costs of permanent improvements” set forth in Ohio Revised Code Section 133.15(B).

Section 3. Priority of Lien; Exemption Applications. The provisions of Ohio Revised Code Section 5709.91, which specify that Service Payments and Minimum Service Payments will be treated in the same manner as taxes for all purposes of the lien described in Ohio Revised Code Section 323.11, including, but not limited to, the priority of the lien and the collection of Service Payments and Minimum Service Payments, apply to this Agreement and to the Project Site. The provisions of Ohio Revised Code Section 5709.911 apply to exemption applications filed pursuant to the TIF Ordinance and this Agreement.

Section 4. TIF Exemption, Related Agreements, Purchase Option, and Life Insurance Policy.

A. In connection with the construction of the Development by the Developer, the City, through the TIF Ordinance, has granted, among other things, with respect to the Improvement to the University Estates Incentive District No. 1, No. 2, No. 3, and No. 4 (as each are defined by the TIF Ordinance), a seventy-five percent (75%) exemption from real property taxation, commencing, for each individual incentive district, in the first tax year subsequent to the effective date of the TIF Ordinance in which an Improvement attributable to a new structure located on any Parcel within an University Estates Incentive District would have first appeared on the tax list and duplicate of real and public utility property (the “TIF Exemption Commencement Date”) had the TIF Exemption not been provided pursuant to the TIF Ordinance, and ending on the earlier of (a) ten (10) years after the TIF Exemption Commencement Date or (b) the date on which the City can no longer require Service Payments, either by law, or because the costs of all Public Infrastructure Improvements have been paid.

B. In accordance with Ohio Revised Code Sections 5715.27 and 5709.911, the Developer for itself as an Owner or, as described below, on behalf of any other Owner, of any Parcel at the time the TIF Exemption becomes effective with respect to that Parcel, shall file or cause to be filed a completed application for an exemption from real property taxation (DTE Form 24 or its successor form) with the Athens County Auditor (the “County Auditor”) for the Improvement to each Parcel. The Developer and the City agree to cooperate with each other for this purpose, and to cooperate with the County Auditor, the Ohio Department of Taxation and other public officials and governmental agencies in the performance by the public officials and governmental agencies of their duties in connection with the TIF Ordinance and this Agreement. Pursuant to the Amended Service Payment Declaration, which such Amended Service Payment Declaration shall be recorded with respect to each of the Parcels, every Owner or Owners of the Parcels consents to the tax exemption granted by the TIF Ordinance and grants to the Developer an irrevocable power of attorney for and on behalf of such Owner or Owners and in such Owner or Owners’ names to file or cause to be filed a completed application for an exemption from real property taxation (DTE Form 24 or its successor form) in accordance with this paragraph. The Developer and the City agree that this paragraph and this Agreement do not constitute consent by an owner to the filing by the City of an application for exemption

within the meaning of Ohio Revised Code Section 5709.911(B). No Parcel may be transferred by the Developer until such a DTE Form 24 (or its successor) has been filed and the Ohio Tax Commissioner has approved such Parcel's TIF exemption.

C. The City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain the exemptions from real property taxation granted under the TIF Ordinance and this Agreement, including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions, so long as such acts will not put the City at risk for any obligations beyond those set out in the TIF Ordinance and this Agreement.

D. In consideration of the City's construction of the Public Infrastructure Improvements and providing funding for Costs of Public Infrastructure Improvements, the Developer expressly agrees that it (i) shall execute in favor of, and in form, substance, and on terms acceptable to the City, an Option to purchase the Parcels comprising the Project Site to further ensure reimbursement to the City for its Costs of Public Infrastructure Improvements, (ii) shall execute in favor of, and in form, substance, and on terms acceptable to the City, a Life Insurance Policy, to further ensure reimbursement to the City for its Costs of Public Infrastructure Improvements, and (iii) shall execute and record upon the Project Site in the records of the Athens County, Ohio Recorder, the Amended Service Payment Declaration in substantially the form of Exhibit D attached hereto. Notwithstanding anything to the contrary, the City shall have no obligation whatsoever to construct the Public Infrastructure Improvements until and unless the Developer has provided the Option to the City and recorded the Amended Service Payment Declaration.

Section 5. Service Payments and Minimum Service Payments. As provided in Ohio Revised Code Section 5709.42, the Owners are required under this Agreement, the TIF Ordinance, and the Amended Service Payment Declaration to make Service Payments to the County Treasurer on or before the final dates for payment of real property taxes. Each such payment (including any interest and penalties) shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not exempt from real property taxation. Any late payments shall be subject to penalty and bear interest at the then-current rates established under Ohio Revised Code Sections 323.121 and 5703.47, as may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time. No Owner shall, under any circumstances, be required with respect to any tax year both to pay Service Payments with respect to an Improvement and to reimburse local taxing authorities for the amount of real property taxes that would have been payable had the Improvement not been exempted from taxation pursuant to the TIF Ordinance.

Notwithstanding anything to the contrary with respect to such Service Payments, as provided in Ohio Section 5709.91, the Owners are further required under this Agreement, the TIF Ordinance, and the Amended Service Payment Declaration to make Minimum Service Payments to the City on the terms and conditions specified by the Amended Service Payment Declaration.

Section 6. Tax Increment Equivalent Fund. Pursuant to the TIF Ordinance, the City has established its TIF Fund, which TIF Fund shall be maintained in the custody of the City. The TIF Fund shall receive all Service Payments distributed by the County Treasurer to the City pursuant to Ohio Revised Code Section 5709.42.

The TIF Fund shall remain in existence so long as Service Payments are collected and used for the purposes described in this Agreement and the TIF Ordinance, after which time the TIF Fund shall be dissolved in accordance with Ohio Revised Code Section 5709.43. Further, except as otherwise provided in this Agreement or the TIF Ordinance, moneys deposited in the TIF Fund shall be used as described in Section 7 of this Agreement.

Section 7. Use of Service Payments Deposited Into the TIF Fund.

A. The City agrees that the Service Payments deposited into the TIF Fund shall be used exclusively as set forth in this Section 7.

B. The Service Payments deposited into the TIF Fund shall be used on a semi-annual basis to reimburse the City for the Costs of Public Infrastructure Improvements in accordance with Section 1 of this Agreement. After the City is paid in full for the Cost of Public Infrastructure Improvements, the TIF Fund shall be dissolved and 100% of any remaining Service Payments shall be deposited into the City's general fund, as provided for in Ohio Revised Code Section 5709.43 and applied as then permitted by law. The City makes no representation as to the sufficiency or timeliness of the Service Payments to pay all Costs of Public Infrastructure Improvements.

Section 8. Estoppel Certificate. Upon request of the Developer, the City shall execute and deliver to the Developer or any proposed purchaser, mortgagee or lessee of any Parcel, a certificate stating: (a) that this Agreement is in full force and effect, if the same is true; (b) that the Developer is not in default under any of the terms, covenants or conditions of the Agreement, or, if the Developer is in default, specifying the same; and (c) such other matters as the Developer may reasonably request.

Section 9. Representations of the Parties. The Developer hereby represents that it is or intends to be the owner in fee simple of all of the Parcels comprising the Project Site, it has full power and authority to enter into this Agreement and carry out its terms, that the persons whose names appear on this Agreement are duly authorized and empowered to make and execute this Agreement on behalf of the Developer, and that this Agreement is supported by consideration.

Section 10. Remedies.

A. In General. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement by either party to this Agreement, or any successor to such party, such party (or successor) shall, within forty-five (45) days of receipt of written notice from the other, proceed to cure or remedy such default or breach. In case such action is not taken or not

diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations. All rights and remedies shall be cumulative and shall not be construed to exclude any other remedies allowed at law or in equity.

B. Unforeseeable Delay. Neither party shall be considered in breach of its obligations under this Agreement due to unforeseeable causes beyond its reasonable control and without its fault or negligence, including, but not restricted to, acts of God, acts of the public enemy, acts of the Federal Government, orders of courts, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes. The party seeking the benefit of the provisions of this subsection shall, within fifteen (15) calendar days after actual notice of any such unforeseeable delay, have first notified the other party of such unforeseeable delay in writing, and of the cause or causes of the unforeseeable delay. With respect to the Developer, delays or failures to perform due to lack of funds shall not be deemed unforeseeable delays beyond the reasonable control of the Developer.

Section 11. Successors. This Agreement shall be binding upon and inure to the benefit of the Developer and its beneficiaries, successors and assigns, including successive as well as immediate successors and assigns; and shall be binding upon and inure to the benefit of the City, and its successors and assigns.

Section 12. Indemnification. The Developer shall indemnify, defend and hold harmless the City and the City's agents, employees and public officials (each, an "Indemnified Party") from and against any and all suits, claims, damages, losses and expenses (including reasonable attorneys' fees) incurred by the City as a result of the TIF Ordinance or this Agreement, or arising or allegedly arising out of, or resulting from the construction of the Public Infrastructure Improvements, including claims for bodily injury, personal injury or property damage and contract and legal disputes. The provisions of this subparagraph shall survive the termination of this Agreement. In case any claim or demand is at any time made, or action or proceeding is brought, against the City in respect of which indemnity may be sought under this Agreement, an Indemnified Party shall promptly give notice of that action or proceeding to the Developer, upon receipt of that notice shall have the obligation and the right to assume the defense of the action or proceeding with counsel that is not, without the City's consent, counsel to the Developer, and that is reasonably satisfactory to the City; provided, that failure of a party to give that notice shall not relieve the Developer from any of its obligations under this Section unless that failure prejudices the defense of the action or proceeding by the Developer. At its own expense, an Indemnified Party may employ separate counsel and participate in the defense. The City agrees to fully cooperate with the Developer and lend the Developer such assistance as the Developer shall reasonably request in defense of any claim, demand, action or proceeding at no cost to the Indemnified Party or the City. The Developer shall not be liable for any settlement made without its consent. The provisions of this Section shall survive termination of this Agreement.

Section 13. Agreement Binding on Parties; No Personal Liability; City Consents. All covenants, obligations and agreements of the City and the Developer contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation, or agreement shall be deemed to be a covenant, obligation, or agreement of any present or future member, official, officer, agent, or employee of the City in other than their official capacity or of any individual person who is a partner, shareholder, director, member, manager, employee, officer or agent of the Developer other than in their capacity as a partner, shareholder, director, member, manager, employee, officer, or agent, and neither the members of the City Council nor any City official executing this Agreement, or any individual person executing this Agreement on behalf of the Developer, shall be liable personally by reason of the covenants, obligations or agreements of the City or the Developer contained in this Agreement. The City is a political subdivision of the State of Ohio and shall be entitled to all of the immunities and defenses provided by law. Any consent of the City to be given under this Agreement may be given by the Authorized City Representative (as hereinafter defined) and shall be given in writing.

Section 14. Merger and Amendments. This Agreement supersedes any and all other agreements, either oral or in writing, between the City and the Developer with respect to the matters contained in this Agreement and contains all of the covenants, agreements, and other terms and conditions between the City and the Developer with respect to the same. No waivers, alterations, or modifications of this Agreement or any agreements in connection with this Agreement shall be valid unless in writing and duly executed by both the City and the Developer. For the avoidance of doubt, the parties intend for this Agreement to supersede the Original TIF Agreement and the Amended TIF Agreement in all respects and that the Original TIF Agreement and the Amended TIF Agreement be null and void.

Section 15. Consents; Waivers. All consents required by, and any waivers of, the provisions of this Agreement must be in writing and signed on behalf of the City by the Service-Safety Director (together with any other officer from time to time designated in writing by the Service-Safety Director, the "Authorized City Representative") and Bret Howard, Developer and Co-Owner of the Developer (together with any other officer from time to time designated in writing by Bret Howard, Developer and Co-Owner of the Developer, the "Authorized Developer Representative"). No consent or waiver, express or implied, by either party to or of any breach of any covenant, condition, or duty of the other party shall be construed as a consent to or waiver of any other breach of the same or any other covenant, condition or duty to be observed by the other party.

Section 16. Notices. Except as otherwise specifically set forth in this Agreement, all notices, certificates, demands, requests, consents, or approvals given, required, or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by recognized overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other party at the address set forth in this Agreement, or to such other address as the recipient shall have previously notified the sender of in writing, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to have been received when the return receipt

is signed or refused. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, demands, requests, consents or approvals, or other communications shall be sent. The present notice addresses of the parties follow:

- (a) To the Developer at: Howard and Lawson, LTD
39403 State Route 689
Albany, Ohio 45710
Attention: Bret Howard
 - (b) To the City at: City of Athens, Ohio
8 East Washington Street
Athens, Ohio 45701
Attention: Service-Safety Director

City of Athens, Ohio
8 East Washington Street
Athens, Ohio 45701
Attention: Law Director
- With a Copy to: Bricker Graydon LLP
100 South Third Street
Columbus, Ohio 43215
Attention: Price D. Finley

Section 17. Counterparts. This Agreement may be signed in one or more counterparts or duplicate signature pages with the same force and effect as if all required signatures were contained in a single original instrument. Any one or more of such counterparts or duplicate signature pages may be removed from any one or more original copies of this Agreement and annexed to other counterparts or duplicate signature pages to form a completely executed original instrument.

Section 18. Severability and Cooperation Clause. In the event that any portions, sections, or subsections of this Agreement are rendered invalid by the decision of any court or by the enactment of any law, resolution, or regulation, such provision of this Agreement will be deemed to have never been included therein and the balance of the Agreement shall continue in full force and effect. If the terms of this Agreement, or any amendment or amendments to any provision of City laws that are required to be enacted or amended as a consequence of this Agreement, are challenged by either referendum or administrative appeal to the courts or such other legal or equitable remedies sought by those who may oppose this Agreement, the parties agree to cooperate with each other to uphold the validity and enforceability of this Agreement at the expenses of the Developer in accordance with Section 12 of this Agreement, because the parties recognize that it is within the discretion of the City under the laws and Constitution of the State of Ohio to provide for agreements between landowners and municipalities to further what is in the best interest of the public health, safety and welfare of a municipality and the other rights of private

property there under. This cooperation clause only pertains to the City Council's decisions relating to this Agreement, and this cooperation clause cannot be used to attempt to force the City Council to repeal or override other legislative or administrative decisions relating to the Development.

Section 19. Relationship of Parties. Nothing contained in this Agreement shall be deemed or construed, either by the parties to this Agreement or by any third party, to create the relationship of principal and agent or to create any partnership, joint venture or other association between Developer and the City.

Section 20. Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 21. Governing Law and Choice of Forum. This Agreement shall be governed exclusively by and construed in accordance with the laws of the State of Ohio, without regard to its conflict of law provisions that would cause the application of the laws of another jurisdiction. Each of the City and the Developer irrevocably consents to the jurisdiction of any state court located within Athens County, Ohio in connection with any matter based upon or arising out of this Agreement, agrees that process may be served upon them in any manner authorized by the laws of the State of Ohio, and waived and covenants not to assert or plead any objection which they might otherwise have under such jurisdiction or such process.

Section 22. Assignments. Except as otherwise provided in this Section, the Developer agrees not to assign this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld (and shall not, in any event, be withheld to stop or delay development consistent with zoning already in effect). Notwithstanding any provisions to the contrary in this Agreement and without the consent of the City: (i) the Developer may assign its interest in this Agreement to an entity controlled by or under common control with the Developer; (ii) the Developer, in a written instrument signed by the Developer, may designate an authorized designee to receive all or any portion of the Service Payments payable to the Developer pursuant to this Agreement, upon which designation such designee shall receive the portion of Service Payments specified by the Developer as if it was the Developer under this Agreement; and (iii) the Developer, as security for the payment of all or any portion of the Service Payments payable to the Developer pursuant to this Agreement, may collaterally assign its right, title, and interest in and to, but not its obligations under, this Agreement upon the written consent of the City.

Section 23. Further Actions. The City and the Developer agree to execute such additional documents and take such further actions as may reasonably be required to carry out the provisions and intent of this Agreement.

Section 24. Language. The language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning and not strictly for nor against either the City or the Developer. Section headings in this Agreement are for convenience only and are not to be

constructed as part of this Agreement or in any way defining, limiting or amplifying the provisions of this Agreement.

Section 25. Litigation Notice; Management. The Developer shall give the City prompt notice of any action, suit, or proceeding by or against the Developer, at law or in equity, or before any governmental instrumentality or agency, of which the Developer has notice, which, if adversely determined, would materially impair the right or ability of the Developer to implement, operate, maintain, and develop the Development, perform its obligations under this Agreement, or would materially and adversely affect any of its business, operations, properties, assets, or condition (financial or otherwise) together with a written statement setting forth the details and any actions taken or proposed to be taken by Developer in response.

Section 26. Term. The City and the Developer agree that except as expressly set forth in this Agreement, following the payment of all Service Payments and Minimum Service Payments due pursuant to the TIF Ordinance, the Amended Service Payment Declaration, and this Agreement, this Agreement, and all obligations of the parties under this Agreement (except as otherwise set forth in this Agreement) shall terminate and be of no further force or effect.

[Signature Page Follows]

As evidence of their intent to be bound by this Agreement, the authorized representatives of each of the City and the Developer have executed this Agreement for and on behalf of the City and the Developer as of the date first set forth above.

CITY OF ATHENS, OHIO, as City

By: _____

Name: Andrew B. Stone

Title: Service-Safety Director

Pursuant to Ordinance No. [_____] -24 passed on [_____] [____], 2024 the City Council of the City approved this Agreement and authorized the Service-Safety Director to execute this Agreement.

HOWARD AND LAWSON, LTD,
as Developer

By: _____

Name: Bret Howard

Title: Developer / Co-Owner

CITY AUDITOR'S CERTIFICATE

As City Auditor for the City of Athens, Ohio, I hereby certify that funds sufficient to meet the obligations of the City under the foregoing Agreement have been lawfully appropriated for the purposes thereof and are available in the treasury, or upon implementation of the processes under Ohio Revised Code Sections 5709.40, 5709.41, 5709.42, and 5709.43, are in the process of collection to the credit of an appropriate fund, free from any previous encumbrance. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

CITY OF ATHENS, OHIO, as City

By: _____

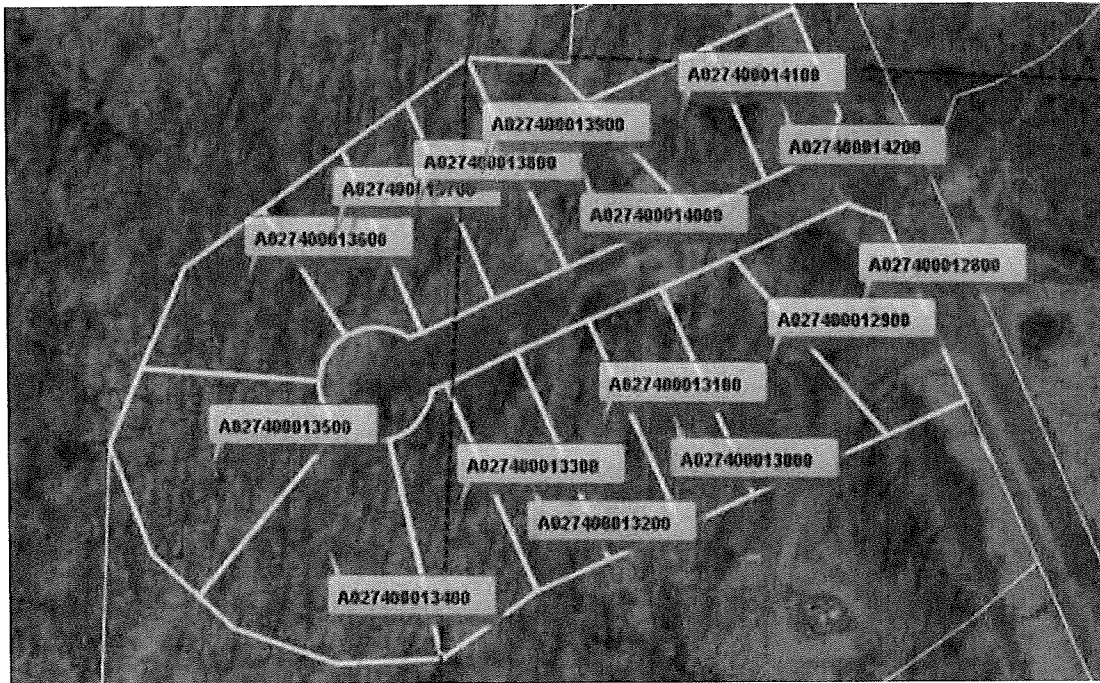
Print Name: Kathy Hecht

Title: City Auditor

EXHIBIT A

PROJECT SITE

The Project Site includes the following Parcels identified in the records of the Athens County Auditor, as of calendar year 2024, including as such Parcels may be divided, combined, re-combined, re-numbered, or otherwise altered from time to time. For the avoidance of doubt, the Parcels included within each, individual University Estates Incentive District are listed below.



Parcel Numbers

Incentive District No.	Included Parcels
University Estates Incentive District No. 1	A027400014100 A027400014200 A027400012900 A027400012800
University Estates Incentive District No. 2	A027400013700 A027400013800 A027400013900 A027400014000
University Estates Incentive District No. 3	A027400013600 A027400013500 A027400013400
University Estates Incentive District No. 4	A027400013300 A027400013200 A027400013100 A027400013000

EXHIBIT B

DESCRIPTION OF THE DEVELOPMENT

[See Attached]

Woods Edge

A Premier University Estates Community



Townhomes

1780 sq. ft., two bedroom, 2.5 baths

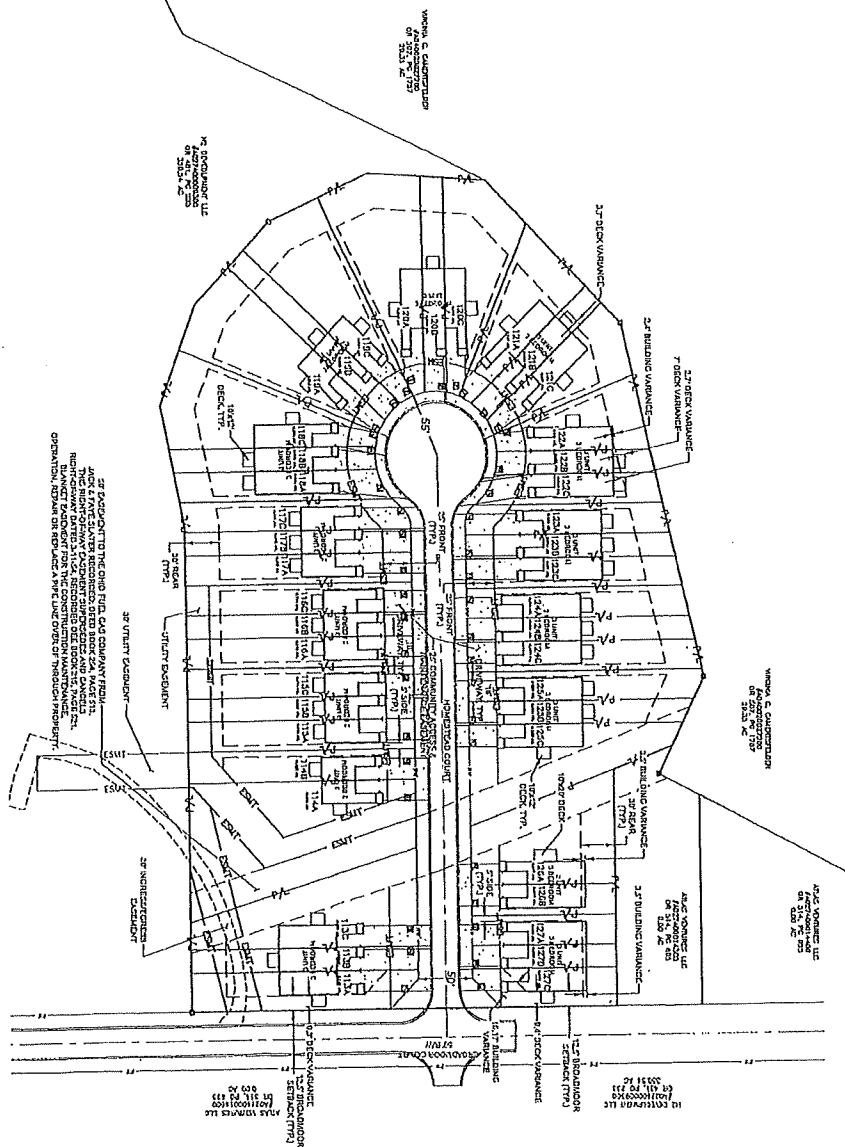
Or

2160 sq. ft., three bedroom, 3 baths

Single car garage

NOTE: LOT LINES ALONG PARTY WALLS ARE APPROXIMATE AND SHALL BE ESTABLISHED AND RECORDED UPON CONSTRUCTION.

Lot #	Lot Size	Lot Width	Front Setback	Side Yard Setback	Side Yard Setback	Min. 12'0"	Max. 20'0"	Min. 2'0"	Min. 2'0"
1235	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1236	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1237	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1238	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1239	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1240	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1241	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1242	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1243	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1244	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1245	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1246	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1247	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1248	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1249	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1250	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1251	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1252	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1253	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1254	5,000	70	48	48	48	0/0	0/0	0/0	0/0
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1261	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1262	5,000	70	48	48	48	0/0	0/0	0/0	0/0
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1264	5,000	70	48	48	48	0/0	0/0	0/0	0/0
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1266	5,000	70	48	48	48	0/0	0/0	0/0	0/0
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1272	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1273	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1274	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1275	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1276	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1277	5,000	70	48	48	48	0/0	0/0	0/0	0/0
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1294	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1295	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1296	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1297	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1298	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1299	5,000	70	48	48	48	0/0	0/0	0/0	0/0
1300	5,000	70	48	48	48	0/0	0/0	0/0	0/0



HOWARD AND LAWSON, LTD.

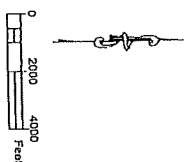
HOWARD & LAWSON LTD
394C3 STATE ROUTE 689
ALBANY, OH 45710
CONTACT: PATRICK LAWSON
PHONE: 740-591-8547

CITY OF ATHENS
ENGINEERING & PUBLIC WORKS
30 CURRAN DR.
ATHENS, OHIO, 45701
PHONE: (740) 593-7636
CONTACT: SALEH ELDABAJA, P.E.

STEVE PATTERSON.....	MAYOR
ANDREW B. STONE, P.E.....	SERVICE-SAFETY DIRECTOR
USA ELIASON.....	LAW DIRECTOR
KATHY HECHT.....	AUDITOR
JOSH THOMAS.....	TREASURER

SARAH GRACE
JEFFREY RISNER
MICAH MCCAREY
DEBBIE WALKER, CLERK
SOLVEIG SPJELDNES
ALAN SWANK
SAM CROWL
BEN ZIFF

BUCKLEY GROUP, LLC
6801 STATE ROUTE 56
ATHENS, OH 45701
PHONE: (740) 589-5001
FAX: (740) 592-5817
CONTACT: CLINTON KUENZLI, P.E.



PROJECT DESCRIPTION

THIS PROJECT CONSISTS OF CONSTRUCTION OF THE EXTENSION OF BROADMOOR CT. AND HOMESTEAD CT. IN THE UNIVERSITY ESTATES SUBDIVISION IN THE CITY OF ATHENS, OHIO.

THIS PROJECT CONSISTS OF THE CONSTRUCTION OF THE EXTENSION OF BROADMOOR CT. AND HOMESTEAD CT. IN THE UNIVERSITY ESTATES SUBDIVISION IN THE CITY OF ATHENS, OHIO.

THE CITY OF ATHENS DIVISION OF SEWER CONSTRUCTION SPECIFICATIONS FOR SEWER LINE INSTALLATION, CITY OF ATHENS WATER CONSTRUCTION SPECIFICATIONS, AND OHIO DEPARTMENT OF TRANSPORTATION 2019 CONSTRUCTION AND MATERIAL SPECIFICATIONS AND ASSOCIATED STANDARD DRAWING AND SUPPLEMENTAL SPECIFICATIONS SHALL GOVERN THIS IMPROVEMENT.

UNDERGROUND UTILITIES

TWO WORKING DAYS

BEFORE YOU DIG

CALL 811

OR

NON-MEMBERS MUST

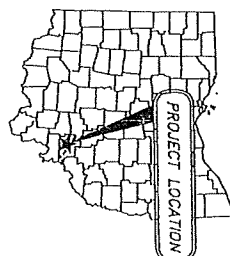
CALL DIRECTLY

OHIO

Utilities Protection

SERVICE

Call Call 811 before you dig



NOT TO SCALE

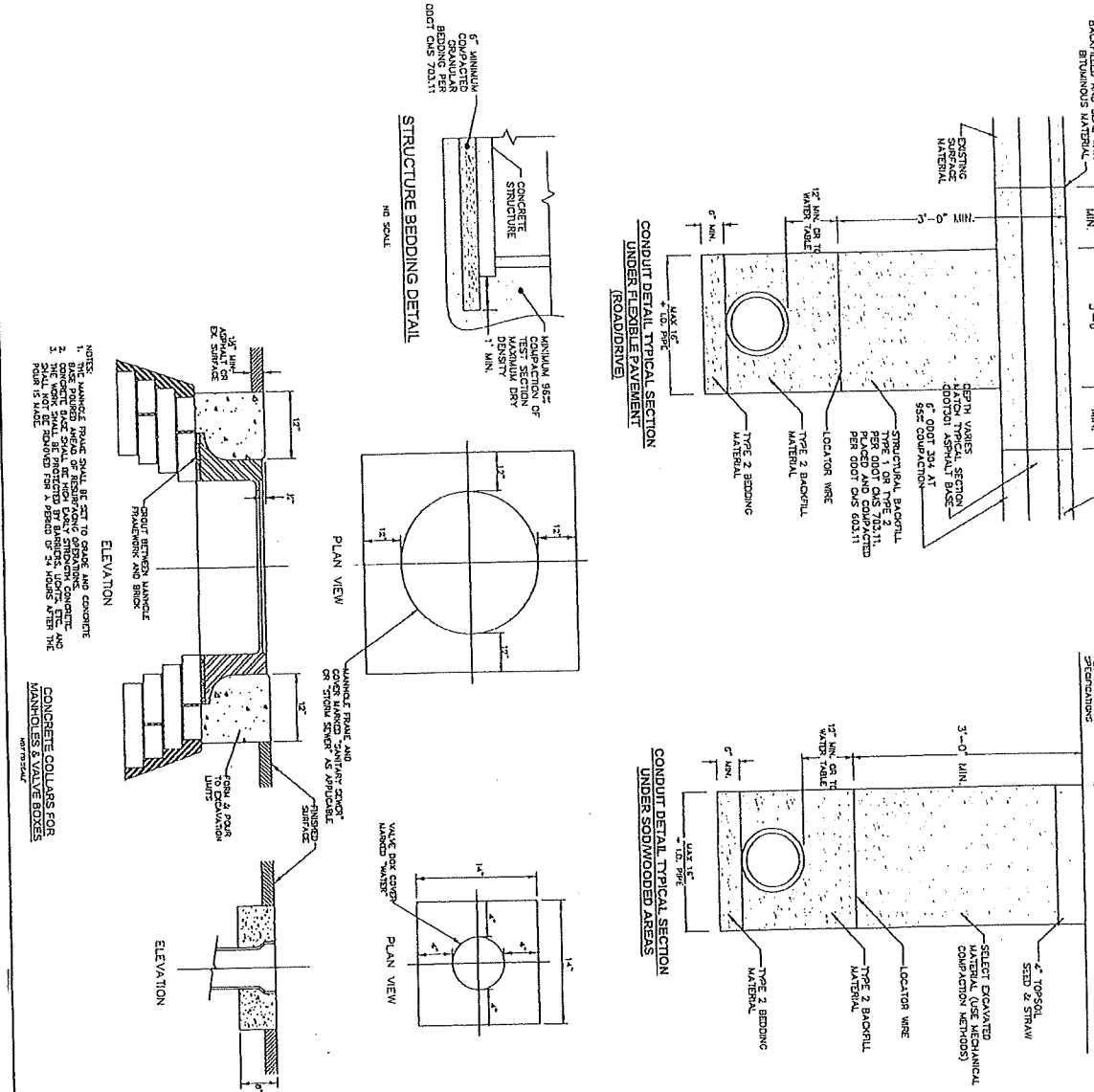
8001 STATE ROUTE 56, A1HE715, (41 4570) (740) 589-5001 - www.buckley.gov

CITY OF ATHENS
ATHENS COUNTY, OHIO

Actual Price

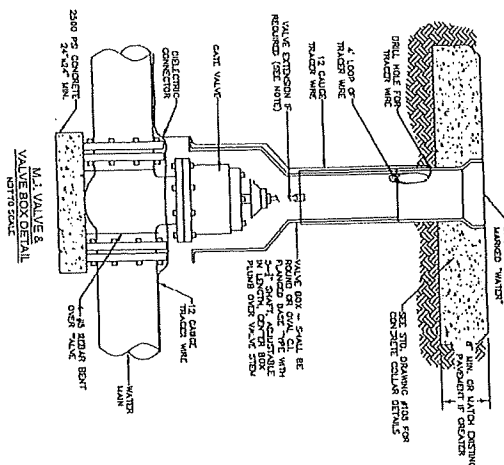
COA INITIAL	05/19/2000
LOT NO. 1	07/20/2000
COA NUMBER	07/21/2000

- GENERAL NOTES:**
1. CONTRACT SPECIFICATIONS FOR SEWER CONSTRUCTION SPECIFICATIONS, AND THE JANUARY 1, 2019 EDITION OF THE CITY OF ATHENS CONSTRUCTION SPECIFICATIONS, AS PUBLISHED BY THE CITY OF ATHENS, OHIO, SHALL BE USED FOR THIS PROJECT. THE CITY OF ATHENS, OHIO, DEPARTMENT OF TRANSPORTATION AND AVIATION SHALL GOVERN ALL APPLICABLE SPECIFICATIONS AND THEIR PRECEDENTIAL REQUIREMENTS.
 2. THE CONTRACTOR AND SUB-CONTRACTORS SHALL BE SOLELY RESPONSIBLE FOR ALL FEDERAL, STATE AND LOCAL SAFETY REQUIREMENTS INCLUDING EMPLOYEES AND PROPERTY. IT IS ALSO THE SOLE RESPONSIBILITY OF THE CONTRACTOR AND SUB-CONTRACTORS TO OBTAIN ALL NECESSARY PERMITS AND ALL SAFETY REQUIREMENTS, PRESENT AND FUTURE, FOR CONSTRUCTION WITH THIS WORK. ALL SAFETY REQUIREMENTS, PRESENT AND FUTURE, FOR CONSTRUCTION WITH THIS WORK, SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR AND SUB-CONTRACTORS.
 3. DUES SHALL BE PAID BY THE CONTRACTOR TO THE OHIO UTILITIES PROTECTION SERVICE AT LEAST TWO DAYS BEFORE DIGGING. THE TOLL FREE NUMBER IS (800) 342-2704.
 4. UTILITIES LOCATING UTILITIES ARE LOCATED IN THE VICINITY OF THE PROJECT WHERE CONSTRUCTION IS TO TAKE PLACE.
 - 1) AEP OHIO
3125 SR 60
ATHENS, OH 45701
CONTACT: CLARK SANDERS
PHONE: 765-5205
 - 2) CITY OF ATHENS (SEWER)
110 CARRAN DR.
ATHENS, OH 45701
CONTACT: SALAH ELABOUL
PHONE: 765-524-089
 - 3) CITY OF ATHENS (WATER)
30 CARRAN DR.
ATHENS, OH 45701
CONTACT: SALAH ELABOUL
PHONE: 765-524-089
 - 4) COLUMBIA GAS TRANSMISSION
700 LUTHER LANE STREET, SUITE 700
COLUMBIA, MO 65201
CONTACT: JIMMY WILKINS
PHONE: 660-2307
 - 5) COLUMBIA GAS TRANSMISSION
100 COLUMBIA WILKINS
COLUMBIA, MO 65201
CONTACT: JIMMY WILKINS
PHONE: 660-2307
 5. ENGINEERS LIABILITY: THE ENGINEER SHALL NOT BE RESPONSIBLE FOR THE MEANS, METHODS, PROCEDURES, TECHNIQUES, OR SEQUENCES OF CONSTRUCTION NOT SPECIFIED HEREIN, NOR FOR SAFETY ON THE JOB SITE, NOR SHALL THE ENGINEER BE RESPONSIBLE FOR THE CONSTRUCTION OF THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MEANS, METHODS, PROCEDURES, TECHNIQUES, OR SEQUENCES OF CONSTRUCTION NOT SPECIFIED HEREIN, NOR FOR SAFETY ON THE JOB SITE, NOR SHALL THE ENGINEER BE RESPONSIBLE FOR THE CONSTRUCTION OF THE PROJECT.
 6. DAMAGE TO PUBLIC OR PRIVATE PROPERTY: THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE THAT IS INCURRED ON PUBLIC OR PRIVATE PROPERTY DUE TO CONSTRUCTION ACTIVITIES. THE CONTRACTOR SHALL REPAIR OR REPLACE THE DAMAGED PROPERTY AT THE CONTRACTORS EXPENSE.
 7. WORK HOURS AND NOISE CONTROL: CONSTRUCTION NOISE IMPACTS, NO POWER OPERATED CONSTRUCTION IN EXCESS OF 100 DBA SHALL BE OPERATED BETWEEN THE HOURS OF 8:00 P.M. TO 7:00 A.M. THROUGHOUT THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND ALL SAFETY REQUIREMENTS, PRESENT AND FUTURE, FOR CONSTRUCTION WITH THIS WORK. ALL SAFETY REQUIREMENTS, PRESENT AND FUTURE, FOR CONSTRUCTION WITH THIS WORK, SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR AND SUB-CONTRACTORS.
 8. NO STREET TRUCK EQUIPMENT OR TOOLS: NO STREET TRUCK EQUIPMENT OR TOOLS SHALL BE USED WHERE FINISH AREAS OF OVERLAP, USE IN OTHER AREAS IS PROHIBITED. EXCEPTIONS MAY BE GRANTED BY THE CITY OF ATHENS FOR USE OF STREET TRUCK EQUIPMENT OR TOOLS. EXCEPTIONS MAY BE GRANTED BY THE CITY OF ATHENS FOR USE OF STREET TRUCK EQUIPMENT OR TOOLS.
 9. BACKFILLING: THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND ALL SAFETY REQUIREMENTS, PRESENT AND FUTURE, FOR CONSTRUCTION WITH THIS WORK. ALL SAFETY REQUIREMENTS, PRESENT AND FUTURE, FOR CONSTRUCTION WITH THIS WORK, SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR AND SUB-CONTRACTORS.
 10. LINE CROSSINGS: THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND ALL SAFETY REQUIREMENTS, PRESENT AND FUTURE, FOR CONSTRUCTION WITH THIS WORK. ALL SAFETY REQUIREMENTS, PRESENT AND FUTURE, FOR CONSTRUCTION WITH THIS WORK, SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR AND SUB-CONTRACTORS.
 11. PAVEMENT CLEANING: THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND ALL SAFETY REQUIREMENTS, PRESENT AND FUTURE, FOR CONSTRUCTION WITH THIS WORK. ALL SAFETY REQUIREMENTS, PRESENT AND FUTURE, FOR CONSTRUCTION WITH THIS WORK, SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR AND SUB-CONTRACTORS.
 12. SLOPE: THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND ALL SAFETY REQUIREMENTS, PRESENT AND FUTURE, FOR CONSTRUCTION WITH THIS WORK. ALL SAFETY REQUIREMENTS, PRESENT AND FUTURE, FOR CONSTRUCTION WITH THIS WORK, SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR AND SUB-CONTRACTORS.
 13. CONCRETE COLLARS: THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND ALL SAFETY REQUIREMENTS, PRESENT AND FUTURE, FOR CONSTRUCTION WITH THIS WORK. ALL SAFETY REQUIREMENTS, PRESENT AND FUTURE, FOR CONSTRUCTION WITH THIS WORK, SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR AND SUB-CONTRACTORS.

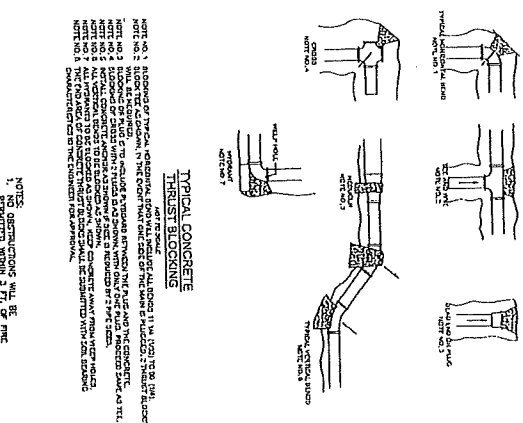
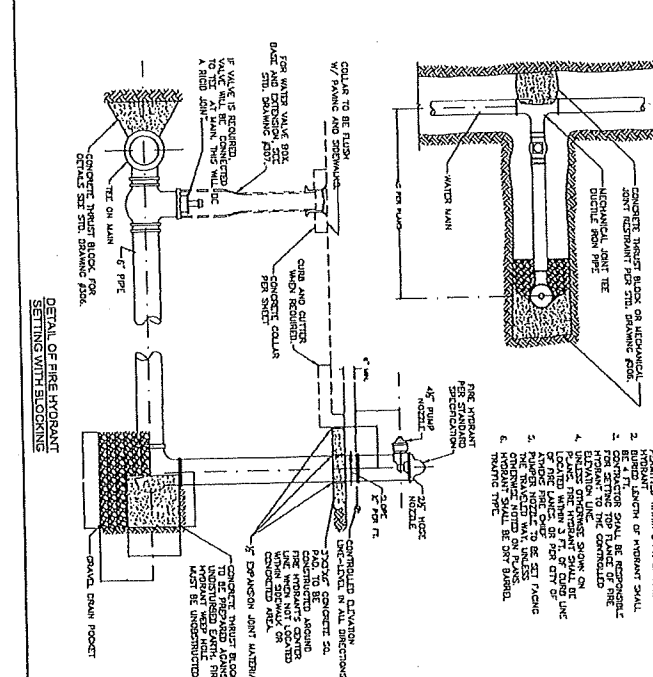
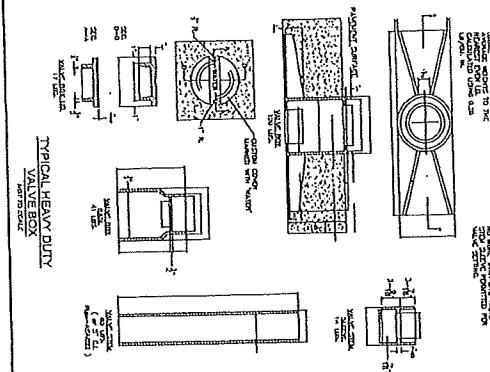


WATER VALVE DETAIL

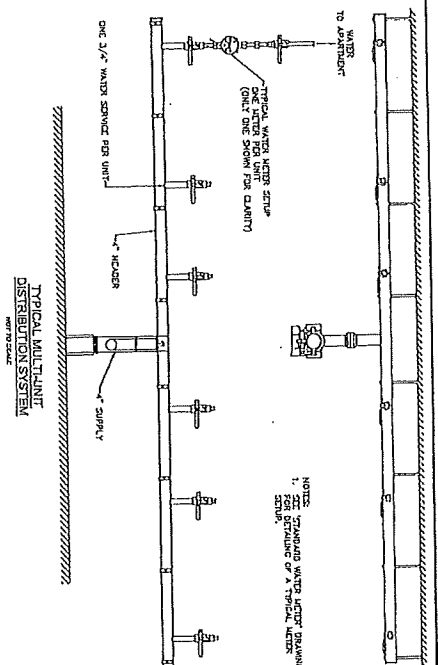
1. CONCRETE SHALL BE MINIMUM 4" THICK AND 4000 PSI. ALL WATER VALVE DETAIL SHALL BE APPROVED BY THE CITY ENGINEERING AND PUBLIC WORKS DEPARTMENT TO ACHIEVE PROTECTION AND TYPING OF ALL WATER VALVE.
2. CONCRETE SHALL BE MINIMUM 4" THICK AND 4000 PSI. ALL WATER VALVE DETAIL SHALL BE APPROVED BY THE CITY ENGINEERING AND PUBLIC WORKS DEPARTMENT TO ACHIEVE PROTECTION AND TYPING OF ALL WATER VALVE.
3. CONCRETE SHALL BE MINIMUM 4" THICK AND 4000 PSI. ALL WATER VALVE DETAIL SHALL BE APPROVED BY THE CITY ENGINEERING AND PUBLIC WORKS DEPARTMENT TO ACHIEVE PROTECTION AND TYPING OF ALL WATER VALVE.
4. TRUCK WIRE SHALL BE INSTALLED WITH ALL MAIN LINE AND EACH SERVICE LINE.
5. ALL MAIN LINE VALVE DETAIL SHALL BE APPROVED BY THE CITY ENGINEERING AND PUBLIC WORKS DEPARTMENT TO ACHIEVE PROTECTION AND TYPING OF ALL WATER VALVE.
6. MAIN LINE VALVE DETAIL SHALL BE APPROVED BY THE CITY ENGINEERING AND PUBLIC WORKS DEPARTMENT TO ACHIEVE PROTECTION AND TYPING OF ALL WATER VALVE.
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19. MAIN LINE VALVE DETAIL SHALL BE APPROVED BY THE CITY ENGINEERING AND PUBLIC WORKS DEPARTMENT TO ACHIEVE PROTECTION AND TYPING OF ALL WATER VALVE.
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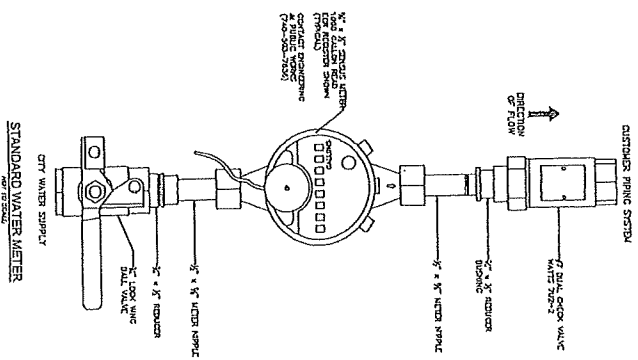
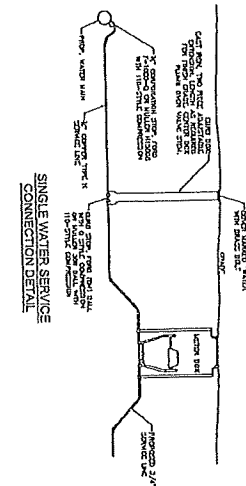
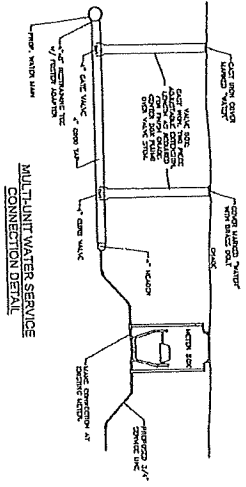
- VALVE DETAIL**
1. 12\"/>



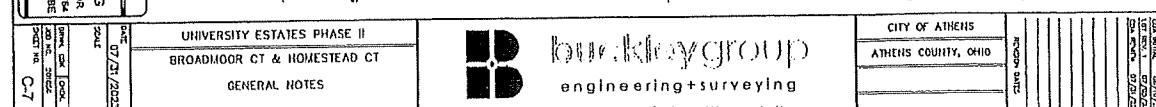
DATE: 07/21/2023 DRAWN BY: J. L. BUCKLEY CHECKED BY: J. L. BUCKLEY DESIGNED BY: J. L. BUCKLEY	UNIVERSITY ESTATES PHASE II BROADMOOR CT & HOMESTEAD CT GENERAL NOTES	BUCKLEY GROUP engineering+surveying 6801 STATE ROUTE 56, ATHENS, OH 45701 (740) 583-5001 • www.buckleygroup.com	CITY OF ATHENS ATHENS COUNTY, OHIO
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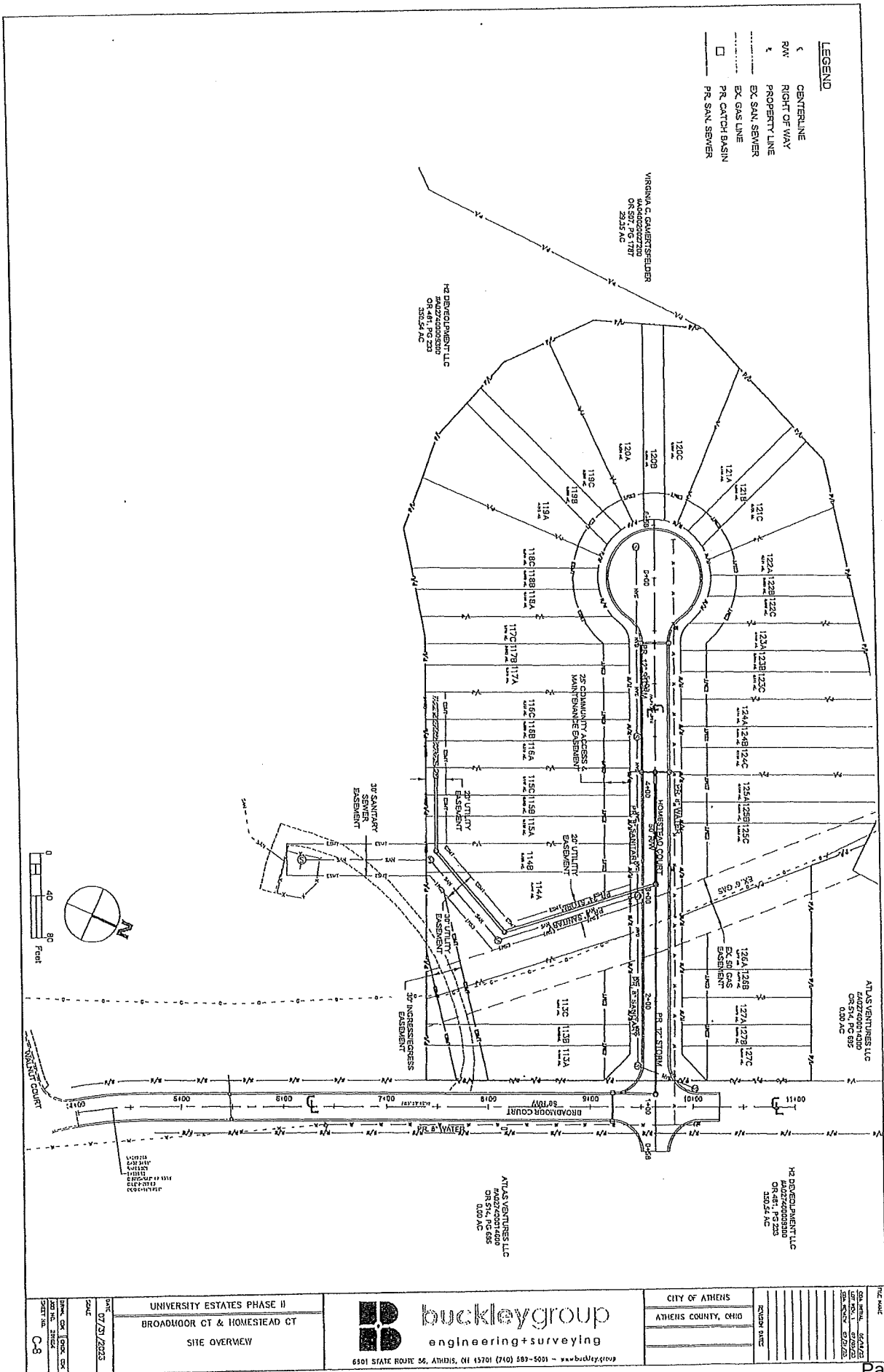


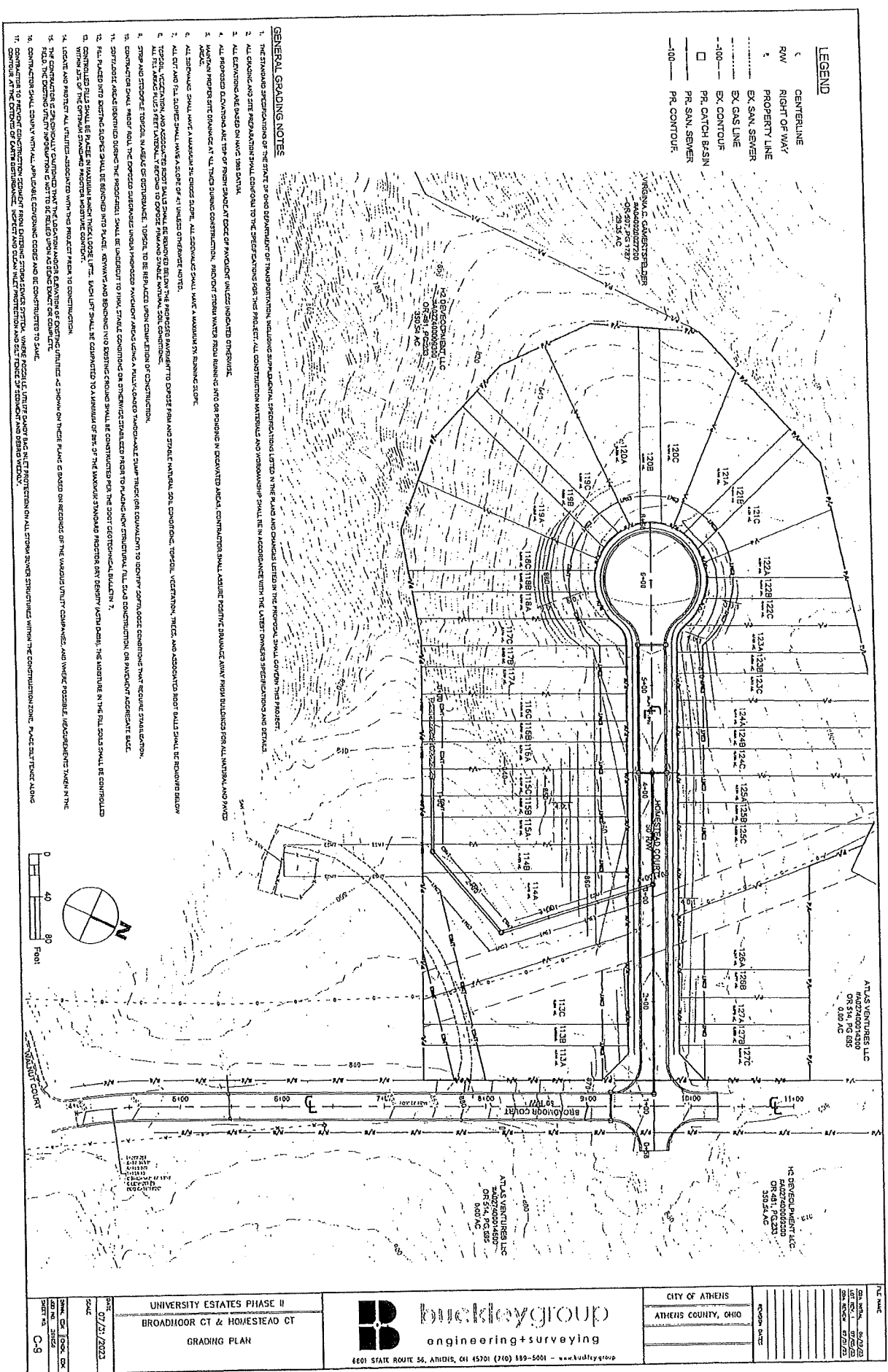
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1. STANDARD WATER METER BRANDING
2. SEE TRAINING OF A TYPICAL METER



- [illegible]





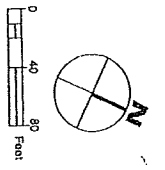


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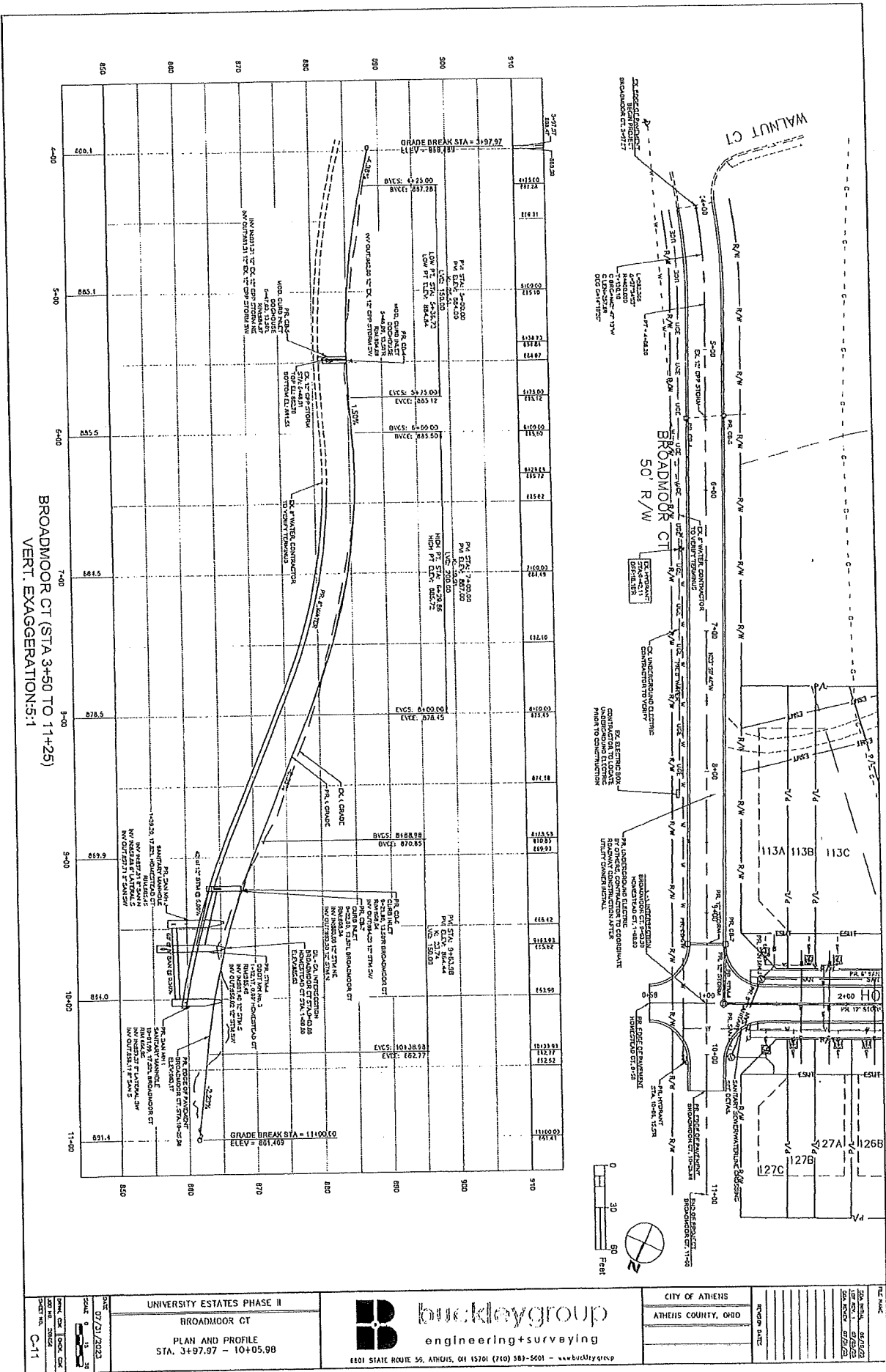
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- RM RIGHT OF WAY
- PROPERTY LINE
- EX SAN SEWER
- EX GAS LINE
- EX CONTOUR
- PR CATCH BASIN
- PR SAN SEWER
- PR CONTOUR

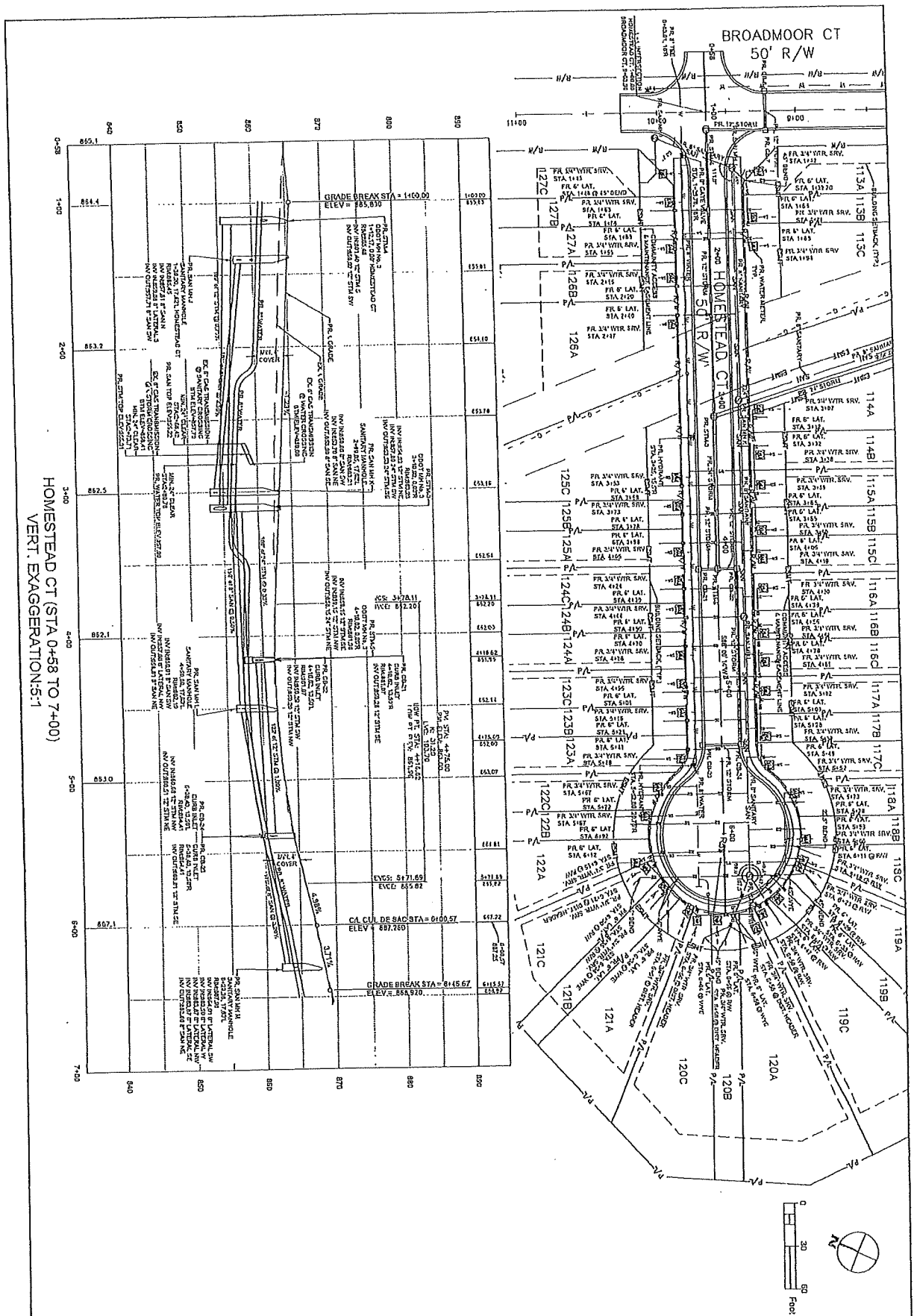
GENERAL GRADING NOTES

1. THE GRADING SPECIFICATIONS OF THE STATE OF OHIO SUPERVISOR OF TRANSPORTATION, INCLUDING ANY ADDITIONAL SPECIFICATIONS LISTED IN THE PLANS AND CHANGES LISTED IN THE PROJECT, SHALL CONTROL THE PROJECT.
2. ALL EXISTING AND SITE PREPARATION SHALL CONFORM TO THE SPECIFICATIONS FOR THE PROJECT. ALL CONSTRUCTION MATERIALS AND WORKMANSHIP SHALL BE IN ACCORDANCE WITH THE LATEST DOWNS SPECIFICATIONS AND DETAILS.
3. ALL ELEVATIONS ARE BASED ON NAVD 83 DATA.
4. ALL PROPOSED ELEVATIONS ARE TOP OF FINISH UNLESS OTHERWISE NOTED.
5. UNLESS OTHERWISE NOTED, PROPOSED GRADE SHALL BE MAINTAINED AT ALL TIMES DURING CONSTRUCTION. PROPOSED GRADE SHALL BE MAINTAINED AT ALL TIMES DURING CONSTRUCTION.
6. ALL ELEVATIONS SHALL HAVE A MAXIMUM 5% GROSS SLOPE. ALL ELEVATIONS SHALL HAVE A MAXIMUM 5% GROSS SLOPE.
7. ALL CUT AND FILL SLOPES SHALL BE MAINTAINED AT ALL TIMES DURING CONSTRUCTION. PROPOSED GRADE SHALL BE MAINTAINED AT ALL TIMES DURING CONSTRUCTION.
8. TOTAL VEGRETATION AND ASSOCIATED ROOT BALLS SHALL BE REMOVED BELOW THE PROPOSED FINISH GRADE. TOTAL VEGRETATION AND ASSOCIATED ROOT BALLS SHALL BE REMOVED BELOW THE PROPOSED FINISH GRADE.
9. ALL EXISTING AND ASSOCIATED ROOT BALLS SHALL BE REMOVED BELOW THE PROPOSED FINISH GRADE. ALL EXISTING AND ASSOCIATED ROOT BALLS SHALL BE REMOVED BELOW THE PROPOSED FINISH GRADE.
10. STORM AND SEWER TRENCHES SHALL BE CONSTRUCTED TO DEPTH AND TO BE MAINTAINED AT ALL TIMES DURING CONSTRUCTION. STORM AND SEWER TRENCHES SHALL BE CONSTRUCTED TO DEPTH AND TO BE MAINTAINED AT ALL TIMES DURING CONSTRUCTION.
11. CONSTRUCTION SHALL BE MAINTAINED AT ALL TIMES DURING CONSTRUCTION. CONSTRUCTION SHALL BE MAINTAINED AT ALL TIMES DURING CONSTRUCTION.
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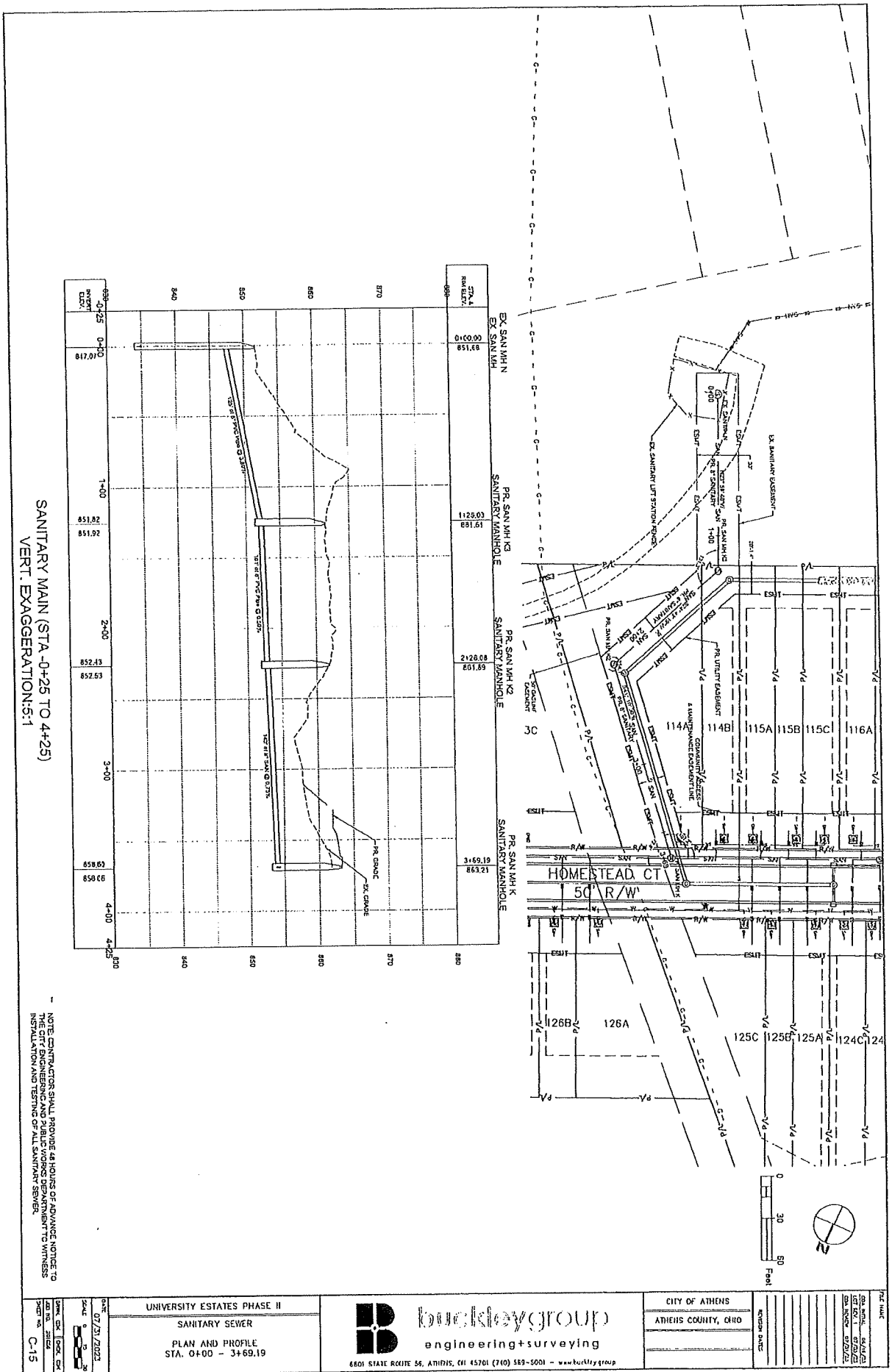
UNIVERSITY ESTATES PHASE II BROADMOOR CT & HOMESTEAD CT GRADING PLAN		buckleygroup engineering+surveying 6601 STATE ROUTE 56, ATHENS, OH 45701 (710) 889-5001 • www.buckleygroup.com	CITY OF ATHENS ATHENS COUNTY, OHIO		DATE: 07/31/23 BY: [Signature] CHECKED: [Signature] SCALE: AS SHOWN
DATE: 07/31/2023 SCALE: AS SHOWN SHEET NO. 1 OF 1 C-5			PROJECT: UNIVERSITY ESTATES PHASE II BROADMOOR CT & HOMESTEAD CT GRADING PLAN		





HOMESTEAD CT (STA 0+58 TO 7+00)
VERT. EXAGGERATION: 5:1

UNIVERSITY ESTATES PHASE II HOMESTEAD CT PLAN AND PROFILE STA. 0+58 - 6+56		buckleygroup engineering+surveying 6601 STATE ROUTE 56, ATHENS, OH 45701 (710) 588-5001 - www.buckleygroup.com	CITY OF ATHENS ATHENS COUNTY, OHIO PROJECT NO. 1200 SHEET NO. 1200	DATE: 07/21/2023 DRAWN BY: [Signature] CHECKED BY: [Signature] C-13
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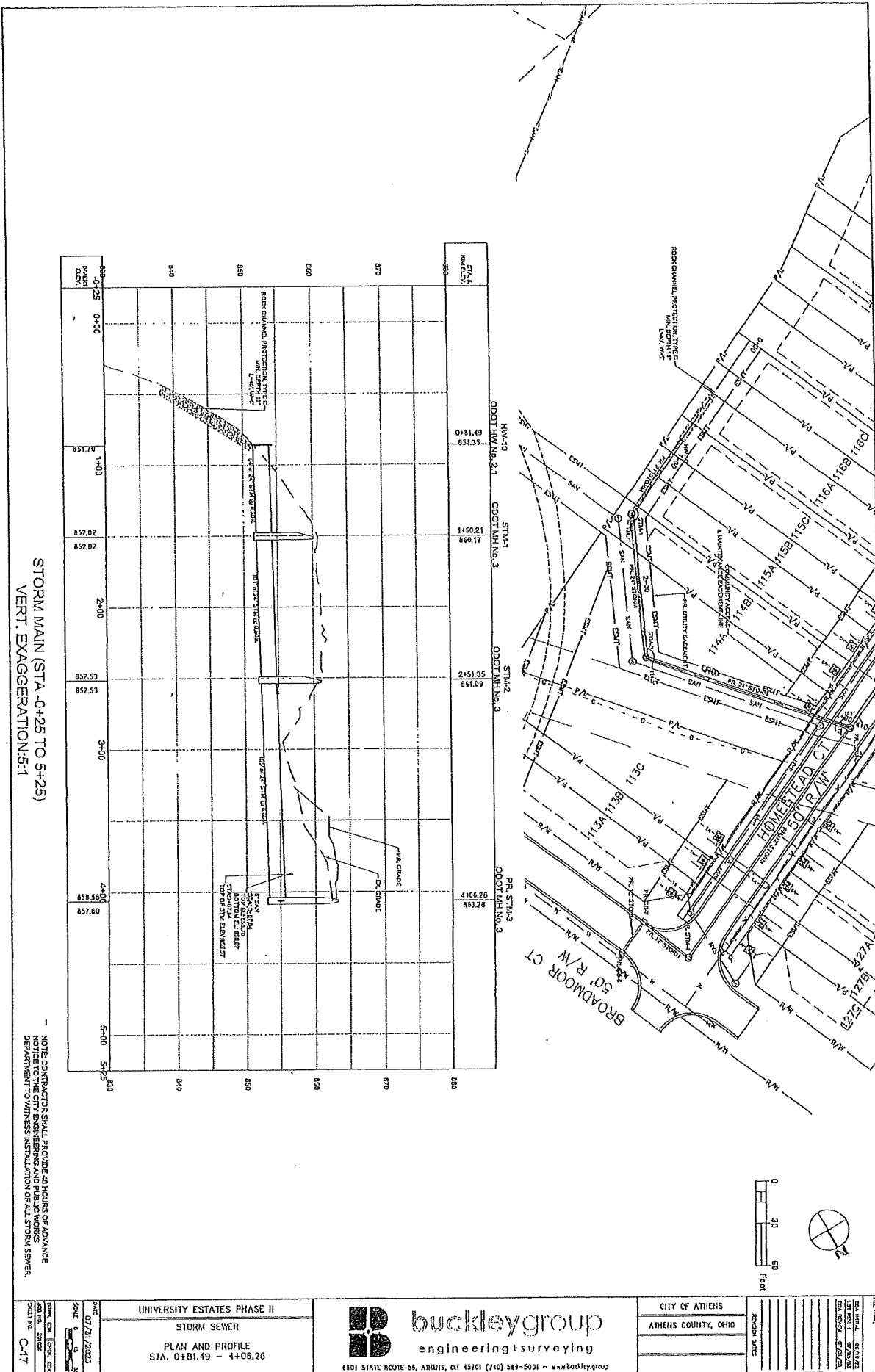


buckleygroup
engineering+surveying
6801 STATE ROUTE 54, ATHENS, OH 45701 (740) 585-5001 - www.buckleygroup

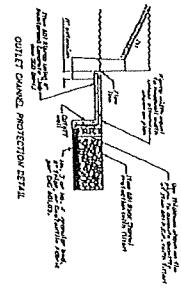
CITY OF ATHENS
ATHENS COUNTY, OHIO

DATE: 07/21/2023
BY: [Signature]
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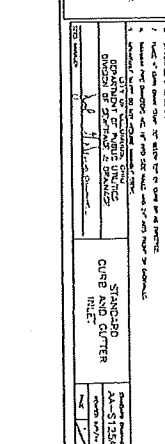
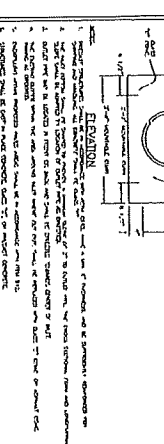
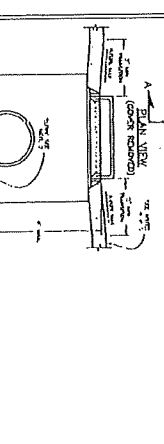
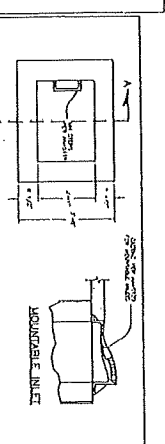
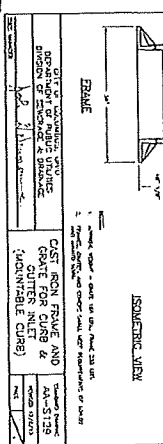
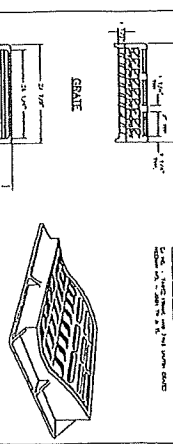
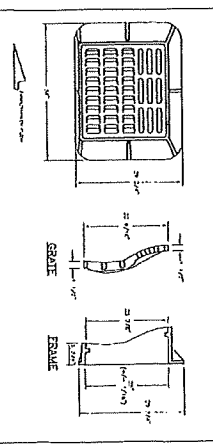
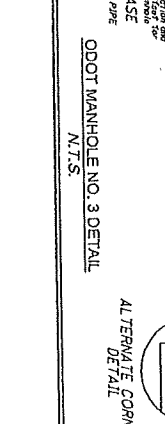
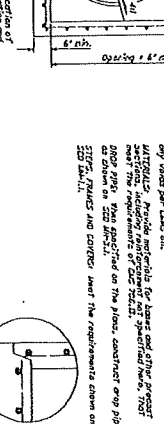
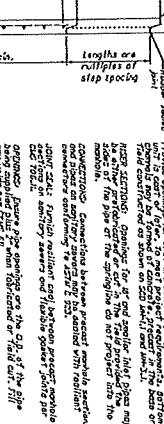
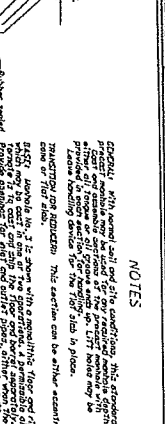
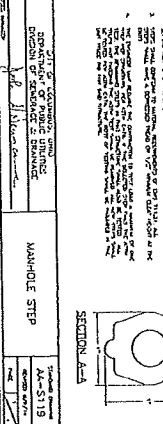
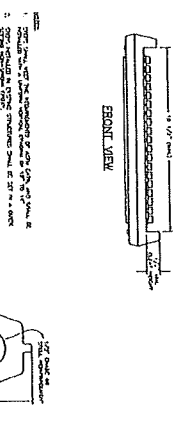
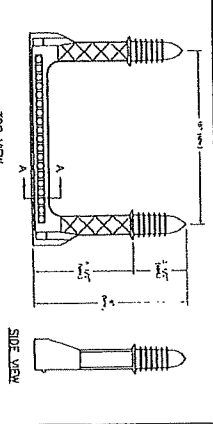
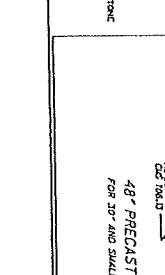
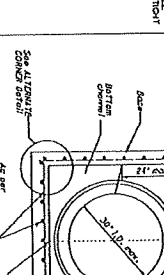
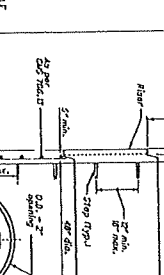
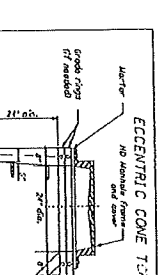
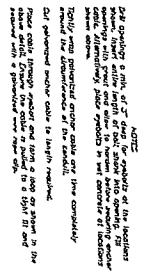
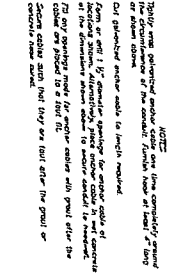
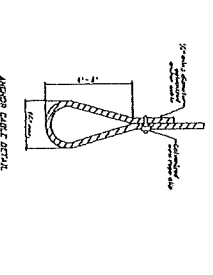
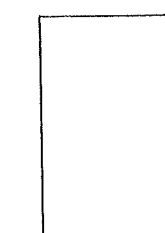
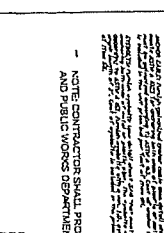
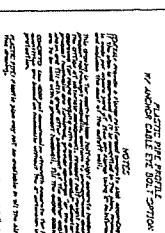
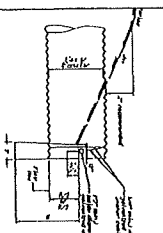
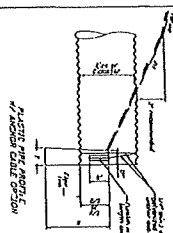
DATE: 07/21/2023
BY: [Signature]
CHECKED: [Signature]
SCALE: 1" = 40'



CAST-IN-PLACE IN FOR CORRUGATED PLASTIC PIPE				
DETAIL A				
D	W	H	T	DEPTH
24"	24"	24"	24"	24"
30"	30"	30"	30"	30"
36"	36"	36"	36"	36"
42"	42"	42"	42"	42"
48"	48"	48"	48"	48"
54"	54"	54"	54"	54"
60"	60"	60"	60"	60"
66"	66"	66"	66"	66"
72"	72"	72"	72"	72"
78"	78"	78"	78"	78"
84"	84"	84"	84"	84"
90"	90"	90"	90"	90"
96"	96"	96"	96"	96"
102"	102"	102"	102"	102"
108"	108"	108"	108"	108"
114"	114"	114"	114"	114"
120"	120"	120"	120"	120"



MANHOLE DETAIL



DATE	07/23/2023
BY	JD
CHECKED	JD
PROJECT NO.	C-19

CITY OF ATHENS
ATHENS COUNTY, OHIO

BUCKEY GROUP
engineering+surveying
6601 STATE ROUTE 56, ATHENS, OH 45701 (740) 568-5001 - www.buckeygroup.com

UNIVERSITY ESTATES PHASE II
BROADMOOR CT & HOMESTEAD CT
STORM DETAILS

DATE	07/23/2023
BY	JD
CHECKED	JD
PROJECT NO.	C-19

EXHIBIT C

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The City Council, in the TIF Ordinance, has determined that all of the Public Infrastructure Improvements described below and all related costs are “public infrastructure improvements” (as defined in Ohio Revised Code Section 5709.40(A)(8)) and are intended to benefit or serve the parcels of the University Estates Incentive District.

- Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, bridges (both roadway and pedestrian), traffic calming devices, sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing lighting systems, signalization, and traffic controls, and all other appurtenances thereto;
- Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), and all appurtenances thereto;
- Construction or installation of streetscape and landscape improvements including trees and shrubs, landscaping mounds and fencing, tree grates, planting beds, signage, curbs, sidewalks, street and sidewalk lighting, and burial of overhead utility lines and related improvements, together with all appurtenances thereto; and
- All engineering, architectural, and legal, consulting and professional service fees of the City and the Developer related to the foregoing, this Agreement, or the TIF Ordinance.

EXHIBIT D

FORM OF AMENDED SERVICE PAYMENT DECLARATION

[See Attached]

**FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND
CONDITIONS RELATIVE TO SERVICE PAYMENTS IN LIEU OF TAXES,
MINIMUM SERVICE PAYMENT OBLIGATIONS, AND OTHER MATTERS**

UNIVERSITY ESTATES INCENTIVE DISTRICT

THIS FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND CONDITIONS RELATIVE TO SERVICE PAYMENTS IN LIEU OF TAXES, MINIMUM SERVICE PAYMENT OBLIGATIONS, AND OTHER MATTERS (this "Declaration") is made and executed as of [_____] [___], 2024 by HOWARD AND LAWSON, LTD. (the "Declarant").

WITNESSETH:

WHEREAS, the Declarant has proposed to develop several parcels of real property specifically identified and depicted on Exhibit A attached hereto (with each such parcel referred to herein individually as a "Parcel" and collectively as the "Project Site") within the corporate boundaries of the City of Athens, Ohio (the "City") by constructing the Development; and

WHEREAS, pursuant to Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (collectively, the "TIF Statute"), the City Council of the City (the "City Council") passed Ordinance No. 0-103-20 on October 19, 2020 (the "Original TIF Ordinance"), as amended by Ordinance No. 0-42-21 on May 3, 2021 (the "First TIF Ordinance Amendment"), and as further amended by Ordinance No. [_____] -24 on [_____] [___], 2024 (the "Second TIF Ordinance Amendment" and, together with the Original TIF Ordinance and the First TIF Ordinance Amendment, the "TIF Ordinance"), otherwise creating the "University Estates Incentive District" No. 1, No. 2, No. 3, and No. 4 within the City and authorizing a seventy-five percent (75%) exemption from real property taxation with respect to the increase assessed value of the Parcels occurring as a result of the Development for a period of ten (10) years (the "TIF Exemption"), all as further defined by the TIF Ordinance; and

WHEREAS, pursuant to Ohio Revised Code Section 5709.42, the TIF Ordinance requires the present and future owners of the Project Site, including, but not limited to, the Declarant (the "Owners") to make service payments in lieu of taxes (the "Service Payments") to the Athens County Treasurer (the "County Treasurer") for the duration of the TIF Exemption; and

WHEREAS, after passage of the Original TIF Ordinance, the City entered into a Tax Increment Financing Agreement with the Declarant on October 27, 2020 (the "Original TIF Agreement"), as amended by the First TIF Ordinance Amendment (the "First Amended TIF Agreement"), and as further amended by the Second TIF Ordinance Amendment (the "First Amended and Restated TIF Agreement and together with the Original TIF Agreement and the First Amended TIF Agreement the "TIF Agreement"), otherwise requiring the City to reimburse the Declarant for the "Costs of Public Infrastructure Improvements" (as defined by the TIF Agreement) incurred by the Declarant to construct various Public Infrastructure Improvements (as defined by the TIF Ordinance) and the Declarant entered into a *Declaration of Covenants and Conditions Relative to Service Payments in Lieu of Taxes and Other Matters* with respect to Service Payments on the Project Site on October 27, 2020 (the "Original Service Payment Declaration"); and

WHEREAS, as a result of changing market conditions, the Declarant informed the City that the Declarant would no longer be in a financial position to incur the Costs of Public Infrastructure Improvements pursuant to the TIF Agreement; and

WHEREAS, the City has determined that it is willing to provide for the construction of the Public Infrastructure Improvements by incurring the Costs of Public Infrastructure Improvements in order to encourage the Development and, pursuant to the Second TIF Ordinance Amendment, entered into the First Amended and Restated TIF Agreement with the Declarant on [_____] [], 2024, to provide for the allocation of a portion of Service Payments and Minimum Service Payments (as defined herein) to its Costs of Public Infrastructure Improvements in accordance with the TIF Statutes, the TIF Ordinance, and the TIF Agreement; and

WHEREAS, pursuant to the First Amended and Restated TIF Agreement, the Declarant as Owner of the Project Site shall, or has, executed in favor of, and in form and substance acceptable to the City, an option to purchase the Parcels comprising the Project Site (the "Option") to further ensure completion of the Development in order to generate Service Payments and Minimum Service Payments sufficient to pay Costs of Public Infrastructure Improvements; and

WHEREAS, the City has further determined and the Declarant has further agreed pursuant to the First Amended and Restated TIF Agreement, to amend and fully restate the Original Service Payment Declaration with this Declaration such that each Owner of a Parcel specified herein shall have the obligation to make certain payments (the "Minimum Service Payments"), which are "minimum service payment obligations" pursuant to Ohio Revised Code Section 5709.91, all pursuant to a formula specified for each Parcel as described by the Minimum Service Payment Schedule and Formula attached hereto as Exhibit B and incorporated herein; and

WHEREAS, the Declarant agrees that the Option, the Service Payments, and the Minimum Service Payments are necessary to ensure there are sufficient funds to reimburse the City for its Costs of Public Infrastructure Improvements identified by the TIF Agreement.

NOW, THEREFORE, the Declarant, for itself as an Owner and for each successive Owner, hereby declares that the foregoing recitals are incorporated into this Declaration by this reference and that each Parcel owned by an Owner and any improvements thereon will be held, developed, encumbered, leased, occupied, improved, built upon, used, and conveyed subject to the terms and provisions of this Declaration:

Section 1. Use of Defined Terms. In addition to the words and terms elsewhere defined in this Declaration and its Exhibit B, unless the context or use clearly indicates another or different meaning or intent, the defined terms in this Declaration shall have the meaning specified in the TIF Agreement. The City and the Declarant expressly agree that the terms of this Declaration are intended to fully amend and restate the terms of the Original Service Payment Declaration and that the Original Service Payment Declaration shall have no effect as of the date first set forth above.

Section 2. Covenant to Make Service Payments. Except as otherwise expressly specified herein, each Owner shall be responsible to make Service Payments for each Parcel attributable to its period of ownership of that Parcel, all pursuant to and in accordance with the requirements of the TIF Statute, the TIF Ordinance, and the TIF Agreement, and any subsequent amendments or supplements thereto. Service Payments for each Parcel will be made semi-annually to the County Treasurer (or to the County Treasurer's designated agent for collection of the Service Payments) on or before the date on which real property taxes would otherwise be due and payable for each Parcel and will be in the same amount as the real property taxes that would have been charged and payable against the Improvements to each Parcel had the TIF Exemption not been granted, including any penalties and interest. Any late payments will bear penalties and interest at the then-current rate established under Ohio Revised Code Section 323.121 and 5703.47 or any success provisions thereto, as the same may be amended from time to time. No Owner shall enter into a delinquent tax or service payment agreement pursuant to Ohio Revised Code Section 323.31.

Pursuant to Ohio Revised Code Section 5709.42, each Owner's obligations to make the Service Payments shall be and are unconditional, and shall not and cannot be terminated for any cause, and no Owner shall have the right to suspend or set off such Service Payments for any cause, including without limitation any acts or circumstances that may constitute failure of consideration, destruction, or damage to the Parcels or the structures of the Parcels, commercial frustration of purpose, or any failure by the City to perform or observe any obligation or covenant, whether express or implied, arising out of or in connection with the TIF Ordinance or the TIF Agreement. No Owner will, under any circumstances, be required for any tax year to pay both real property taxes and Service Payments with respect to the Improvement of a Parcel, whether pursuant to Ohio Revised Code Section 5709.42, the TIF Ordinance, or this Declaration. The City and the Declarant agree that the TIF Fund established by the TIF Ordinance shall receive all Service Payments payable to the City.

Section 3. Covenant to Make Minimum Service Payments. Except pursuant to Sections 4 and 10 hereof, each Owner shall make Minimum Service Payments for each Parcel attributable to its period of ownership of that Parcel. On or before March 1 and September 1 of each year commencing as described pursuant to Section 4 of this Declaration, the City shall determine, using the official records of the County Auditor of Athens County, Ohio (the "County Auditor"), the effective real property tax rate (the "Tax Rate") for the Parcels, and using any other official records of the County Auditor and the County Treasurer as may be required by the City from time to time and the Minimum Service Payment Schedule and Formula attached hereto as Exhibit B, the amount of the semi-annual Minimum Service Payments due, if any, for each Parcel, and shall provide notice to the Owners of such determination, including any penalties and interest. With respect to the Parcels, the Owners shall pay the semi-annual Minimum Service Payment applicable to their respective Parcels on or before the date on which real property taxes would otherwise be due and payable for each Parcel, as applicable, by providing notice to the City of such payment and delivering such semi-annual amount to the City at the below address. Any late payments will bear penalties and interest at the then-current rate established under Ohio Revised Code Section 323.121 and 5703.47 or any success provisions thereto, as the same may be amended from time to time.

City of Athens
8 East Washington Street
Athens, Ohio 45701
Attention: City Auditor

In the event the Parcels are subdivided, or are consolidated with any other Parcel, the Minimum Service Payments attributable to those Parcels shall be apportioned among the resulting tax Parcels and all other Parcels based on any reasonable method determined by the City. Regardless of the apportionment method, such apportionment shall be evidenced by an addendum to this Declaration ("Addendum") filed prior to the subdivision or consolidation by the applicable Owner of such Parcel being subdivided or such Parcels being consolidated, which Addendum also shall be approved and executed by the City to evidence its approval of the apportionment of the Minimum Service Payments as required hereunder. If for any reason such apportionment does not occur or such Addendum is not recorded, the applicable Owner shall remain obligated to pay the Minimum Service Payment attributable to such Parcels notwithstanding that an Owner is no longer the Owner of such Parcels.

Section 4. Duration of Minimum Service Payments.

As further described by Exhibit B attached hereto and incorporated herein, the obligation to make Minimum Service Payments with respect to a Parcel shall begin in the Commencement Year applicable to the Phase of the Development for that Parcel and continue for the duration of the TIF Exemption (the "Minimum Service Payment Term"), including as may be further amended from time to time.

Notwithstanding anything to the contrary herein, however, the City shall have the right, in its sole discretion and at any time, to (i) waive any Minimum Service Payment due by any Owner of any Parcel for any Phase of the Development, (ii) terminate any obligation to make Minimum Service Payments with respect to any Owner of any Parcel for any Phase of the Development, (iii) toll any obligation to make Minimum Service Payments with respect to any Owner of any Parcel for any Phase of the Development and re-apply such Minimum Service Payments that would have been due to a subsequent calendar year (including a calendar year beyond the Minimum Service Payment Term), and (iv) unilaterally commence the Minimum Service Payment due by any Owner of any Parcel for any Phase of the Development prior to the Commencement Year associated with the Minimum Service Payment Term where a TIF Exemption with respect to any Phase has not commenced by calendar year July 1, 2034.

Section 5. Exemption Applications. No Additional Exemptions. Each Owner shall prepare and file all necessary applications and supporting documents to obtain the exemption from real property taxation authorized by the TIF Statute and the TIF Ordinance, and to enable the City to collect the Service Payments and Minimum Service Payments in a timely manner.

The Owners shall not apply for any other real property tax exemption for any Parcel without the express, written consent of the City.

Section 6. Provision of Information. Each Owner agrees to cooperate in all reasonable ways with, and provide necessary and reasonable information to, the designated tax incentive review council to enable that tax incentive review council to review and determine annually during the term of the TIF Exemption the compliance of each Owner with the terms of the TIF Ordinance, the TIF Agreement, and the TIF Statute. Each Owner further agrees to cooperate in all reasonable ways with, and provide necessary and reasonable information to the City to enable the City to submit the status report required by Ohio Revised Code Section 5709.40(I) to the Director of the Ohio Department of Development on or before March 31 of each year.

Section 7. Reduction in Assessed Value. While the TIF Exemption is in effect, no Owner of a Parcel shall contest or challenge the assessed value of any Parcel without the prior written consent of the City.

Section 8. Additional Covenants. The Declarant, and any succeeding Owner, agrees that:

- A. Any unit constructed on a Parcel will be sold with an initial sale price, determined as follows: Not to exceed \$260,000 in calendar year 2024 and increasing not more than three percent (3%) per year for any succeeding year (i.e., \$267,800 in calendar year 2025, \$275,834 in calendar year 2026, \$284,109 in calendar year 2027, \$292,632 in calendar year 2028, and so forth).

B. Each Parcel must be owner-occupied for a period of not less than five (5) years from the initial sale, and any purchaser must declare such housing unit as their principal resident for tax purposes.

C. Any unit constructed on a Parcel may be rented during the period between the completion of construction and sale, as necessary, prior to the sale to the first buyer of such unit, at which time the covenants described in this Section 8 shall commence.

Section 9. Use of Parcels. Until the end of the TIF Exemption with respect to any Parcel, the Owner of such Parcel shall be prohibited from converting that Parcel to any use that would cause the County Auditor to classify the Parcel as being used for agricultural purposes under Ohio Administrative Code Section 5703-25-10.

Section 10. Automatic Release of Encumbrances. Except as specified in Section 4 hereof, if and when (i) a Parcel is transferred by the Declarant to any other Owner of such Parcel pursuant to an arms-length transaction with a person or entity who is not controlled by, under common control with, or affiliated with the Declarant (each a "Residential Owner"), (ii) such arms-length transaction is evidenced by a recorded instrument of transfer to such Residential Owner reflecting the transfer of one or more completed single-family homes for which the City has issued a certificate of occupancy, and (iii) such one or more completed single-family homes have a true value, as identified by the Athens County Auditor, equal to or exceeding the applicable initial sales price per unit identified by Section 8 hereof in the year of the instrument of transfer, then the Declarant's obligation to make Minimum Service Payments shall terminate automatically and without further action by Declarant with respect to each Parcel so transferred by the Declarant. The covenants contained in this Section 10, including the release of the Minimum Service Payment obligation attributable to Parcels transferred by the Declarant, are subject to the performance by the Declarant of its obligations related to subdivision or consolidation contained in Section 3 of this Declaration.

Notwithstanding anything in this Declaration to the contrary, if and when a Parcel is transferred by the Declarant to any Residential Owner, as evidenced by a recorded instrument of transfer to any Residential Owner, the covenants running with the land described in this Declaration with respect to Service Payments shall continue to apply to such Residential Owner, and this Declaration shall be deemed updated to reflect that such transferred Parcel is so burdened pursuant to Section 2 of this Declaration.

Pursuant to the terms of this Section 10 and its first paragraph written above, if and when a Parcel is transferred by the Declarant to any Residential Owner, as evidenced by a recorded instrument of transfer to any Residential Owner, the covenants running with the land described in this Declaration with respect to Minimum Service Payments shall not apply to such Residential Owner, and this Declaration shall be deemed updated to reflect that such transferred Parcel is not so burdened pursuant to Sections 3 and 4 of this Declaration.

Notwithstanding anything to the contrary herein: (i) portions of the Parcels that may be dedicated, sold, or otherwise transferred for use as public improvements, including, without limitation, as streets or pedestrian walkways, shall be released from the Service Payment and Minimum Service Payment obligation contained in Section 3 upon such dedication, sale, or other transfer to the City and (ii) in the event the City exercises its Option with respect to any Parcel, the obligation to make Service Payments and Minimum Service Payments with respect to that Parcel shall terminate automatically and without further action by any party.

Section 11. Covenants to Run With the Land. Except as specified in Sections 4 and 10 hereof, the Declarant agrees on behalf of itself as an Owner that the covenants contained in this Declaration shall be covenants running with the land and that they shall, in any event and without regard to technical classification or designation, legal, or otherwise, be binding to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the City, against each Parcel and any improvements thereon. The City has the right, in the event of any breach of any covenant herein contained, to exercise all of the rights and remedies and to maintain all actions or suits at law or in equity or in other proper proceedings to which it may be entitled to cure that breach.

Except as specified in Sections 4 and 10 hereof, the Declarant further agrees on behalf of itself as an Owner and each successive Owner that all covenants herein, whether or not these covenants are included by any Owner of a Parcel in any deed to that Owner's successors and assigns, shall be binding upon each subsequent Owner and shall be enforceable by the City, and that any future Owner of that Parcel shall be treated as the Declarant and Owner with respect to that Parcel for all purposes of this Declaration. Except as otherwise expressly specified herein and pursuant to Sections 4 and 10 hereof, the covenants herein will remain in effect so long as the Service Payments and Minimum Service Payments can be collected pursuant to this Declaration, unless otherwise modified or released in writing by the City in a written instrument filed in the official records of the Recorder of Athens County, Ohio.

The covenants herein have priority over all obligations arising from ground leases, other leases, mortgages, trust indentures, bond indentures, and other debt instruments, and any other lien or encumbrance on any Parcel and any improvements thereon, except for such title exceptions as are approved in writing by the City, and each Owner will, upon the request of the City, cause any and all holders of mortgages or other liens existing on each Parcel it owns as of, and after, the time of recording of this Declaration to subordinate such mortgage or lien to those covenants running with the land. The Declarant intends, and the Owners agree, that this Declaration shall not be deemed to be an executory contract terminable in bankruptcy proceedings under Title 11 of the United States Code. Each Owner acknowledges that the provisions of Ohio Revised Code Section 5709.91, which specify that the obligation to make Service Payments and Minimum Service Payments, will be treated in the same manner as taxes for all purposes of the lien described in Ohio Revised Code Section 323.11, including, but not limited to, the priority of the lien and the

collection of the Service Payments and Minimum Service Payments, apply to the Parcels and any improvements thereon.

Section 12. Third-Party Beneficiary. This Declaration shall inure to the benefit of, and be enforceable by, the City.

Section 13. Defeasance. Without in any manner altering the covenants contained herein, the lien created pursuant to Ohio Revised Code Section 5709.91 and this Declaration shall be partially released to the extent Service Payments and Minimum Service Payments are actually paid for any Parcel. Upon payment of all Service Payments and Minimum Service Payments attributable to dates prior to the last day of the Minimum Service Payment Term or Extended Minimum Service Payment Term for each Parcel in each Phase of the Development, as applicable, the lien created pursuant to Ohio Revised Code Section 5709.91 and this Declaration shall be void, otherwise it shall remain in full force and effect.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed and effective as of the date first set forth above.

DECLARANT:
HOWARD AND LAWSON, LTD.

By: _____

Name: Bret Howard

Title: Developer / Co-Owner

STATE OF OHIO)
) SS:
COUNTY OF ATHENS)

BEFORE ME, a Notary Public in and for said County and State, this [] day of [], 2024, personally appeared Bret Howard, Developer / Co-Owner of HOWARD AND LAWSON, LTD, an Ohio limited liability company, on behalf of the company, who acknowledged that he did sign the foregoing instrument in the capacity indicated and that the same is his respective free act and deed individually and in such capacity. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this [] day of [] [], 2024.

Notary Public

This instrument prepared by:
Price D. Finley, Esq.
Bricker Graydon LLP
100 South Third Street
Columbus, OH 43215

Pursuant to Ohio Revised Code Section 5709.91, a “minimum service payment obligation” is an obligation, including a contingent obligation, for a property owner to make a payment to a legislative authority pursuant to an agreement between the property owner and the legislative authority to ensure sufficient funds to finance the expenditures authorized pursuant to the TIF Statute. Pursuant to Ordinance No. []-24 passed on [], 2024 the City Council of the City approved this Declaration and authorized the Service-Safety Director to execute this Declaration as an agreement between the City and the Declarant.

**ACCEPTED AND AGREED:
CITY OF ATHENS, OHIO**

By: _____

Name: Andrew B. Stone

Title: Service-Safety Director

STATE OF OHIO)
) SS:
COUNTY OF ATHENS)

BEFORE ME, a Notary Public in and for said County and State, this [] day of [], 2024, personally appeared Andrew B. Stone, the Service-Safety Director of the CITY OF ATHENS, OHIO, a municipal corporation organized and validly existing under the laws of the State of Ohio, who acknowledged that he did sign the foregoing instrument in the capacity indicated and that the same is his respective free act and deed individually and in such capacity. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this [] day of [], 2024.

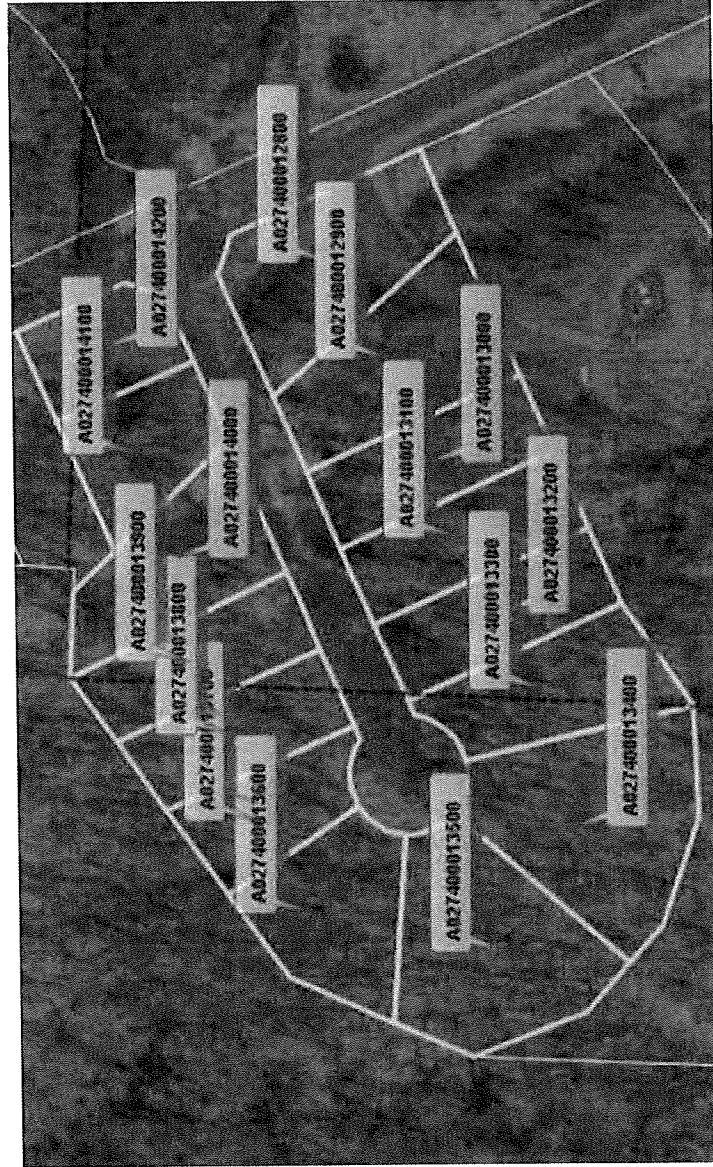
Notary Public

This instrument prepared by:
Price D. Finley, Esq.
Bricker Graydon LLP
100 South Third Street
Columbus, OH 43215

EXHIBIT A

PARCELS SUBJECT TO DECLARATION

The Project Site includes the following Parcels identified in the records of the Athens County Auditor, as of calendar year 2024, including as such Parcels may be divided, combined, re-numbered, or otherwise altered from time to time. For the avoidance of doubt, the Parcels included within each, individual University Estates Incentive District are listed below.



Parcel Numbers

Incentive District No.	Included Parcels
University Estates Incentive District No. 1	A027400014100

	A027400014200 A027400012900 A027400012800
University Estates Incentive District No. 2	A027400013700 A027400013800 A027400013900 A027400014000
University Estates Incentive District No. 3	A027400013600 A027400013500 A027400013400
University Estates Incentive District No. 4	A027400013300 A027400013200 A027400013100 A027400013000

EXHIBIT B

MINIMUM SERVICE PAYMENT SCHEDULE AND FORMULA

It is currently anticipated that the Declarant will complete the Development in one or more phases or sub-phases. The exact Minimum Service Payment due by the Declarant, and any Owner, to the City in any calendar year is defined in greater detail below. All capitalized terms not otherwise defined herein shall have the meaning given them by the Declaration to which this Exhibit B is attached:

Phase	Parcels	Projected Assessed Value	Projected Service Payments
1	A027400014100	\$1,050,000.00 [True Value of \$3,000,000.00]	\$[] [To be calculated pursuant to Sections 3 and 4 of this Declaration.]
	A027400014200		
	A027400012900		
	A027400012800		
2	A027400013700	\$1,260,000.00 [True Value of \$3,600,000.00]	\$[] [To be calculated pursuant to Sections 3 and 4 of this Declaration.]
	A027400013800		
	A027400013900		
	A027400014000		
3	A027400013600	\$945,000.00 [True Value of \$2,700,000.00]	\$[] [To be calculated pursuant to Sections 3 and 4 of this Declaration.]
	A027400013500		
	A027400013400		
4	A027400013300	\$1,260,000.00 [True Value of \$3,600,000.00]	\$[] [To be calculated pursuant to Sections 3 and 4 of this Declaration.]
	A027400013200		
	A027400013100		
	A027400013000		

“Phase” means the individual phase of the Development associated with the Parcels listed in the table for that Phase.

“Commencement Year” means the first calendar year in which real property taxes would be due and payable but for a TIF Exemption applicable to a particular Phase.

“*Projected Assessed Value*” means the total assessed valuation of the Improvements upon each Parcel included within each Phase of the Development, as would be calculated for purposes of ad valorem real estate taxation if full build-out with respect to that particular Phase of the Development was otherwise complete.

“*Projected Service Payments*” means the total annual Service Payments, based on the Projected Assessed Value of each Parcel in each Phase, that Owners in each Phase would pay as a result of the TIF Exemption, as shall be calculated by the City pursuant to Sections 3 and 4 of this Declaration for each Phase of the Development beginning in a Commencement Year for the duration of the Minimum Service Payment Term.

“*Minimum Service Payment*” means the semi-annual payment due by any Owner of any Parcel to the City according to the following formula and in accordance with the Declaration:

$$A - B = (C/2)$$

A = Projected Service Payments

B = Minimum Service Payment Credit

C = Minimum Service Payment

The semi-annual Minimum Service Payment charged against the Parcels subject to this Declaration shall be calculated on the basis of the Projected Assessed Value of the Parcels within each Phase of the Development. Except as otherwise provided in Section 4 of the Declaration to which this Exhibit B is attached, Minimum Service Payments with respect to the Parcels included in a particular Phase shall commence in a Commencement Year and continue for the duration of the TIF Exemption applicable to that Phase. The exact Minimum Service Payment due with respect to each Parcel shall be proportionally allocated among the Parcels within each Phase on the basis of the respective Projected Assessed Value of each Parcel.

“*Minimum Service Payment Credit*” means the Service Payments paid by an Owner and actually received by the City with respect to the Improvements to Parcels included within a particular Phase of the Development.

EXHIBIT D

FORM OF AMENDED SERVICE PAYMENT DECLARATION

[See Attached]

**FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND
CONDITIONS RELATIVE TO SERVICE PAYMENTS IN LIEU OF TAXES,
MINIMUM SERVICE PAYMENT OBLIGATIONS, AND OTHER MATTERS**

UNIVERSITY ESTATES INCENTIVE DISTRICT

THIS FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND CONDITIONS RELATIVE TO SERVICE PAYMENTS IN LIEU OF TAXES, MINIMUM SERVICE PAYMENT OBLIGATIONS, AND OTHER MATTERS (this "Declaration") is made and executed as of [_____] [___], 2024 by HOWARD AND LAWSON, LTD. (the "Declarant").

WITNESSETH:

WHEREAS, the Declarant has proposed to develop several parcels of real property specifically identified and depicted on Exhibit A attached hereto (with each such parcel referred to herein individually as a "Parcel" and collectively as the "Project Site") within the corporate boundaries of the City of Athens, Ohio (the "City") by constructing the Development; and

WHEREAS, pursuant to Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (collectively, the "TIF Statute"), the City Council of the City (the "City Council") passed Ordinance No. 0-103-20 on October 19, 2020 (the "Original TIF Ordinance"), as amended by Ordinance No. 0-42-21 on May 3, 2021 (the "First TIF Ordinance Amendment"), and as further amended by Ordinance No. [_____] -24 on [_____] [___], 2024 (the "Second TIF Ordinance Amendment" and, together with the Original TIF Ordinance and the First TIF Ordinance Amendment, the "TIF Ordinance"), otherwise creating the "University Estates Incentive District" No. 1, No. 2, No. 3, and No. 4 within the City and authorizing a seventy-five percent (75%) exemption from real property taxation with respect to the increase assessed value of the Parcels occurring as a result of the Development for a period of ten (10) years (the "TIF Exemption"), all as further defined by the TIF Ordinance; and

WHEREAS, pursuant to Ohio Revised Code Section 5709.42, the TIF Ordinance requires the present and future owners of the Project Site, including, but not limited to, the Declarant (the "Owners") to make service payments in lieu of taxes (the "Service Payments") to the Athens County Treasurer (the "County Treasurer") for the duration of the TIF Exemption; and

WHEREAS, after passage of the Original TIF Ordinance, the City entered into a Tax Increment Financing Agreement with the Declarant on October 27, 2020 (the "Original TIF Agreement"), as amended by the First TIF Ordinance Amendment (the "First Amended TIF Agreement"), and as further amended by the Second TIF Ordinance Amendment (the "First Amended and Restated TIF Agreement and together with the Original TIF Agreement and the First Amended TIF Agreement the "TIF Agreement"), otherwise requiring the City to reimburse the Declarant for the "Costs of Public Infrastructure Improvements" (as defined by the TIF Agreement) incurred by the Declarant to construct various Public Infrastructure Improvements (as defined by the TIF Ordinance) and the Declarant entered into a *Declaration of Covenants and Conditions Relative to Service Payments in Lieu of Taxes and Other Matters* with respect to Service Payments on the Project Site on October 27, 2020 (the "Original Service Payment Declaration"); and

WHEREAS, as a result of changing market conditions, the Declarant informed the City that the Declarant would no longer be in a financial position to incur the Costs of Public Infrastructure Improvements pursuant to the TIF Agreement; and

WHEREAS, the City has determined that it is willing to provide for the construction of the Public Infrastructure Improvements by incurring the Costs of Public Infrastructure Improvements in order to encourage the Development and, pursuant to the Second TIF Ordinance Amendment, entered into the First Amended and Restated TIF Agreement with the Declarant on [_____] [], 2024, to provide for the allocation of a portion of Service Payments and Minimum Service Payments (as defined herein) to its Costs of Public Infrastructure Improvements in accordance with the TIF Statutes, the TIF Ordinance, and the TIF Agreement; and

WHEREAS, pursuant to the First Amended and Restated TIF Agreement, the Declarant as Owner of the Project Site shall, or has, executed in favor of, and in form and substance acceptable to the City, an option to purchase the Parcels comprising the Project Site (the "Option") to further ensure completion of the Development in order to generate Service Payments and Minimum Service Payments sufficient to pay Costs of Public Infrastructure Improvements; and

WHEREAS, the City has further determined and the Declarant has further agreed pursuant to the First Amended and Restated TIF Agreement, to amend and fully restate the Original Service Payment Declaration with this Declaration such that each Owner of a Parcel specified herein shall have the obligation to make certain payments (the "Minimum Service Payments"), which are "minimum service payment obligations" pursuant to Ohio Revised Code Section 5709.91, all pursuant to a formula specified for each Parcel as described by the Minimum Service Payment Schedule and Formula attached hereto as Exhibit B and incorporated herein; and

WHEREAS, the Declarant agrees that the Option, the Service Payments, and the Minimum Service Payments are necessary to ensure there are sufficient funds to reimburse the City for its Costs of Public Infrastructure Improvements identified by the TIF Agreement.

NOW, THEREFORE, the Declarant, for itself as an Owner and for each successive Owner, hereby declares that the foregoing recitals are incorporated into this Declaration by this reference and that each Parcel owned by an Owner and any improvements thereon will be held, developed, encumbered, leased, occupied, improved, built upon, used, and conveyed subject to the terms and provisions of this Declaration:

Section 1. Use of Defined Terms. In addition to the words and terms elsewhere defined in this Declaration and its Exhibit B, unless the context or use clearly indicates another or different meaning or intent, the defined terms in this Declaration shall have the meaning specified in the TIF Agreement. The City and the Declarant expressly agree that the terms of this Declaration are intended to fully amend and restate the terms of the Original Service Payment Declaration and that the Original Service Payment Declaration shall have no effect as of the date first set forth above.

Section 2. Covenant to Make Service Payments. Except as otherwise expressly specified herein, each Owner shall be responsible to make Service Payments for each Parcel attributable to its period of ownership of that Parcel, all pursuant to and in accordance with the requirements of the TIF Statute, the TIF Ordinance, and the TIF Agreement, and any subsequent amendments or supplements thereto. Service Payments for each Parcel will be made semi-annually to the County Treasurer (or to the County Treasurer's designated agent for collection of the Service Payments) on or before the date on which real property taxes would otherwise be due and payable for each Parcel and will be in the same amount as the real property taxes that would have been charged and payable against the Improvements to each Parcel had the TIF Exemption not been granted, including any penalties and interest. Any late payments will bear penalties and interest at the then-current rate established under Ohio Revised Code Section 323.121 and 5703.47 or any success provisions thereto, as the same may be amended from time to time. No Owner shall enter into a delinquent tax or service payment agreement pursuant to Ohio Revised Code Section 323.31.

Pursuant to Ohio Revised Code Section 5709.42, each Owner's obligations to make the Service Payments shall be and are unconditional, and shall not and cannot be terminated for any cause, and no Owner shall have the right to suspend or set off such Service Payments for any cause, including without limitation any acts or circumstances that may constitute failure of consideration, destruction, or damage to the Parcels or the structures of the Parcels, commercial frustration of purpose, or any failure by the City to perform or observe any obligation or covenant, whether express or implied, arising out of or in connection with the TIF Ordinance or the TIF Agreement. No Owner will, under any circumstances, be required for any tax year to pay both real property taxes and Service Payments with respect to the Improvement of a Parcel, whether pursuant to Ohio Revised Code Section 5709.42, the TIF Ordinance, or this Declaration. The City and the Declarant agree that the TIF Fund established by the TIF Ordinance shall receive all Service Payments payable to the City.

Section 3. Covenant to Make Minimum Service Payments. Except pursuant to Sections 4 and 10 hereof, each Owner shall make Minimum Service Payments for each Parcel attributable to its period of ownership of that Parcel. On or before March 1 and September 1 of each year commencing as described pursuant to Section 4 of this Declaration, the City shall determine, using the official records of the County Auditor of Athens County, Ohio (the "County Auditor"), the effective real property tax rate (the "Tax Rate") for the Parcels, and using any other official records of the County Auditor and the County Treasurer as may be required by the City from time to time and the Minimum Service Payment Schedule and Formula attached hereto as Exhibit B, the amount of the semi-annual Minimum Service Payments due, if any, for each Parcel, and shall provide notice to the Owners of such determination, including any penalties and interest. With respect to the Parcels, the Owners shall pay the semi-annual Minimum Service Payment applicable to their respective Parcels on or before the date on which real property taxes would otherwise be due and payable for each Parcel, as applicable, by providing notice to the City of such payment and delivering such semi-annual amount to the City at the below address. Any late payments will bear penalties and interest at the then-current rate established under Ohio Revised Code Section 323.121 and 5703.47 or any success provisions thereto, as the same may be amended from time to time.

City of Athens
8 East Washington Street
Athens, Ohio 45701
Attention: City Auditor

In the event the Parcels are subdivided, or are consolidated with any other Parcel, the Minimum Service Payments attributable to those Parcels shall be apportioned among the resulting tax Parcels and all other Parcels based on any reasonable method determined by the City. Regardless of the apportionment method, such apportionment shall be evidenced by an addendum to this Declaration ("Addendum") filed prior to the subdivision or consolidation by the applicable Owner of such Parcel being subdivided or such Parcels being consolidated, which Addendum also shall be approved and executed by the City to evidence its approval of the apportionment of the Minimum Service Payments as required hereunder. If for any reason such apportionment does not occur or such Addendum is not recorded, the applicable Owner shall remain obligated to pay the Minimum Service Payment attributable to such Parcels notwithstanding that an Owner is no longer the Owner of such Parcels.

Section 4. Duration of Minimum Service Payments.

As further described by Exhibit B attached hereto and incorporated herein, the obligation to make Minimum Service Payments with respect to a Parcel shall begin in the Commencement Year applicable to the Phase of the Development for that Parcel and continue for the duration of the TIF Exemption (the "Minimum Service Payment Term"), including as may be further amended from time to time.

Notwithstanding anything to the contrary herein, however, the City shall have the right, in its sole discretion and at any time, to (i) waive any Minimum Service Payment due by any Owner of any Parcel for any Phase of the Development, (ii) terminate any obligation to make Minimum Service Payments with respect to any Owner of any Parcel for any Phase of the Development, (iii) toll any obligation to make Minimum Service Payments with respect to any Owner of any Parcel for any Phase of the Development and re-apply such Minimum Service Payments that would have been due to a subsequent calendar year (including a calendar year beyond the Minimum Service Payment Term), and (iv) unilaterally commence the Minimum Service Payment due by any Owner of any Parcel for any Phase of the Development prior to the Commencement Year associated with the Minimum Service Payment Term where a TIF Exemption with respect to any Phase has not commenced by calendar year July 1, 2034.

Section 5. Exemption Applications. No Additional Exemptions. Each Owner shall prepare and file all necessary applications and supporting documents to obtain the exemption from real property taxation authorized by the TIF Statute and the TIF Ordinance, and to enable the City to collect the Service Payments and Minimum Service Payments in a timely manner.

The Owners shall not apply for any other real property tax exemption for any Parcel without the express, written consent of the City.

Section 6. Provision of Information. Each Owner agrees to cooperate in all reasonable ways with, and provide necessary and reasonable information to, the designated tax incentive review council to enable that tax incentive review council to review and determine annually during the term of the TIF Exemption the compliance of each Owner with the terms of the TIF Ordinance, the TIF Agreement, and the TIF Statute. Each Owner further agrees to cooperate in all reasonable ways with, and provide necessary and reasonable information to the City to enable the City to submit the status report required by Ohio Revised Code Section 5709.40(I) to the Director of the Ohio Department of Development on or before March 31 of each year.

Section 7. Reduction in Assessed Value. While the TIF Exemption is in effect, no Owner of a Parcel shall contest or challenge the assessed value of any Parcel without the prior written consent of the City.

Section 8. Additional Covenants. The Declarant, and any succeeding Owner, agrees that:

- A. Any unit constructed on a Parcel will be sold with an initial sale price, determined as follows: Not to exceed \$260,000 in calendar year 2024 and increasing not more than three percent (3%) per year for any succeeding year (i.e., \$267,800 in calendar year 2025, \$275,834 in calendar year 2026, \$284,109 in calendar year 2027, \$292,632 in calendar year 2028, and so forth).

B. Each Parcel must be owner-occupied for a period of not less than five (5) years from the initial sale, and any purchaser must declare such housing unit as their principal resident for tax purposes.

C. Any unit constructed on a Parcel may be rented during the period between the completion of construction and sale, as necessary, prior to the sale to the first buyer of such unit, at which time the covenants described in this Section 8 shall commence.

Section 9. Use of Parcels. Until the end of the TIF Exemption with respect to any Parcel, the Owner of such Parcel shall be prohibited from converting that Parcel to any use that would cause the County Auditor to classify the Parcel as being used for agricultural purposes under Ohio Administrative Code Section 5703-25-10.

Section 10. Automatic Release of Encumbrances. Except as specified in Section 4 hereof, if and when (i) a Parcel is transferred by the Declarant to any other Owner of such Parcel pursuant to an arms-length transaction with a person or entity who is not controlled by, under common control with, or affiliated with the Declarant (each a "Residential Owner"), (ii) such arms-length transaction is evidenced by a recorded instrument of transfer to such Residential Owner reflecting the transfer of one or more completed single-family homes for which the City has issued a certificate of occupancy, and (iii) such one or more completed single-family homes have a true value, as identified by the Athens County Auditor, equal to or exceeding the applicable initial sales price per unit identified by Section 8 hereof in the year of the instrument of transfer, then the Declarant's obligation to make Minimum Service Payments shall terminate automatically and without further action by Declarant with respect to each Parcel so transferred by the Declarant. The covenants contained in this Section 10, including the release of the Minimum Service Payment obligation attributable to Parcels transferred by the Declarant, are subject to the performance by the Declarant of its obligations related to subdivision or consolidation contained in Section 3 of this Declaration.

Notwithstanding anything in this Declaration to the contrary, if and when a Parcel is transferred by the Declarant to any Residential Owner, as evidenced by a recorded instrument of transfer to any Residential Owner, the covenants running with the land described in this Declaration with respect to Service Payments shall continue to apply to such Residential Owner, and this Declaration shall be deemed updated to reflect that such transferred Parcel is so burdened pursuant to Section 2 of this Declaration.

Pursuant to the terms of this Section 10 and its first paragraph written above, if and when a Parcel is transferred by the Declarant to any Residential Owner, as evidenced by a recorded instrument of transfer to any Residential Owner, the covenants running with the land described in this Declaration with respect to Minimum Service Payments shall not apply to such Residential Owner, and this Declaration shall be deemed updated to reflect that such transferred Parcel is not so burdened pursuant to Sections 3 and 4 of this Declaration.

Notwithstanding anything to the contrary herein: (i) portions of the Parcels that may be dedicated, sold, or otherwise transferred for use as public improvements, including, without limitation, as streets or pedestrian walkways, shall be released from the Service Payment and Minimum Service Payment obligation contained in Section 3 upon such dedication, sale, or other transfer to the City and (ii) in the event the City exercises its Option with respect to any Parcel, the obligation to make Service Payments and Minimum Service Payments with respect to that Parcel shall terminate automatically and without further action by any party.

Section 11. Covenants to Run With the Land. Except as specified in Sections 4 and 10 hereof, the Declarant agrees on behalf of itself as an Owner that the covenants contained in this Declaration shall be covenants running with the land and that they shall, in any event and without regard to technical classification or designation, legal, or otherwise, be binding to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the City, against each Parcel and any improvements thereon. The City has the right, in the event of any breach of any covenant herein contained, to exercise all of the rights and remedies and to maintain all actions or suits at law or in equity or in other proper proceedings to which it may be entitled to cure that breach.

Except as specified in Sections 4 and 10 hereof, the Declarant further agrees on behalf of itself as an Owner and each successive Owner that all covenants herein, whether or not these covenants are included by any Owner of a Parcel in any deed to that Owner's successors and assigns, shall be binding upon each subsequent Owner and shall be enforceable by the City, and that any future Owner of that Parcel shall be treated as the Declarant and Owner with respect to that Parcel for all purposes of this Declaration. Except as otherwise expressly specified herein and pursuant to Sections 4 and 10 hereof, the covenants herein will remain in effect so long as the Service Payments and Minimum Service Payments can be collected pursuant to this Declaration, unless otherwise modified or released in writing by the City in a written instrument filed in the official records of the Recorder of Athens County, Ohio.

The covenants herein have priority over all obligations arising from ground leases, other leases, mortgages, trust indentures, bond indentures, and other debt instruments, and any other lien or encumbrance on any Parcel and any improvements thereon, except for such title exceptions as are approved in writing by the City, and each Owner will, upon the request of the City, cause any and all holders of mortgages or other liens existing on each Parcel it owns as of, and after, the time of recording of this Declaration to subordinate such mortgage or lien to those covenants running with the land. The Declarant intends, and the Owners agree, that this Declaration shall not be deemed to be an executory contract terminable in bankruptcy proceedings under Title 11 of the United States Code. Each Owner acknowledges that the provisions of Ohio Revised Code Section 5709.91, which specify that the obligation to make Service Payments and Minimum Service Payments, will be treated in the same manner as taxes for all purposes of the lien described in Ohio Revised Code Section 323.11, including, but not limited to, the priority of the lien and the

collection of the Service Payments and Minimum Service Payments, apply to the Parcels and any improvements thereon.

Section 12. Third-Party Beneficiary. This Declaration shall inure to the benefit of, and be enforceable by, the City.

Section 13. Defeasance. Without in any manner altering the covenants contained herein, the lien created pursuant to Ohio Revised Code Section 5709.91 and this Declaration shall be partially released to the extent Service Payments and Minimum Service Payments are actually paid for any Parcel. Upon payment of all Service Payments and Minimum Service Payments attributable to dates prior to the last day of the Minimum Service Payment Term or Extended Minimum Service Payment Term for each Parcel in each Phase of the Development, as applicable, the lien created pursuant to Ohio Revised Code Section 5709.91 and this Declaration shall be void, otherwise it shall remain in full force and effect.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed and effective as of the date first set forth above.

DECLARANT:
HOWARD AND LAWSON, LTD.

By: _____

Name: Bret Howard

Title: Developer / Co-Owner

STATE OF OHIO)
) SS:
COUNTY OF ATHENS)

BEFORE ME, a Notary Public in and for said County and State, this [] day of [], 2024, personally appeared Bret Howard, Developer / Co-Owner of HOWARD AND LAWSON, LTD, an Ohio limited liability company, on behalf of the company, who acknowledged that he did sign the foregoing instrument in the capacity indicated and that the same is his respective free act and deed individually and in such capacity. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this [] day of [] [], 2024.

Notary Public

This instrument prepared by:
Price D. Finley, Esq.
Bricker Graydon LLP
100 South Third Street
Columbus, OH 43215

Pursuant to Ohio Revised Code Section 5709.91, a “minimum service payment obligation” is an obligation, including a contingent obligation, for a property owner to make a payment to a legislative authority pursuant to an agreement between the property owner and the legislative authority to ensure sufficient funds to finance the expenditures authorized pursuant to the TIF Statute. Pursuant to Ordinance No. []-24 passed on [], 2024 the City Council of the City approved this Declaration and authorized the Service-Safety Director to execute this Declaration as an agreement between the City and the Declarant.

**ACCEPTED AND AGREED:
CITY OF ATHENS, OHIO**

By: _____

Name: Andrew B. Stone

Title: Service-Safety Director

STATE OF OHIO)
) SS:
COUNTY OF ATHENS)

BEFORE ME, a Notary Public in and for said County and State, this [] day of [], 2024, personally appeared Andrew B. Stone, the Service-Safety Director of the CITY OF ATHENS, OHIO, a municipal corporation organized and validly existing under the laws of the State of Ohio, who acknowledged that he did sign the foregoing instrument in the capacity indicated and that the same is his respective free act and deed individually and in such capacity. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this [] day of [], 2024.

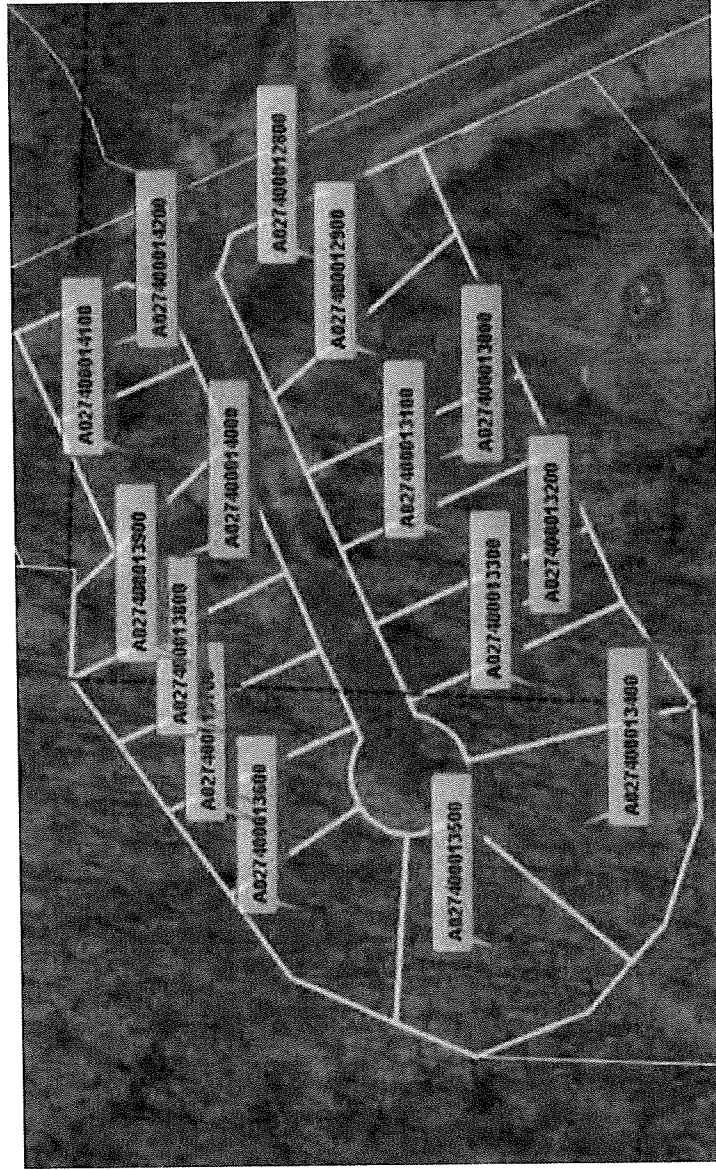
Notary Public

This instrument prepared by:
Price D. Finley, Esq.
Bricker Graydon LLP
100 South Third Street
Columbus, OH 43215

EXHIBIT A

PARCELS SUBJECT TO DECLARATION

The Project Site includes the following Parcels identified in the records of the Athens County Auditor, as of calendar year 2024, including as such Parcels may be divided, combined, re-numbered, or otherwise altered from time to time. For the avoidance of doubt, the Parcels included within each, individual University Estates Incentive District are listed below.



Parcel Numbers

Incentive District No.	Included Parcels
University Estates Incentive District No. 1	A027400014100

	A027400014200 A027400012900 A027400012800
University Estates Incentive District No. 2	A027400013700 A027400013800 A027400013900 A027400014000
University Estates Incentive District No. 3	A027400013600 A027400013500 A027400013400
University Estates Incentive District No. 4	A027400013300 A027400013200 A027400013100 A027400013000

EXHIBIT B

MINIMUM SERVICE PAYMENT SCHEDULE AND FORMULA

It is currently anticipated that the Declarant will complete the Development in one or more phases or sub-phases. The exact Minimum Service Payment due by the Declarant, and any Owner, to the City in any calendar year is defined in greater detail below. All capitalized terms not otherwise defined herein shall have the meaning given them by the Declaration to which this Exhibit B is attached:

Phase	Parcels	Projected Assessed Value	Projected Service Payments
1	A027400014100	\$1,050,000.00 [True Value of \$3,000,000.00]	\$[] [To be calculated pursuant to Sections 3 and 4 of this Declaration.]
	A027400014200		
	A027400012900		
	A027400012800		
2	A027400013700	\$1,260,000.00 [True Value of \$3,600,000.00]	\$[] [To be calculated pursuant to Sections 3 and 4 of this Declaration.]
	A027400013800		
	A027400013900		
	A027400014000		
3	A027400013600	\$945,000.00 [True Value of \$2,700,000.00]	\$[] [To be calculated pursuant to Sections 3 and 4 of this Declaration.]
	A027400013500		
	A027400013400		
4	A027400013300	\$1,260,000.00 [True Value of \$3,600,000.00]	\$[] [To be calculated pursuant to Sections 3 and 4 of this Declaration.]
	A027400013200		
	A027400013100		
	A027400013000		

“Phase” means the individual phase of the Development associated with the Parcels listed in the table for that Phase.

“Commencement Year” means the first calendar year in which real property taxes would be due and payable but for a TIF Exemption applicable to a particular Phase.

“*Projected Assessed Value*” means the total assessed valuation of the Improvements upon each Parcel included within each Phase of the Development, as would be calculated for purposes of ad valorem real estate taxation if full build-out with respect to that particular Phase of the Development was otherwise complete.

“*Projected Service Payments*” means the total annual Service Payments, based on the Projected Assessed Value of each Parcel in each Phase, that Owners in each Phase would pay as a result of the TIF Exemption, as shall be calculated by the City pursuant to Sections 3 and 4 of this Declaration for each Phase of the Development beginning in a Commencement Year for the duration of the Minimum Service Payment Term.

“*Minimum Service Payment*” means the semi-annual payment due by any Owner of any Parcel to the City according to the following formula and in accordance with the Declaration:

$$A - B = (C/2)$$

A = Projected Service Payments

B = Minimum Service Payment Credit

C = Minimum Service Payment

The semi-annual Minimum Service Payment charged against the Parcels subject to this Declaration shall be calculated on the basis of the Projected Assessed Value of the Parcels within each Phase of the Development. Except as otherwise provided in Section 4 of the Declaration to which this Exhibit B is attached, Minimum Service Payments with respect to the Parcels included in a particular Phase shall commence in a Commencement Year and continue for the duration of the TIF Exemption applicable to that Phase. The exact Minimum Service Payment due with respect to each Parcel shall be proportionally allocated among the Parcels within each Phase on the basis of the respective Projected Assessed Value of each Parcel.

“*Minimum Service Payment Credit*” means the Service Payments paid by an Owner and actually received by the City with respect to the Improvements to Parcels included within a particular Phase of the Development.

0-70-24

Introduced by Jeff Risner, Chair
Finance & Personnel Committee

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN ECONOMIC DEVELOPMENT REVOLVING LOAN FUND ADMINISTRATION AGREEMENT WITH THE OHIO DEVELOPMENT SERVICES AGENCY.

WHEREAS, said agreement is required to maintain adequate program oversight and ensure that communities understand and adhere to the terms of the agreement in conjunction with the administration of the program; and

WHEREAS, said agreement is effective for a three-year period, beginning January 1, 2024, and ending December 31, 2026, and must be renewed every three years;

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

SECTION I: The Mayor is hereby authorized to enter into an Economic Development Revolving Loan Fund (RLF) Administration Agreement with the Ohio Development Services Agency, a copy of which is attached hereto and incorporated herein by reference.

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

State of Ohio
Community Development Block Grant Program
Revolving Loan Fund Administration Agreement

This Economic Development Revolving Loan Fund ("RLF") Administration Agreement ("Agreement") is made and entered into by and between the Ohio Department of Development ("Grantor") and **City of Athens** ("Grantee"), UEIN **M35KQ6832G54**, for the period beginning **Jan. 1, 2024** (the "Effective Date") and ending **Dec. 31, 2026** (the "Termination Date").

Background Information

- A. Grantor, through its Office of Community Infrastructure ("OCI"), administers the federal Community Development Block Grant ("CDBG") program for the State of Ohio.
- B. Grantee has been determined to be an eligible recipient of CDBG funds and Grantee has been awarded CDBG funds from the Grantor to finance eligible activities that may generate Program Income as defined herein.
- C. Grantor has permitted the establishment of Economic Development RLFs within local political subdivisions to meet the primary development goals of:
 - 1. Encouraging the expansion and stability of the economic base of the designated area of the Economic Development RLF.
 - 2. Encouraging increased employment opportunities, particularly for low- and moderate- income (LMI) persons in designated areas of the Economic Development RLF.
 - 3. Supporting community development initiatives with activities that benefit low- and moderate- income persons and aid in the prevention or elimination of slums or blight.
- D. Grantor desires to have Grantee administer an Economic Development RLF using the CDBG Program Income and Grantee desires to administer an Economic Development RLF using the CDBG Program Income for the purposes stated above.
- E. Grantee has adopted a Resolution or Ordinance authorizing the execution of this Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Statement of The Agreement

- 1. **Economic Development Revolving Loan Fund Capitalization.** Grantee shall deposit all Economic Development Program Income into an Economic Development RLF account held by the Grantee.

2. Definitions.

- a. Economic Development RLF is a separate fund established for the purpose of accounting for Program Income and of carrying out the specific activities designated in OCI's Program Income Policies and Procedures Manual, available on OCI's Technical Assistance website (<https://development.my.site.com/OCDTA/s/article/Revolving-Loan-Fund-Program-Information>), which, in turn, generate payments to the fund ("RLF Funds") for the continued use in carrying out the same activities.
- b. Economic Development Program Income is defined as gross income received by the recipient directly generated from the use of Ohio State-administered CDBG program funds for economic development, downtown revitalization, and microenterprise business development activities.
- c. CDBG Economic Development RLF Consolidation. Grantee shall consolidate all existing Economic Development RLF, Downtown RLF, and Microenterprise RLF accounts into an Economic Development RLF Account held by the Grantee.

3. **RLF Plan and Use of Funds.** Grantee has adopted an RLF plan that includes the policies and procedures established by Grantor in the OCI **Program Income Policies and Procedures Manual**. The plan must include any designated administrative agent, an established board structure, loan review criteria, and procedures for workouts, delinquencies, and defaults. Grantee shall use the RLF Funds solely for the stated purposes set forth in this Agreement, OCI's **Program Income Policies and Procedures Manual**, the local RLF plan, and the current Ohio Consolidated Plan, which can be found here: <https://development.ohio.gov/community/community-resources/ohio-consolidated-plan>

4. **Project Approvals.** Grantee shall submit to Grantor an RLF loan or grant approval request for each project being considered for RLF assistance. Grantee must receive Grantor's written approval prior to the commencement of the Grantee's local RLF project.

5. **National Objective Requirements.** Grantor will review the approval request to determine if the project meets a CDBG National Objective. Written approval from Grantor must be received prior to the local RLF issuing approval for the project.

6. **Subrecipient Agreements.** Except under circumstances subject to **Policy Notice 20-04: Use of Subrecipients for Public Services Activities**, Grantee shall not sub-grant or sub-loan the Economic Development Program Income funds to any other local political jurisdiction or non-profit agency. Grantee may contract with a non-profit agency to administer the RLF Funds, but the funds are to remain with the Grantee in the Revolving Loan Fund Account. If there is a change in the designated administrative agent of the RLF Funds, it is the responsibility of the Grantee to notify OCI within 15 days of any change in status of the designated administrative agent.

7. **Accounting of RLF Funds.** RLF Funds shall be deposited and maintained in a separate interest-bearing fund account upon the books and records of Grantee (the "Account"). Grantee shall keep all records of the Account in a manner that is consistent with generally accepted accounting principles. All disbursements from the Account shall be for obligations incurred in the performance of this Agreement and shall be supported by contracts, invoices, vouchers, and other data, as appropriate, evidencing the necessity of such expenditure.
8. **Reporting Requirements.** Grantee shall submit RLF Status Reports to Grantor no more than 30 days after notification of the RLF Status Report request. RLF Status Reports may include but are not limited to the following: program income; program activities; and program outcomes.
9. **Compliance with General CDBG Requirements.** Grantee shall comply with all applicable provisions of the statutes, rules, regulations, and guidelines as passed by Congress or promulgated by the Secretary of the Department of Housing and Urban Development (HUD).
10. **Compliance with Environmental Requirements.** Grantee shall comply with the provisions of 24 CFR Part 58, Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities, for all activities funded with Economic Development Program Income.
 - a. If Grantee proposes to commit Economic Development Program Income to an OCI grant-funded activity for which it is the responsible entity, the environmental procedures associated with the OCI grant shall fulfill the environmental requirements for the Economic Development Program Income. Grantee does not submit separate Request for Release of Funds and/or Certification documentation to Grantor for the Economic Development Program Income, and Grantor does not issue a Project Specific Release of Funds Respecting Environmental Grant Conditions for the Economic Development Program Income.
 - b. For any other eligible use of Economic Development Program Income, Grantee must prepare environmental review records, publish any applicable public notices, and submit Request for Release of Funds and/or Certification documentation to Grantor for the aggregated activity assisted with Economic Development Program Income. Grantee may not commit Economic Development Program Income or initiate project work until Grantor issues a Project Specific Release of Funds Respecting Environmental Grant Conditions for the Economic Development Program Income.
11. **Acquisition and Relocation.** Grantee shall comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the implementing regulations set forth in 24 CFR 570.488 and 24 CFR Part 42 as they apply to the activities covered by this Agreement. Grantee shall comply with the process established under the Anti-Displacement and Relocation Plan.

12. **Term of the Agreement.** This Agreement shall begin on the Effective Date and shall terminate on the Termination Date, unless otherwise modified pursuant to Section 29 (f) herein. At least 60 days prior to the Termination Date, Grantor will determine if the Grantee continues to have the capacity to administer the RLF Funds based on the performance of the Grantee and its designated administrative agent. Grantor shall promptly notify Grantee in writing of a determination questioning administrative capacity. Grantor reserves the right to determine if the State of Ohio will renew the Agreement to allow the Grantee to administer the RLF, have the Grantee close out the RLF by executing a CDBG Closeout Agreement or recapture the RLF Funds.
13. **Records, Access, and Maintenance.** Grantee shall establish and maintain for at least three years from the expiration of this Agreement, all direct information and such records as are reasonably related to the administration of an RLF as set forth in the [OCI Program Income Policies and Procedures Manual](#). Both parties further agree that records required by the Grantor with respect to any questioned costs, audit disallowances, litigation or dispute between the Grantor and the Grantee shall be maintained for the time needed for the resolution of said question and that in the event of early termination of this Agreement as provided in Section 20 of this Agreement, or if for any other reason the Grantor shall require a review of the records related to the RLF Funds, the Grantee shall, at its own cost and expense, segregate all such records related to the RLF Funds from its other records of operation.
14. **Inspections.** At any time during normal business hours upon three days prior written notice and as often as Grantor may deem necessary and in such a manner as not to interfere unreasonably with the normal business operations, Grantee shall make available to Grantor, and to appropriate state agencies or officials, for examination, all of its records with respect to matters covered by this Agreement including, but not limited to, records of personnel and conditions of employment and shall permit Grantor to audit, examine and make excerpts or transcripts from such records.
15. **Audits.**
The Grant Funds shall be audited according to the requirements of 2 CFR 200. In addition, Grantee must follow the guidelines provided in the OCI Financial Management Rules and Regulations Handbook. The Grantee shall submit to the Federal Audit Clearinghouse (FAC) and make available for public inspection a copy of the single audit, data collection form, and reporting package as described in 2 CFR 200 within the earlier of 30 days after receipt of the auditor's report(s) or nine months after the end of the audit period. No later than seven days following submission to the FAC, the Grantee must notify Grantor at singleaudit@development.ohio.gov that the single audit was submitted to the FAC. A copy of the audit report may be attached but is not required.

16. **Equal Employment Opportunity.** Grantee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age, military status, or ancestry. Grantee will take affirmative action to ensure that applicants are considered for employment and that employees are treated during employment, without regard to their race, religion, color, sex, national origin, disability, age, military status, or ancestry. Grantee will, in all solicitations or advertisements for employees placed by or on behalf of Grantee, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, disability, age, military status or ancestry. Grantee will incorporate the requirements of this paragraph in all of its respective contracts for any of the work for which the Grant Funds are expended (other than subcontracts for standard commercial supplies or raw materials), and Grantee will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.
17. **Prevailing Wage Rates and Labor Standards.** In the commission of any Project(s) wherein federal funds are used to finance construction work as defined in the Code of Federal Regulations (CFR) Title 29, Part 5 to the extent that such activity is subject to the Davis-Bacon Act (40 United States Code (U.S.C.) 3141 to 3148, as amended), all laborers and mechanics employed by contractors or subcontractors on any such construction work assisted under this Agreement shall be paid the wages that have been determined by the U.S. Secretary of Labor to be the wages prevailing for the corresponding classes of laborers and mechanics employed on project(s) of a character similar to the contract work in the civil subdivision of the state wherein the work is to be performed. In addition, all laborers and mechanics employed by contractors or subcontractors on such construction work assisted under this Agreement shall be paid overtime compensation in accordance with the provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3701 to 3708. Furthermore, Grantee shall require that all contractors and subcontractors shall comply with all regulations issued pursuant to these acts and with other applicable federal and state laws and regulations.
18. **Build America, Buy America.** The grantee certifies that it will comply with the Build America, Buy America provision of the Infrastructure Investment and Jobs Act of 2021- and the regulations at **41 U.S.C. §8303**, to the greatest extent feasible:
- a. Every contract for the construction, alteration, or repair of any public building or public work in the United States in which total federal assistance exceeds \$250,000 shall contain a provision that in the performance of the work the contractor, subcontractors, material men, or supplies shall use only:
 - i. Unmanufactured articles, materials, and supplies that have been mined or produced in the United States.
 - ii. Manufactured articles, materials, and supplies that have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States.
 - b. It will comply with the following domestic preference requirements on a phased implementation schedule according to HUD's Phased Implementation Waiver 6331-N-10A:
 - i. **Effective July 1, 2023:** All iron or steel items used in covered projects must be produced in the United States. This means all manufacturing processes,

from the initial melting stage through the application of coatings, occur in the United States.

- ii. **Effective July 1, 2024:** All manufactured products used in covered projects must be produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55% of the total cost of all components of the manufactured product.
- iii. **Effective July 1, 2025:** All construction materials used in covered projects must be manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

19. **Section 3.** The grantee certifies that it will comply with Section 3 of the **Housing and Urban Development Act of 1968 (12 U.S.C. 1701u)** and implementing regulations at **24 CFR part 75**, and will follow the prioritization of effort outlined in **§75.19**:

a. Employment and training.

- i. To the greatest extent feasible, and consistent with existing federal, state, and local laws and regulations, Grantee shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located.
- ii. Where feasible, priority for opportunities and training described in the above paragraph should be given to:
 - 1. Section 3 workers residing within the service area or the neighborhood of the project.
 - 2. Participants in YouthBuild programs.

b. Contracting.

- i. To the greatest extent feasible, and consistent with existing federal, state, and local laws and regulations, Grantee shall ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located.
- ii. Where feasible, priority for contracting opportunities described in the above paragraph should be given to:
 - 1. Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project.
 - 2. YouthBuild programs.

20. **Use of Federal Grant Funds.** Grantee acknowledges that this Agreement involves the use of federal funds and as such, is subject to audit by the agency of the United States Government granting the funds to Grantor for the purposes of performing the work and activities as listed in the Grantee's RLF project report forms and in conformance with OCI's **Program Income Policies and Procedures Manual** and the local RLF plan. Grantee shall fully reimburse Grantor for any cost of Grantee which is disallowed by said federal agency and which must be refunded thereto by Grantor.
21. **Property and Equipment Purchases.** All items purchased by Grantee are and shall remain the property of Grantee, except if Grantor exercises its right to terminate this Agreement pursuant to paragraph 20, in which case all property and equipment purchased by Grantee with any Grant Funds herein awarded shall revert to Grantor. Grantee shall provide for the security and safekeeping of all items obtained through this Agreement.
22. **Termination.** Grantor may immediately terminate this Agreement by giving reasonable written notice of termination to Grantee for any of the following occurrences:
- a. Failure of Grantee to fulfill in a timely and proper manner any of its obligations under this Agreement.
 - i. Failure of Grantee to submit any report required by this Agreement that is complete and accurate.
 - ii. Failure of Grantee to use the Grant Funds for the stated purposes in this Agreement.
 - iii. Cancellation of the grant of funds from HUD.
 - b. Early Termination: Grantor may also terminate this Agreement if Grantee (i) defaults under another Agreement between the Grantor (ii) admits Grantee's inability to pay its debts as such debts become due, (iii) Grantee commences a voluntary bankruptcy, (iv) an involuntary bankruptcy action occurs against Grantee which remains undismissed or unstayed for 60 days, (v) Grantee fails to meet the minimum funding requirements under the Employee Retirement Income Security Act or other such employee benefits plan, or (vi) Grantor has reason to believe Grantee has ceased operations at the Project location. The events permitting early termination by Grantor shall be considered a default by Grantee and subject to the Effects of Termination under Section 21 of this Agreement.
 - c. Grantor reserves the right to suspend the administration of the RLF at any time for failure of the Grantee or its designated administrative agent to administer the local RLF in compliance with the OCI's [Program Income Policies and Procedures Manual](#) which is not attached but incorporated herein by reference. Throughout this Agreement, Grantee and any designated administrative agent must continue to demonstrate administrative capacity in the administration of the RLF. Failure to accurately report on the RLF Funds could result in Grantor placing the RLF Funds on hold or recapturing the RLF Funds. Grantor also reserves the right to request the RLF Funds be returned to the State of Ohio upon failure to comply with the OCI [Program Income Policies and Procedures Manual](#).

23. **Effects of Termination.** Within 60 days after termination of Agreement, Grantee shall surrender all reports, documents, and other materials assembled and prepared pursuant to Agreement, which shall become the property of Grantor, unless otherwise directed by Grantor. After receiving written notice of termination, Grantee shall incur no new obligations and shall cancel as many outstanding obligations as possible. Upon compliance with this Section, Grantee shall receive compensation for all activities satisfactorily performed prior to the effective date of termination.
24. **Forbearance Not a Waiver.** No act of forbearance or failure to insist on the prompt performance by Grantee of its obligations under Agreement, either express or implied, shall be construed as a waiver by Grantor of any of its rights hereunder.
25. **Conflict of Interest.** No personnel of Grantee, contractor of Grantee or personnel of any such contractor, and no public official who exercises any functions or responsibilities in connection with the review or approval of any work completed under this Agreement, shall, prior to the completion of such work, voluntarily or involuntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge or fulfillment of their functions or responsibilities with respect to the completion of the work contemplated under this Agreement. Grantee shall immediately disclose in writing to Grantor any such person who, prior to or after the execution of this Agreement, acquires any personal interest, voluntarily or involuntarily. Grantee shall cause any such person who, prior to or after the execution of this Agreement, acquires any personal interest, voluntarily or involuntarily, to immediately disclose such interest to Grantor in writing. Thereafter, such person shall not participate in any action affecting the work under this Agreement unless Grantor determines that, considering the personal interest disclosed, their participation in any such action would not be contrary to the public interest. Additional information found in OCI 15-07: Resolving a Potential Conflict of Interest.
26. **Liability.** Unless Grantee is an Ohio political sub-division and can prove to Grantor that it is self-insured, Grantee shall maintain liability and property insurance to cover actionable legal claims for liability or loss which are the result of injury to or death of any person, damage to property (including property of Grantor) caused by the negligent acts or omissions, or negligent conduct of Grantee, to the extent permitted by law, in connection with the activities of this Agreement. Furthermore, each party to this Agreement agrees to be liable for the negligent acts or negligent omissions by or through itself, its employees, agents and subcontractors. Each party further agrees to defend itself and themselves and pay any judgments and costs arising out of such negligent acts or omissions, and nothing in this Agreement shall impute or transfer any such liability from one to the other.
27. **Adherence to State and Federal Laws and Regulations.**
- a. **General.** Grantee shall comply with all applicable federal, state and local laws in the performance of Grantee's obligations under Agreement, the completion of the Project and the operation of the Project as long as Grantee has any obligation to Grantor under Agreement. Without limiting the generality of such obligation, Grantee shall pay or cause to be paid all unemployment compensation, insurance premiums, workers' compensation premiums, income tax withholding, social security withhold, and any and all other taxes or payroll deductions required for all employees engaged by Grantee in connection with the Project, and Grantee shall comply with all applicable environmental, zoning, planning and building laws and

regulations.

- b. Ethics.** Grantee, by its signature on this document, certifies: (1) it has reviewed and understands the Ohio ethics and conflicts of interest laws including, without limitation, ORC Section 102.01 et seq., Sections 2921.01, 2921.42, 2921.421, 2921.43, and 3517.13(I) and (J), and (2) will take no action inconsistent with those laws, as any of them may be amended or supplemented from time to time. Grantee understands that failure to comply with the Ohio ethics and conflict of interest laws, is in itself, grounds for termination of Agreement and the grant of funds made pursuant to Agreement and may result in the loss of other contracts or grants with the State of Ohio.
- 28. Outstanding Liabilities.** Grantee represents and warrants that it does not owe: (1) any delinquent taxes to the State of Ohio (the "State") or a political subdivision of the State; (2) any amount to the State or a state agency for the administration or enforcement of any environmental laws of the State; and (3) any other amount to the State, a state agency or a political subdivision of the State that are past due, whether or not the amounts owed are being contested in a court of law.
- 29. Falsification of Information.** Grantee affirmatively covenants that it has made no false statements to Grantor in the process of obtaining this award of the Grant Funds. If Grantee has knowingly made a false statement to Grantor to obtain this award of the Grant Funds, Grantee shall be required to return all the Grant Funds immediately pursuant to ORC Section 9.66(C) (2) and shall be ineligible for any future economic development assistance from the State, any state agency or a political subdivision pursuant to ORC Section 9.66(C) (1). Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to ORC 2921.13(F)(1), which is punishable by a fine of not more than \$1,000 and/or a term of imprisonment of not more than 180 days.
- 30. Public Records.** Grantee acknowledges that Agreement and other records in the possession or control of Grantor regarding the Project are public records under ORC Section 149.43 and are open to public inspection unless a legal exemption applies.
- 31. Miscellaneous.**
 - a. Governing Law.** Agreement shall be governed by the laws of the State of Ohio as to all matters, including but not limited to matters of validity, construction, effect, and performance.
 - b. Forum and Venue.** Grantee irrevocably submits to the non-exclusive jurisdiction of any federal or state court sitting in Columbus, Ohio, in any action or proceeding arising out of or related to Agreement, Grantee agrees that all claims in respect of such action or proceeding may be heard and determined in any such court, and Grantee irrevocably waives any objection it may now or hereafter have as to the venue of any such action or proceeding brought in such court or that such court is an inconvenient forum. Nothing in this Agreement shall limit the right of Grantor to bring any action or proceedings against Grantee in the courts of any other jurisdiction. Any actions or proceedings by Grantee against Grantor or the State of Ohio involving, directly or indirectly, any matter in any way arising out of or related to Agreement shall be brought only in a court in Columbus, Ohio.

- c. **Entire Agreement.** This Agreement, including its exhibits and documents incorporated into it by reference, constitutes the entire agreement and understanding of the parties with respect to its subject matter. Any prior written or verbal agreement, understanding or representation between parties or any of their respective officers, agents, or employees is superseded and no such prior agreement, understanding or representation shall be deemed to affect or modify any of the terms or conditions of Agreement.
- d. **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.
- e. **Notices.** All notices, consents, demands, requests and other communications which may or are required to be given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by United States mail, registered or certified, return receipt requested, postage prepaid, to the addresses set forth hereunder or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision.
- i. In the case of Grantor, to:
- Attn: Deputy Chief
Office of Community Infrastructure
Ohio Department of Development
77 South High Street, P.O. Box 1001 Columbus, Ohio 43216-1001
- ii. In the case of Grantee, to:
- City of Athens
8 East Washington Street
Athens, OH 45701-3348
- f. **Amendments or Modifications.** Either party may at any time during the term of this Agreement request amendments or modifications, as described in the applicable State of Ohio Consolidated Plan Submission. Requests for amendment or modification of Agreement shall be in writing and shall specify the requested changes and the justification of such changes. The parties shall review the request for modification in terms of the regulations and goals relating to the Project(s). Should the parties consent to modification of the Agreement, then an amendment shall be drawn, approved, and executed in the same manner as the original agreement.
- g. **Pronouns.** The use of any gender pronoun shall be deemed to include all the other genders, and the use of any singular noun or verb shall be deemed to include the plural, and vice versa, whenever the context so requires.
- h. **Headings.** Section headings contained in Agreement are inserted for convenience

only and shall not be deemed to be a part of Agreement.

- i. **Assignment.** Neither Agreement nor any rights, duties, or obligations described herein shall be assigned, subcontracted or subgranted by Grantee without the prior express written consent of Grantor.
- j. **Permissible Expenses.** If "travel expenses", as defined in Ohio Administrative Code Section 126-1-02 (the "Expense Rule"), are a cost of the Project eligible for reimbursement with Grant Funds, Grantee shall be reimbursed accordingly. Grantee agrees that it shall not be reimbursed and Grantor shall not pay any items that are deemed to be "non-reimbursable travel expenses" under the Expense Rule, whether purchased by the Grantee or Grantor or their respective employees or agents.
- k. **Binding Effect.** Each and all of the terms and conditions of this Agreement shall extend to and bind and inure to the benefit of Grantee, its successors and permitted assigns.
- l. **Survival.** Any provision of this Agreement which, by its nature, is intended to survive the expiration or other termination of this Agreement shall so survive and shall benefit the parties and their respective successors and permitted assigns.
- m. **Counterparts: PDF Accepted.** This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Copies of signatures sent by facsimile transmission or provided electronically in portable document format ("PDF") shall be deemed to be originals for purposes of execution and proof of this Agreement.

Signature

Each of the parties has caused this Economic Development Revolving Loan Fund Administration Agreement to be executed by its authorized representatives as of the dates set forth, their respective signatures effective as of the Effective Date

Grantee:

City of Athens

Grantor:

State of Ohio
Ohio Department of Development
Lydia L. Mihalik, Director

Authorized Official:

By:

Printed Name:

Printed Name:

Title:

Title:

Date:

Date:

0-72-24

Introduced by Alan Swank, Chair
Planning & Development Committee

AN ORDINANCE GRANTING A SPECIAL RIGHT-OF-WAY USE PERMIT AT 85 ELMWOOD PLACE, TO REPLACE/REPAIR AN EXISTING FENCE AND POOL HOUSE LOCATED IN THE CITY RIGHT-OF-WAY ON SHANNON AVENUE.

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 85 Elmwood Place, to Tara Bell, owner, to replace/repair an existing fence and pool house located in the City right-of-way on Shannon Avenue, as indicated on the application attached hereto and incorporated herein by reference. Said approval of the use of this special right-of-way permit is contingent upon the property owner replacing the existing sidewalk along the fence and extending it to the curb.

SECTION II: Tara Bell, owner, 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 permittee upon property of the City of Athens that is the subject of this ordinance.

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. Tara Bell, owner, 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

0-77-24

Introduced by Council Member Swank
Planning & Development Committee

AN ORDINANCE APPROVING THE PETITION, PLAN, AND ARTICLES OF INCORPORATION OF THE ATHENS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC. AND DECLARING THE NECESSITY OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF ATHENS, OHIO IN COOPERATION WITH THE ATHENS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.

WHEREAS, as set forth in Ohio Revised Code Chapter 1710, the Ohio General Assembly has authorized property owners to include their properties within Energy Special Improvement Districts ("ESIDs") upon a petition to a municipal corporation or township, which ESIDs are voluntary organizations of property owners who undertake special energy improvement projects for their properties and finance such special energy improvement projects by way of voluntary special assessments;

WHEREAS, pursuant to the Petition for Creation of Energy Special Improvement District and for Special Assessments for Special Energy Improvement Projects (the "Petition"), including an initial plan entitled Athens Regional Energy Special Improvement District Program Plan (the "Program Plan") and Articles of Incorporation, as validly amended from time to time (the "Articles"), Lostro Ventures, LLC (the "Owner"), as the owner of 100% of the real property subject to the Petition, has requested the formation of the Athens Regional Energy Special Improvement District, Inc., an energy special improvement district and nonprofit corporation organized under the laws of the State of Ohio, (the "District"), and its Board of Directors (the "Board") in accordance with Ohio Revised Code Chapters 1702 and 1710;

WHEREAS, the Owner, has identified certain real property located at the commonly used mailing address 63 S. Court Street, Athens, Ohio, and having Athens County Auditor Permanent Parcel Identification Number A027050001400 (the "Property"), as an appropriate property for a Special Energy Improvement Project pursuant to Ohio Revised Code Chapter 1710;

WHEREAS, on or before August 14, 2024 pursuant to Ohio Revised Code Chapter 1710, the Owner submitted the Petition to this City Council (the "Council"), and the Petition is on file with the Council and the City Auditor;

WHEREAS, the Petition is for the purpose of developing and implementing special energy improvement projects in furtherance of the purposes set forth in Section 2o of Article VIII of the Ohio Constitution, including, without limitation, a special energy improvement project to be provided on the Property, as described more particularly in the Petition (the "Project");

WHEREAS, following the approval of the Petition by this Council, the Owner intends to submit to the District, and the Board, as the governing body of the District in accordance with Ohio Revised Code Chapter 1710, intends to approve the Petition, which Petition requests the formation of the District, that the Property be added to the District, and that the City levy special assessments on the Property (the "Special Assessments") in an amount and for a length sufficient to pay the costs of the Project, which is estimated to be \$2,351,485.92, including other related costs of financing the Project, which may include, without limitation, the payment of principal of and interest on obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and District administrative fees and expenses, and requests that the Project be undertaken cooperatively by the City, the District, and such other parties as the City may deem necessary or appropriate to pay the costs of the Project; and

WHEREAS, this Council, as mandated by Ohio Revised Code Section 1710.06, must approve or disapprove the Petition within sixty (60) days of the submission of the Petition;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Athens, Ohio, as follows:

SECTION I: This Council hereby approves the Petition, the Program Plan, and the Articles, in substantially the form now on file with the Council and the City Auditor. Pursuant to the Petition, the Program Plan, and the Articles, the District is hereby created.

SECTION II: This Council hereby approves and consents to (i) any addition of real property to the territory of the District within the boundaries of any municipal corporation or any township which is contiguous to the municipal corporations or townships in which a portion of the territory of the District is located; (ii) the addition of the municipal corporation or township in which such real property is located as a "participating political subdivision," as defined in Ohio Revised Code Section 1710.01(E), of the District; and (iii) any amendment to the Articles of Incorporation necessary to recognize or effect such addition.

SECTION III: Pursuant to Ohio Revised Code Section 1710.02(G)(4), this Council determines that the Project is not required to be owned exclusively by the City for its purposes, for uses determined by this Council, as the legislative authority of the City, as those that will promote the welfare of the people of such participating political subdivision; to improve the quality of life and the general and economic well-being of the people of the City; to better ensure the public health, safety, and welfare; to protect water and other natural resources; to provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; to control, prevent, minimize, clean up, or

mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or to provide for safe and natural areas and resources. This Council accordingly authorizes the Board to act as its agent to sell, transfer, lease, or convey the Project. The consideration the Board must obtain from any sale, transfer, lease, or conveyance of the special energy improvement project on the Property is any consideration greater than or equal to One Dollar and Zero Cents (\$1.00).

SECTION IV: This Council determines and declares that the Project is an essential and vital public, governmental purpose of the City as a Special Energy Improvement Project, as defined in Ohio Revised Code Section 1710.01(I); and that in order to fulfill that essential and vital public purpose of the City, it is necessary and proper to provide, in cooperation with the District, for (i) the acquisition, construction, and improvement of the Project by Lostro Ventures, LLC, as set forth in the Petition and the Plan, and (ii) the payment of the costs of the Project, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, surveying, testing, and inspection costs; the amount of any damages resulting from the Project and the interest on such damages; the reasonable costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; reasonable expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued or incurred to provide a loan or to secure an advance of funds to Lostro Ventures, LLC or otherwise to pay costs of the Project in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other reasonable obligations so issued or incurred, including any credit enhancement fees, trustee fees, program administration fees, financing servicing fees, and reasonable District administrative fees and expenses; an amount to reflect interest on unpaid Special Assessments which shall be treated as part of the cost of the Project for which the Special Assessments are made at an interest rate which shall be determined by the District to be substantially equivalent to the fair market rate that would have been borne by notes or bonds if notes or bonds had been issued by the District or another issuer of notes or bonds to pay the costs of the Project; together with all other necessary expenditures, all as more fully described in the Petition, the Plan, and profiles, specifications, and estimates of cost of the Project, all of which are on file with the Clerk of Council and open to the inspection of all persons interested. This Council further determines and declares that the Project is conducive to the public peace, health, safety and welfare of the City and the inhabitants of the City.

SECTION V: This Council determines that the Project's elements are so situated in relation to each other that in order to complete the acquisition, construction, and improvement of the Project's elements in the most practical and economical manner, they should be acquired and improved at the same time, with the same kind of

materials, and in the same manner; and that the Project's elements shall be treated as a single improvement, pursuant to Ohio Revised Code Section 727.09, and the Project's elements shall be treated as a joint improvement to be undertaken cooperatively by the City and the District pursuant to Ohio Revised Code Section 9.482 and Ohio Revised Code Chapter 1710.

SECTION VI: Pursuant to and subject to the provisions of a valid Petition signed by the Owner, which is the owner of one hundred percent (100%) of the Property, the entire cost of the Project shall be paid by the Special Assessments levied against the Property, which is the benefited property. The City does not intend to issue securities in anticipation of either the levy of the Special Assessments or the collection of the Special Assessments.

SECTION VII: The method of levying the Special Assessments shall be in proportion to the benefits received from the financing of the Project, allocated among the parcels constituting the Property as set forth in the Petition.

SECTION VIII: The lots or parcels of land to be assessed for the Project shall be the Property, described in Exhibit A to the Petition, all of which lots and lands are determined to be specially benefited by the Project.

SECTION IX: The Special Assessments shall be levied and paid in [fifty-eight] ([58]) semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition, and the Owner has waived its option to pay the Special Assessment in cash within thirty (30) days after the first publication of the notice of the assessing Ordinance. The aggregate maximum amount of Special Assessments estimated to be necessary to pay the costs of the Project is \$2,351,485.92. Each semi-annual Special Assessment payment represents payment of a portion of any principal repayment, interest, and administrative fees payable with respect to the Project. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by the City. In addition to the Special Assessments, the County Auditor of Athens County, Ohio may impose a special assessment collection fee with respect to each semi-annual payment, which amount will be added to the Special Assessments by the County Auditor of Athens County, Ohio.

SECTION X: The Council and the City Auditor, or their designee, are authorized and directed to prepare and file in the office of the Council and the City Auditor the estimated Special Assessments for the costs of the Project in accordance with the method of assessment set forth in the Petition and this Ordinance, showing the amount of the assessment against each lot or parcel of land to be assessed.

SECTION XI: Upon the filing of the estimated Special Assessments with the Council and the City Auditor, notice of the adoption of this Ordinance and the filing of the estimated Special Assessments shall be served upon the Owner of the Property, as provided in Ohio Revised Code Section 727.13. The appropriate officials of the City shall also comply with the applicable procedural requirements of Ohio Revised Code Chapter 727.

SECTION XII: The Council and the City Auditor, or their designee, is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Project.

SECTION XIII: The Special Assessments will be used by the City to provide the Project in cooperation with the District in any manner, including assigning the Special Assessments actually received by the City to the District or to another party the City deems appropriate, and the Special Assessments are appropriated for such purposes.

SECTION XIV: This Council accepts and approves the waiver of all further notices, hearings, claims for damages, rights to appeal and other rights of property owners under the law, including but not limited to those specified in the Ohio Constitution, Ohio Revised Code Chapter 727, Ohio Revised Code Chapter 1710, and consents to the immediate imposition of the Special Assessments upon the Property. This waiver encompasses, but is not limited to, waivers by the Owner of the following rights:

- (i) The right to notice of the adoption of the Ordinance of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- (ii) The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by the Petition within the limitations contained in Ohio Revised Code Section;
- (iii) The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- (iv) The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- (v) The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- (vi) The right to notice that bids or quotations for the Project may exceed estimates by 15%;
- (vii) The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251;
- (viii) The right to notice of the passage of the assessing Ordinance under Ohio Revised Code Section 727.26; and

(ix) Any and all procedural defects, errors, or omissions in the Special Assessment process.

SECTION XV: The Council is authorized to enter into agreements by and among the City, the District, and such other parties as the City may deem necessary or appropriate in order to provide the Project, and that the Mayor and the Council, the President of the Council, or any of them, is authorized to execute, on the City's behalf, such agreements.

SECTION XVI: This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this legislative Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

SECTION XVII: 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

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Resolution No. [] duly adopted by the City Council of the City of Athens, Ohio on [], 2024.

Clerk of Council
City of Athens, Ohio

**PETITION FOR CREATION OF ENERGY SPECIAL IMPROVEMENT DISTRICT
AND FOR SPECIAL ASSESSMENTS FOR
SPECIAL ENERGY IMPROVEMENT PROJECTS AND AFFIDAVIT**

A PETITION TO THE CITY OF ATHENS, OHIO REQUESTING THE CREATION OF THE ATHENS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT AND SEEKING THE IMPOSITION OF SPECIAL ASSESSMENTS AGAINST REAL PROPERTY OWNED BY THE PETITIONER TO PAY CERTAIN COSTS OF VARIOUS SPECIAL ENERGY IMPROVEMENT PROJECTS, THE FINANCING OF WHICH WILL SPECIALLY BENEFIT SUCH REAL PROPERTY, INCLUDING A WAIVER OF ALL RIGHTS TO NOTICES, HEARINGS, AND APPEALS RESPECTING THE REQUESTED SPECIAL ASSESSMENTS

To: The Mayor and the Council (the “**Council**”) of the City of Athens, Ohio (the “**City**”)

Lostro Ventures, LLC, an Ohio limited liability company (the “**Petitioner**”), is the owner of 100% of the property described on **Exhibit A** attached hereto (the “**Property**”) and has identified the Property as appropriate property for special energy improvement projects pursuant to Ohio Revised Code Chapter 1710.

The Petitioner respectfully petitions the Council of the City for the creation of an energy special improvement district initially to be named the Athens Regional Energy Special Improvement District, Inc. (the “**Corporation**”), an Ohio nonprofit corporation formed to govern the Athens Regional Energy Special Improvement District (the “**District**”), initially created within the boundaries of the City of Athens, Ohio. The Corporation will approve (i) a plan (the “**Program Plan**”) for the purpose of developing and implementing special energy improvement projects as defined in Ohio Revised Code Section 1710.01(I) (“**Special Energy Improvement Projects**”) and (ii) the articles of incorporation (the “**Articles of Incorporation**”) in accordance with Ohio Revised Code Sections 1710.01(D) and (E). The Program Plan is attached to this Petition as **Exhibit C**. The Corporation’s Articles of Incorporation are attached to this Petition as **Exhibit D**. The District is hereby authorized to use the registered trade name the Athens Regional Energy Special Improvement District, Inc., or any other such similar trade name as the Board of Directors of the Corporation (the “**Board**”) may duly determine from time to time.

Pursuant to the Program Plan, the Corporation will cause Special Energy Improvement Projects to be provided from time to time. In accordance with Ohio Revised Code Chapter 1710 and the Program Plan, the Program Plan may be amended from time to time by supplemental plans (each a “**Supplemental Plan**” and collectively, the “**Supplemental Plans**”) (the Program Plan and every Supplemental Plan together constituting the “**Plan**”) to provide for additional Special Energy Improvement Projects, and the District may be enlarged from time to time to include additional property so long as at least one special energy improvement project is designated for each parcel of real property within the additional territory added to the District.

The Board has received or will receive the Program Plan attached to this Petition as **Exhibit C**, including the description of the Special Energy Improvement Projects proposed to be

In consideration of the City's acceptance of this Petition and the imposition of the requested Special Assessments, the Petitioner consents and agrees that the Property as identified in Exhibit A shall be assessed for all of the costs of the Authorized Improvements, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, surveying, testing and inspection costs; costs of labor and material; the amount of any damages resulting from the Authorized Improvements and the interest on such damages; the cost of purchasing and otherwise acquiring any real estate or interests in real estate necessary for the construction and installation of the Authorized Improvements; the costs incurred in connection with the preparation, levy, and collection of the Special Assessments; expenses of legal services; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued or incurred to provide a loan or to secure an advance of funds to the Petitioner or otherwise to pay costs of the Authorized Improvements in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, program administration fees, financing servicing fees, and District administrative fees and expenses; an amount to reflect interest on unpaid Special Assessments which shall be treated as part of the cost of the Authorized Improvements for which the Special Assessments are made at an interest rate which shall be determined by the District to be substantially equivalent to the fair market rate that would have been borne by notes or bonds if notes or bonds had been issued by the District or another issuer of notes or bonds to pay the costs of the Authorized Improvements; together with all other necessary expenditures.

In consideration of the Authorized Improvements, the Petitioner, for itself and its grantees and other successors with respect to the Property, agrees to pay promptly all Special Assessments as they become due, and agrees that the determination by the Council of the Special Assessments in accordance with the terms hereof will be final, conclusive, and binding upon the Petitioner and the Property. In further consideration of the Authorized Improvements, the Petitioner covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be special assessed for the actual costs of the Authorized Improvements set forth in Exhibit B, in the deed to the transferee or in a separate instrument recorded with respect to the Property the existence of any outstanding Special Assessments for the Authorized Improvements and to require that transferee covenant to disclose that information in any subsequent deed or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer so long as the Special Assessments remain unpaid. As a condition to each subsequent transfer while the Special Assessments remain unpaid, the Petitioner further covenants and agrees to provide expressly in the deed to any transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer (a) for the acquisition by the transferee of the Property subject to any outstanding Special Assessments and the transferee's assumption of responsibility for payment thereof and for the waiver by the transferee of any rights that the Petitioner has waived pursuant to this Petition, and (b) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer the conditions described in clause (a) so long as the Special Assessments remain unpaid.

The Petitioner further agrees and consents to the Council promptly proceeding with all actions necessary to facilitate the acquisition, installation, equipment, and improvement of the Authorized Improvements and to impose the Special Assessments.

The Petitioner acknowledges that the Special Assessments set forth in this Petition and in the Exhibits to this Petition are based upon an estimate of costs, and that the final Special Assessments shall be calculated in the same manner, which, regardless of any statutory limitation on the Special Assessments, may be more or less than the respective estimated assessments for the Authorized Improvements. In the event the final assessments exceed the estimated assessments, the Petitioner, without limitation of the other waivers contained in this Petition, also waives any rights it may now or in the future have to object to those assessments, any notice provided for in Ohio Revised Code Chapters 727 and 1710, and any rights of appeal provided for in such Chapters or otherwise. The Petitioner further acknowledges and represents that the respective final assessments may be levied at such time as determined by the City and regardless of whether or not any of the parts or portions of the Authorized Improvements have been completed.

The Petitioner further acknowledges that the final Special Assessments for the Authorized Improvements, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance or resolution confirming and levying the final assessments and that if any of such assessments are not paid in cash they will be certified to the County Auditor of Athens County, Ohio, as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected. Notwithstanding the foregoing, however, the Petitioner hereby waives the right to pay the final assessments for the Authorized Improvements in cash within thirty (30) days from the passage of the ordinance or resolution confirming and levying the final assessments and requests that the unpaid final assessments for the Authorized Improvements shall be payable in 42 semi-annual installments, together with interest at the maximum rate of 9.45%. The Petitioner hereby consents and agrees that the maximum schedule of Special Assessments represents the final hard costs of the Authorized Improvements, together with an assumed rate of interest on those costs in excess of the rate of interest expected to be available for financing the costs of the Authorized Improvements. The Petitioner hereby consents and agrees that the final rate of interest will be determined after the City approves the levy of the maximum Special Assessments. The Petitioner hereby authorizes and requests the City to certify the Special Assessments to the County Auditor of Athens County, Ohio for collection, as provided in this Petition, in amounts which, in aggregate, are less than or equal to the aggregate amount of the maximum Special Assessments shown on Exhibit C and are in the amounts necessary to pay the costs of financing the Authorized Improvements, as certified to the City by the Petitioner and the provider of financing for the Authorized Improvements.

Pursuant to Ohio Revised Code Section 1710.03(C), the Petitioner hereby appoints as its designee to carry out the rights and responsibilities of District members under Ohio Revised Code Chapter 1710 such representative as may be duly appointed by the Petitioner from time to time, which designation shall not expire unless and until the Petitioner shall notify the Secretary of the District that said designation is no longer in effect or that Petitioner has made a new designation to replace said designation.

IN WITNESS WHEREOF, the Petitioner has caused this Petition to be executed by its undersigned duly authorized signatory.

PETITIONER:

LOSTRO VENTURES, LLC

By: [Signature]

Name: David Kozar

Title: authorized rep.

Address for notices to Property Owner: Lostro Ventures, LLC

STATE OF Ohio)
COUNTY OF Franklin)

SS:

Sworn to or affirmed and subscribed before me by David Kozar this date of August
13th, 2024.

[SEAL]

[Signature]
Notary Public



CRAIG DOLAN
Notary Public
State of Ohio
My Comm. Expires
June 26, 2027

EXHIBIT B

SPECIAL ENERGY IMPROVEMENT PROJECT DESCRIPTION

The real property owned by Lostro Ventures, LLC at 63 S. Court Street, Athens, Ohio (the "Property") is the location at which the special energy improvements described below shall be constructed and installed, and shall exist (the "Project"). The Property is further described on Exhibit A of this Petition. The Property will be subject to special assessments for energy improvements in accordance with Ohio Revised Code Chapter 1710.

The Project is expected to consist of the following energy efficiency elements:

Table 1. Efficiency Improvements Summary

EEI-#	EEI Description	Energy Savings	Improvement Costs (\$)	Allowable Financing Factor	Allowable CPACE EEI Cost (\$)	Est Useful Life (yrs)
EEI-1	HVAC + Water Heater	Yes	\$796,085.00	100%	\$796,085.00	20
EEI-2	Lighting	Yes	\$473,138.00	100%	\$473,138.00	20
EEI-3	Elevator	Yes	\$163,491.00	100%	\$163,491.00	25
	Qualifying Soft Costs		\$1,280,622.50	11%	\$140,473.54	
	Total		\$2,713,336.50		\$1,573,187.54	20.6

The Program is intended to assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy improvement projects, as that term is defined in the Act (the “**Authorized Improvements**”). Obligations, including but not limited to special assessment reimbursement agreements, special assessment revenue bonds and revenue notes, loan obligations or other evidences of indebtedness, and nonprofit corporation securities (collectively, the “**Program Obligations**”) may be issued by the District or on behalf of the District by a third party. Program Obligations or the proceeds from the sale of the Program Obligations may be used to finance Authorized Improvements that benefit properties within the District and any costs incurred by the District in connection with the issuance of Program Obligations. Participating political subdivisions shall levy special assessments on real property included in the District, the payment of which may pay the Program Obligations and the costs of administering the Program. Special assessment payments levied to finance Authorized Improvements will be due and payable by property owners at the same time real property taxes are due; provided, however, that certain Program Obligations may require special assessments to be due and payable by property owners only to the extent that such property owners fail to pay an obligation of the property owner secured by special assessments, such as a loan, in which case special assessments will only be due and payable by property owners if actually levied.

Nothing in this Program Plan shall be construed as a representation on the part of any participating political subdivision, the District, the board of directors of the District, or any of the directors, officers, agents, members, independent contractors, or employees of the District or board of directors that the Program is the best financing option available. Property owners are advised to conduct independent research to determine the best course of action.

II. The District’s Governance and Program Administrator

The District shall be governed, pursuant to the District Documents and the Act, by the Board of Directors (“**Board**”) of the Athens Regional Energy Special Improvement District, Inc., a nonprofit corporation organized under the laws of the State of Ohio (the “**Corporation**”) to govern the District.

Pursuant to the Act, other Ohio law, and any Code of Regulations adopted for the governance of the Corporation, the Board may from time to time, and under such conditions as the Board determines, delegate any or all of the authority contained in this Program Plan to its sub-committee or to an agent, independent contractor, or employee of the District or the Board.

This Program Plan specifically contemplates that, as authorized in the Act, the District may contract for the services of a “**Program Administrator**.”

The Program Administrator may provide, without limitation, the following services: (i) pursuant to Part III of this Program Plan, developing and administering eligibility guidelines, creating and administering an application, setting criteria and developing a list of pre-approved contractors, procuring resources or cooperating with property owners to procure resources, and administering referrals; (ii) pursuant to Part IV of this Program Plan, marketing, program design, cooperating

Code Chapter 1710 and any requirements of the Board. No special assessments authorized, levied, assessed, or collected with respect to the Authorized Improvements described in this Program Plan or in any Supplemental Plan shall ever be used to pay the costs of any Authorized Improvements described in any other Program Plan or Supplemental Plan.

- (B) Application. The Board is hereby authorized to create, administer, amend, and abolish an application, including a pre-application, for participation in the Program. The Board further may set the terms and conditions for the application's use and evaluation.
- (C) Contractors. The Board is hereby authorized to require property owners to utilize pre-approved contractors to complete the Authorized Improvements. The Board is further authorized to create criteria for the approval of contractors and to determine which contractors meet the criteria and are approved. The Board may communicate which contractors have been pre-approved to property owners by any means the Board deems appropriate, and the Board shall determine whether property owners comply with its pre-approved contractor's requirements.

Nothing in this Program Plan or the District Documents shall be construed to be a recommendation or guarantee of reliability of pre-approved contractors by any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board.

- (D) Procurement and Referrals. The Board is hereby authorized to procure supplies, services, contracts, financing, and other resources related to the completion of Authorized Improvements. The Board is further authorized to refer property owners to suppliers, service providers, contractors, lenders, and the providers of other resources related to the completion of Authorized Improvements and the administration of District activities.

Pursuant to ORC Section 1710.11, the Board shall adopt written rules prescribing competitive bidding procedures for the District and for Authorized Improvements undertaken by the District on behalf of property owners, which competitive bidding procedures may differ from competitive bidding procedures applicable to the participating political subdivision and may specify conditions under which competitive bidding is not required. Except as specified in the Act and in this Program Plan, the District Documents shall not be construed to eliminate or alter the competitive bidding procedures applicable to a participating political subdivision due to its status as a participating political subdivision.

- (E) Financing. The Board is hereby authorized to finance Authorized Improvements through the use or issuance of Program Obligations. The Board may hire such legal and financial professionals as may be required to successfully finance Authorized Improvements through the use or issuance of Program Obligations.

the calculation or billing of special assessments. The Board may hire such professionals as may be required to successfully administer special assessments.

- (G) Budgeting. The Board shall provide for the production of an annual report describing the District's budget, services delivered, revenues received, expenditures made, and other information about the District's activities. The annual report shall be made available to the Board and to the District's members. The Board may hire such professionals as may be required to successfully account for all District finances.
- (H) Auditing. The Board is hereby authorized to provide for an audit of the District in such manner as the Board deems appropriate. The Board may hire such professionals as may be required to successfully audit the District.
- (I) Annual Report. In accordance with Section 1710.04(D), the Board is hereby authorized, by the first day of March of each year, to submit to each member of the District and to the municipal executive, chief fiscal officer, and legislative authority of each municipal corporation with territory within the boundaries of the District and to the board of township trustees of each township with territory within the boundaries of the District a report of the District's activities and financial condition for the previous year.
- (J) Other Services. The Board is hereby authorized to provide any other services authorized by the Act.

V. Fees

Program Costs. The Board is hereby authorized to charge to property owners, as costs of administering the Program, any costs permitted by the Act. Such costs may include, without limitation, the following:

- (A) The cost of creating and operating the District, including creating and operating the Corporation, hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;
- (B) The cost of planning, designing, reviewing, facilitating the implementation of, and implementing Authorized Improvements or services under this Program Plan or any Supplemental Plan, including payment of architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning fees and expenses, and, for services under this Program Plan or any Supplemental Plan, the management, protection, and maintenance costs of public or private facilities;
- (C) Any costs of litigation, including but not limited to court costs, attorneys' fees, and expert witness fees, incurred by the District in implementing this Program Plan or any Supplemental Plans;

or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of energy efficiency credit programs.

Renewable Energy Credits. The Board is hereby authorized to adopt rules governing renewable energy credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of renewable energy credit programs.

Monetizing Other Energy Efficiency or Renewable Energy Attributes. The Board is hereby authorized to adopt rules governing the monetization of any energy efficiency or renewable energy attributes of any Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of the monetization of such attributes.

VII. Statutory Requirements

As provided in the District Documents:

- (A) Additional territory may be added to the District in accordance with the Act and the rules established by the Board pursuant to Part III of this Program Plan.
- (B) The District Documents may be amended or supplemented in accordance with their terms.
- (C) As described in this Program Plan, the Board is authorized to implement and amend this Program Plan, any Supplemental Plan, and any other plans for Authorized Improvements, public improvements, and public services, all in accordance with the Act.
- (D) The public improvements to be provided by the District are the Authorized Improvements identified in the petition and Supplemental Plan. The area where the Authorized Improvements will be undertaken will be the area identified in each petition requesting formation of the District or in any petition requesting addition of real property to the District. The method of assessment shall be in proportion to the special benefits received by each property owner within the District as a result of Authorized Improvements.
- (E) For the purpose of levying an assessment, the Board may combine levies for Authorized Improvements and public services into one special assessment to be levied against each specially benefited property in the District.

VIII. Changes in State and Federal Law

Participation in the Program is subject to the District Documents' terms and conditions in effect from time to time during participation. The District reserves the right to change this New Program Plan and the terms and conditions of the District Documents at any time upon not less than five (5) days' prior written notice. No such change will affect a property owner's rights or obligations under this Program Plan, including, without limitation, the payment of special assessments as set forth in the District Documents.

If any provision of the District Documents is determined to be unlawful, void, or for any reason unenforceable, that provision shall be severed from these District Documents and shall not affect the validity and enforceability of any remaining provisions.

XI. Disclosure of Property Owner Information

The District and any participating political subdivision may disclose information of the District to any agent of the District or to third parties when such disclosure is essential either to the conduct of the District's business or to provide services to property owners, including but not limited to where such disclosure is necessary to (i) comply with any applicable law, (ii) enable the District and participating political subdivisions and their agents to provide services or otherwise perform their duties, and (iii) obtain and provide credit reporting information. In order to receive funding for the Program and to enable communication regarding the State of Ohio's energy programs, property owner's names and contact information may be disclosed to their current electric utilities. Property owner's name, contact information, and utility usage data further may be disclosed to the District and its agents for the purpose of conducting surveys and evaluating the Program. The District shall not disclose personal information to third parties for telemarketing, e-mail, or direct mail solicitation unless required to by law or court order.

Each owner of real property located within the District acknowledges that the District and any participating political subdivision is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* Each property owner that executes this Program Plan agrees, on behalf of itself as an owner, and any and all agents, employees, contractors, or other parties who submit plans, proposals, drawings, trade secrets, copyrighted material, or other work products related to proposed or authorized improvements, to the disclosure of certain information as stated in this Part, and will indemnify and hold harmless the District and any participating political subdivision from liability for compliance with said laws.

XII. Initial Authorized Improvements

The Owner has requested and consented to certain special assessments to be levied by the City with respect to certain real property owned by the Owner (the "**Property**") and located on Athens County Auditor Parcel ID Number 3400700036406028 which Property is described more specifically in **Exhibit 1** attached to this Program Plan.

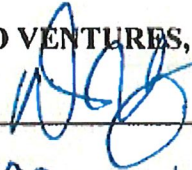
A proposed maximum schedule of special assessments to be assessed against the Property to pay the costs of the Authorized Improvements is attached hereto as **Exhibit 2**. The Owner hereby consents and agrees that the maximum schedule of special assessments represents the final hard

BY EXECUTING THIS PROGRAM PLAN, THE PROPERTY OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS PROGRAM PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PROGRAM PLAN) AND AGREES TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN THIS PROGRAM PLAN.

Date: Aug 15th, 2024.

Property Owner:

LOSTRO VENTURES, LLC

By: 

Name: David Kozm

Title: Authorized Rep.

Address for notices to Property Owner:

Lostro Ventures, LLC

[Property Owner Consent to Program Plan]

EXHIBIT 2

SCHEDULE OF SPECIAL ASSESSMENTS

The Property will be subject to special assessments for the Authorized Improvements in accordance with Ohio Revised Code Chapter 1710.

Total assessment costs:	\$2,351,485.92
Estimated semi-annual special assessments for 21 years:	\$55,987.76
Number of semi-annual assessments:	42
First semiannual installment due (approximately):	January 31, 2026

The schedule of Special Assessments for the Authorized Improvements is as follows:

Special Assessment Date*	Semi-Annual Special Assessment Installment Amount**
1/31/2026	\$55,987.76
7/31/2026	55,987.76
1/31/2027	55,987.76
7/31/2027	55,987.76
1/31/2028	55,987.76
7/31/2028	55,987.76
1/31/2029	55,987.76
7/31/2029	55,987.76
1/31/2030	55,987.76
7/31/2030	55,987.76
1/31/2031	55,987.76
7/31/2031	55,987.76
1/31/2032	55,987.76
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7/31/2034	55,987.76
1/31/2035	55,987.76
7/31/2035	55,987.76
1/31/2036	55,987.76
7/31/2036	55,987.76
1/31/2037	55,987.76
7/31/2037	55,987.76
1/31/2038	55,987.76
7/31/2038	55,987.76
1/31/2039	55,987.76
7/31/2039	55,987.76
1/31/2040	55,987.76

EXHIBIT 3

Description of Authorized Improvements

The Authorized Improvements are expected to consist of the following energy efficiency elements:

Table 1. Efficiency Improvements Summary

EEI-#	EEI Description	Energy Savings	Improvement Costs (\$)	Allowable Financing Factor	Allowable CPACE-EEI Cost (\$)	Est Useful Life (yrs)
EEI-1	HVAC + Water Heater	Yes	\$796,085.00	100%	\$796,085.00	20
EEI-2	Lighting	Yes	\$473,138.00	100%	\$473,138.00	20
EEI-3	Elevator	Yes	\$163,491.00	100%	\$163,491.00	25
	Qualifying Soft Costs		\$1,280,622.50	11%	\$140,473.54	
	Total		\$2,713,336.50		\$1,573,187.54	20.6

- (B) To engage in any lawful act, activity or business not contrary to and for which a nonprofit corporation may be formed under the laws of the State of Ohio.
- (C) To have and exercise all powers, rights and privileges conferred by the laws of the State of Ohio on nonprofit corporations or on special improvement districts, including, but not limited to, buying, leasing or otherwise acquiring and holding, using or otherwise enjoying and selling, leasing or otherwise disposing of any interest in any property, real or personal, of whatever nature and wherever situated, and buying and selling renewable energy credits, stocks, bonds, or any other security of any issuer as the Corporation by action of its Board may, at any time and from time to time, deem advisable.
- (D) The reasons for establishing the District include the public health, safety, peace, convenience, and welfare by developing and assisting in developing special energy improvement projects that reduce the territory's carbon footprint, promote the District as a location for green technology job creation, benefit property within the District, and improve the environment.

THIRD:
RESTRICTIONS

In accordance with ORC Chapter 1702, no part of the net earnings of the Corporation shall inure to the benefit of any private person, including any of the Corporation's members, directors, trustees, or officers, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services actually rendered to the Corporation or allowed by the Corporation as reasonable allowance for authorized expenditures incurred on behalf of the Corporation.

FOURTH:
MEMBERS

The members of the Corporation ("Members") shall be those persons or organizations described in the Code of Regulations. The annual meeting of Members shall be determined by the Board of Directors ("Board") as described in the Code of Regulations.

FIFTH:
BOARD OF
DIRECTORS

The Corporation shall be controlled and managed under the direction of the Board. The Board shall at all times consist of at least five (5) individuals (individually a "Director").

- (A) The municipal executive, as defined in ORC Section 1710.01(D), provided that for each participating political subdivision that is a township, municipal executive shall refer to the chief administrative officer of the township, if any, or if no chief administrative officer exists, the board of township trustees, of each participating political subdivision of the District, or an employee of each participating political subdivision who is involved with its planning or economic development functions and who shall be appointed by and serve at the pleasure of such

Under ORC Chapter 1710, certain Directors of the Corporation are elected by the Members of the Corporation, are appointed by participating political subdivisions, or are identified by operation of ORC Chapter 1710 and, further, one of the District's purposes is to approve special energy improvement projects that benefit the property located within the District that, by operation of ORC Section 1710.03, is owned by a Member of the Corporation or governed by the participating political subdivision. As a direct result of such statutory requirements, a Director of the Corporation shall not be prohibited from participating in or voting upon actions relating to special energy improvement projects for which a Director has an interest either in its capacity as a Member of the Corporation or as a Director that was elected by such Member, appointed by a participating political subdivision, or identified by operation of ORC Chapter 1710.

No contract, action or other transaction shall be void or voidable because any Director or officer or other agent of the Corporation is a party thereto, or otherwise has any direct or indirect interest in such contract, action or transaction or in any other party thereto, or for reason that any interested director or officer or other agent of the Corporation authorizes or participates in authorization of such contract, action or transaction, provided that:

The material facts as to such interest and as to the contract, action or transaction are disclosed or are otherwise known to the Board or applicable committee of Directors at the time the contract, action or transaction is authorized and the Directors or the Members of the committee, in good faith reasonably justified by the facts, authorize the contract, action or transaction by at least a majority vote of the disinterested Directors or disinterested Members of the committee, even though such disinterested Directors or Members are less than a quorum; or

The material facts as to such interest and as to the contract, action or transaction are disclosed or are otherwise known to the member at the time the contract, action or transaction is authorized and the member authorizes the contract, action or transaction; or the contract, action or transaction (i) is not less favorable to the Corporation than an arm's length contract, action or transaction in which no director or officer or other agent of the Corporation has any interest or (ii) is otherwise fair to the Corporation as of the time it is authorized.

Any interested director may be counted in determining the presence of a quorum at any meeting of the Board or any committee thereof which authorizes the contract, action or transaction.

**EIGHTH:
DISSOLUTION**

The existence of the Corporation shall be perpetual, provided however, that the Corporation may be dissolved in accordance with the procedure proscribed under ORC Chapter 1710.13. No rights or obligations of any person under any contract, or in relation to any bonds, notes, or assessments made under this

0-78-24

Introduced by Council Member Swank, Chair
Planning & Development Committee

AN ORDINANCE DETERMINING TO PROCEED WITH THE
ACQUISITION, CONSTRUCTION, AND IMPROVEMENT OF CERTAIN
PUBLIC IMPROVEMENTS IN THE CITY OF ATHENS, OHIO IN
COOPERATION WITH THE ATHENS REGIONAL ENERGY SPECIAL
IMPROVEMENT DISTRICT.

WHEREAS, the City Council ("Council") of the City of Athens, Ohio ("City") duly adopted Ordinance No. 0-77-24 on [____], 2024 (the "Ordinance Approving Petition and Declaring Necessity"), (i) declaring the necessity of acquiring, constructing, and improving energy efficiency improvements, including, without limitation, HVAC (heating and cooling systems), domestic hot water systems, retrofitting of interior and exterior lighting, an elevator retrofit, and related improvements associated with the adaptive reuse of a 20-suite extended stay hotel and retail building (the "Project", as more fully described in the Petition referenced in this Ordinance) located on real property owned by Lostro Ventures, LLC (the "Owner") located at the commonly used mailing address 63 S. Court Street, Athens, Ohio, with Athens County Auditor Permanent Parcel Identification Number A027050001400 (the "Property", as more fully described in Exhibit A to the Petition); (ii) providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Owner's *Petition for Creation of Energy Special Improvement District and for Special Assessments for Special Energy Improvement Projects* (the "Petition"), including by levying and collecting special assessments to be assessed upon the Property (the "Special Assessments") in an amount sufficient to pay the costs of the Project, which is estimated to be \$2,351,485.92 including other related costs of financing the Project, which may include, without limitation, the payment of principal of and interest on nonprofit corporate obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and administrative fees and expenses of the Athens Regional Energy Special Improvement District, Inc., an energy special improvement district and nonprofit corporation under the laws of the State of Ohio, (the "District"); and (iii) determining that the Project will be treated as a special energy improvement project to be undertaken cooperatively by the City and the District; and,

WHEREAS, the claims for damages alleged to result from and objections to the Project have been waived by one hundred percent (100%) of the affected property owners; and,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Athens, Ohio, as follows:

SECTION I: Each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Petition.

SECTION II: This Council declares that its intention is to proceed with the acquisition, construction, and improvement of the Project described in the Petition and the Ordinance Approving Petition and Declaring Necessity. The Project shall be made in accordance with the provisions of the Ordinance Approving Petition and Declaring Necessity and with the plans, specifications, profiles, and estimates of cost previously approved and now on file with the Council and the Clerk of Council.

SECTION III: The aggregate maximum amount of Special Assessments to pay costs of the Project, which are estimated to be \$2,351,485.92, including other related financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to pay costs of the Project in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, and District administrative fees and expenses, shall be assessed against the Property in the manner and in the number of semi-annual installments provided in the Petition and the Ordinance Approving Petition and Declaring Necessity. Each semi-annual Special Assessment payment represents the payment of a portion of any principal repayment and interest and administrative fees payable with respect to the Project. The Special Assessments shall be assessed against the Property commencing in tax year 2025 for collection in 2026 and shall continue through tax year 2045 for collection in 2046. In addition to the Special Assessments, the County Auditor of Athens County, Ohio may impose a special assessment collection fee with respect to each semi-annual payment, which amount, if imposed, will be added to the Special Assessments by the County Auditor of Athens County, Ohio.

SECTION IV: The estimated Special Assessments for costs of the Project prepared and filed in the offices of the Council and the Clerk of Council, in accordance with the Ordinance Approving Petition and Declaring Necessity, are adopted.

SECTION V: In compliance with Ohio Revised Code Section 319.61, the Council and the Clerk of Council are directed to deliver a certified copy of this Ordinance to the County Auditor of Athens County, Ohio within fifteen (15) days after the date of its passage.

SECTION VI: All contracts for the construction of the Project will be let in the manner provided by law, subject to the provisions of the Ohio Revised Code and the Petition, and the costs of the Project shall be financed as provided in the Ordinance Approving Petition and Declaring Necessity.

SECTION VII: This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

SECTION VIII: 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

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. [_____] duly adopted by the City Council of the City of Athens, Ohio on [_____] 2024 and that a true copy thereof was certified to the County Auditor of Athens County, Ohio within fifteen (15) days of its passage.

Clerk of Council
City of Athens, Ohio

RECEIPT OF ATHENS COUNTY AUDITOR FOR
LEGISLATION DETERMINING TO
PROCEED WITH ACQUISITION, CONSTRUCTION,
AND IMPROVEMENT OF CERTAIN PUBLIC
IMPROVEMENTS IN THE CITY OF ATHENS, OHIO
IN COOPERATION WITH THE ATHENS REGIONAL ENERGY SPECIAL
IMPROVEMENT DISTRICT

I, Jill A. Davidson, the duly elected, qualified, and acting County Auditor in and for Athens County, Ohio hereby certify that a certified copy of Ordinance No. [] duly adopted by the City Council of the City of Athens, Ohio on [], 2024 and made effective on [], determining to proceed with the acquisition, construction, and improvement of certain public improvements in the City of Athens, Ohio in cooperation with the Athens Regional Energy Special Improvement District, was filed in this office on [], 2024.

WITNESS my hand and official seal at Athens, Ohio on [], 2024.

—
[SEAL]

County Auditor
Athens County, Ohio

0-79-24

Introduced by Council Member Swank, Chair
Planning & Development Committee

AN ORDINANCE LEVYING SPECIAL ASSESSMENTS FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF ATHENS, OHIO IN COOPERATION WITH THE ATHENS ENERGY SPECIAL IMPROVEMENT DISTRICT, APPROVING AN ENERGY PROJECT COOPERATIVE AGREEMENT AND A SPECIAL ASSESSMENT AGREEMENT.

WHEREAS, Lostro Ventures, LLC (the "Owner") has submitted its *Petition for Creation of Energy Special Improvement District and for Special Assessments for Special Energy Improvement Projects* (the "Petition") in order to provide for the completion of a special energy improvement project on real property owned by the Owner in the City of Athens, Ohio (the "City"); and

WHEREAS, this Council ("Council") of the City duly adopted Ordinance No. 0-77-24 on [____], 2024 (the "Resolution Approving Petition and Declaring Necessity") and declared the necessity of acquiring, constructing, improving and installing energy efficiency improvements on its real property, including, without limitation, HVAC improvements, water heater improvements designed to reduce heating and cooling, interior and exterior lighting improvements, an elevator retrofit, and related improvements associated with the adaptive reuse of a 20-suite extended stay hotel and retail building (the "Project"), as described in the Resolution Approving Petition and Declaring Necessity and as set forth in the Petition requesting those improvements; and,

WHEREAS, this Council duly passed Ordinance No. 0-78-24 on [____], 2024 and determined to proceed with the Project and adopted the maximum estimated Special Assessments (as defined in the Resolution Approving Petition and Declaring Necessity) filed with the Council and the Clerk of Council pursuant to the Resolution Approving Petition and Declaring Necessity; and,

WHEREAS, the City intends to enter into an Energy Project Cooperative Agreement (the "Energy Project Cooperative Agreement") with the District, the Owner, and the Peachtree Group (together with its successors and assigns, the "Investor") to provide for, among other things, (i) the making of the Project Advance (as defined in the Energy Project Cooperative Agreement and referred to herein as the "Project Advance") to pay costs of the Project, (ii) the disbursement of the Project Advance for the acquisition, installation, equipment, and improvement of the Project, and (iii) the delivery of the Special Assessments to the Investor by the City or by the County Auditor of Athens County, Ohio (the "County Auditor") on behalf of the City to pay principal and interest and other costs relating to the Project Advance; and,

WHEREAS, to provide for the security for the Project Advance and for the administration of payments on the Project Advance and related matters, the City intends to enter into the Special Assessment Agreement with the County Treasurer of Athens County, Ohio (the "County Treasurer"), the District, the Owner, and the Investor (the "Special Assessment Agreement"); and,

WHEREAS, the actual costs of the Project have been ascertained and have been certified to the City in the Petition and the Plan for the Project; and,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Athens, Ohio, as follows:

SECTION I: That each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Ordinance Approving Petition and Declaring Necessity.

SECTION II: That the list of maximum Special Assessments to be levied and assessed on the Property in an amount sufficient to pay the costs of the Project, which is \$2,351,485.92, including other related financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to pay costs of the Project in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, and District administrative fees and expenses, which costs were set forth in the Petition and previously reported to this Council and are now on file with the Council and the Clerk of Council, is adopted and confirmed, and that the Special Assessments are levied and assessed on the Property. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by the Council.

As requested in the Petition, the final aggregate amount of the Special Assessments may be in an amount less than the aggregate maximum amount of \$2,351,485.92 if the final rate of interest for the financing for the Project is less than the assumed maximum rate of interest such that the aggregate amount of Special Assessments necessary to repay the financing for the Project is less than the aggregate amount of \$2,351,485.92, the Owner and the provider of the financing shall certify a final schedule of Special Assessments to the City, which final schedule shall be certified to the County Auditor for collection.

The Special Assessments are assessed against the Property commencing in tax year 2025 for collection in 2026 and shall continue through tax year 2045 for collection in 2046. The semi-annual installments of the Special Assessments shall be collected in each calendar year equal to a total maximum annual amount of Special Assessments as shown in Exhibit A, attached to and incorporated into this Ordinance.

All Special Assessments shall be certified by the Council or the Clerk of Council to the County Auditor of Athens County, Ohio pursuant to the Petition and Ohio Revised Code Chapter 727.33 to be placed on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition.

The Special Assessments shall be allocated among the parcels constituting the Property as set forth in the Petition and the List of Special Assessments attached to and incorporated into this Ordinance as Exhibit A.

SECTION III: That this Council finds and determines that the Special Assessments are in proportion to the special benefits received by the Property through the financing of the Project, as set forth in the Petition, and are not in excess of any applicable statutory limitation.

SECTION IV: That Owner has waived its right to pay the Special Assessments in cash, and all Special Assessments and installments of the Special Assessments shall be certified by the Council or the Clerk of Council to the County Auditor of Athens County, Ohio as provided by the Petition and Ohio Revised Code Section 727.33 to be placed by him or her on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition.

SECTION V: That the Special Assessments will be used by the City to provide for the Project in cooperation with the District in any manner, including assigning the Special Assessments actually received by the City to the District or to another party the City deems appropriate, and the Special Assessments are appropriated for such purposes.

SECTION VI: That the Council and the Clerk of Council shall keep the Special Assessments on file in their respective offices.

SECTION VII: That this Council hereby approves the Energy Project Cooperative Agreement, a copy of which is on file with the Clerk of Council. The Mayor and the Law Director, or their designee, shall sign and deliver, in the name and on behalf of the City, the Energy Project Cooperative Agreement, in substantially the form as is now on file with the Clerk of Council. The Energy Project Cooperative Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor and the Law Director, or their designee, in the name and on behalf of the City, all of which shall be conclusively evidenced by the signing of the Energy Project Cooperative Agreement or amendments to the Energy Project Cooperative Agreement.

SECTION VIII: That this Council hereby approves the Special Assessment Agreement, a copy of which is on file in the office of the Clerk of Council. The Mayor and the Law Director, or their designee, shall sign and deliver, in the name and on behalf of the City, the Special Assessment Agreement, in substantially the form as are now on file with the Clerk of Council. The Special Assessment Agreement is approved, together with

any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor and the Law Director, or their designee, on behalf of the City, all of which shall be conclusively evidenced by the signing of the Special Assessment Agreement or amendments to the Special Assessment Agreement.

SECTION IX: That the Safety Service Director is hereby authorized to enter into such other agreements that are not inconsistent with the Ordinance Approving Petition and Declaring Necessity and this Ordinance and that are approved by the Mayor and the Law Director, or their designee, on behalf of the City, all of which shall be conclusively evidenced by the signing of such agreements or any amendments to such agreements.

SECTION X: That in compliance with Ohio Revised Code Section 319.61, the Council and the Clerk of Council are directed to deliver a certified copy of this Ordinance to the County Auditor of Athens County, Ohio within twenty (20) days after its passage.

SECTION XI: That this Council finds and determines that all formal actions of Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

SECTION XII: That 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

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. [] duly adopted by the City Council of the City of Athens, Ohio on [], 2024 and that a true copy thereof was certified to the County Auditor of Athens County, Ohio within fifteen (15) days of its passage.

Clerk of Council
City of Athens, Ohio

EXHIBIT A

**LIST OF SPECIAL ASSESSMENTS AND
SCHEDULE OF SPECIAL ASSESSMENTS**

LIST OF SPECIAL ASSESSMENTS

Name	Assessed Properties Description	Portion of Benefit and Special Assessment	Maximum Amount of Special Assessments
Lostro Ventures, LLC	A027050001400	100%	\$2,351,485.92

*As identified in the records of the Auditor of Athens County, Ohio as of June 24, 2024.

SCHEDULE OF SPECIAL ASSESSMENTS

The following schedule of Special Assessment charges shall be levied in forty-two (42) semi-annual installments with respect to first-half and second-half real property taxes in calendar years 2026 through 2046:

Special Assessment Payment Date*	Total Special Assessment Payment Amount**
1/31/2026	\$55,987.76
7/31/2026	55,987.76
1/31/2027	55,987.76
7/31/2027	55,987.76
1/31/2028	55,987.76
7/31/2028	55,987.76
1/31/2029	55,987.76
7/31/2029	55,987.76
1/31/2030	55,987.76
7/31/2030	55,987.76
1/31/2031	55,987.76
7/31/2031	55,987.76
1/31/2032	55,987.76
7/31/2032	55,987.76
1/31/2033	55,987.76
7/31/2033	55,987.76
1/31/2034	55,987.76
7/31/2034	55,987.76
1/31/2035	55,987.76
7/31/2035	55,987.76
1/31/2036	55,987.76
7/31/2036	55,987.76
1/31/2037	55,987.76
7/31/2037	55,987.76
1/31/2038	55,987.76
7/31/2038	55,987.76
1/31/2039	55,987.76
7/31/2039	55,987.76
1/31/2040	55,987.76
7/31/2040	55,987.76
1/31/2041	55,987.76
7/31/2041	55,987.76
1/31/2042	55,987.76
7/31/2042	55,987.76
1/31/2043	55,987.76
7/31/2043	55,987.76
1/31/2044	55,987.76
7/31/2044	55,987.76
1/31/2045	55,987.76
7/31/2045	55,987.76
1/31/2046	55,987.76
7/31/2046	55,987.76

** Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Schedule of Special Assessments are subject to adjustment by the Athens County Auditor under certain conditions.

*** The Auditor of Athens County, Ohio may impose a special assessment collection fee with respect to each semi-annual Special Assessment payment. If imposed, this special assessment collection fee will be added by the Auditor of Athens County, Ohio to each semi-annual Special Assessment payment.

RECEIPT OF ATHENS COUNTY AUDITOR FOR
LEGISLATION LEVYING SPECIAL ASSESSMENTS
FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING,
AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS
IN THE CITY OF ATHENS IN COOPERATION WITH
THE ATHENS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT

I, Jill A. Davidson, the duly elected, qualified, and acting Auditor in and for Athens County, Ohio hereby certify that a certified copy of Ordinance No. [____], duly adopted by the Council of the City of Athens, Ohio on [____], 2024 and made effective on [____], levying special assessments for the purpose of acquiring, constructing, and improving certain public improvements in the City of Athens, Ohio in cooperation with the Athens Regional Energy Special Improvement District, including the List of Special Assessments and Schedule of Special Assessments, which Special Assessment charges are levied in forty-two (42) semi-annual installments with respect to real property taxes due in calendar years 2026 through 2046, was filed in this office on [____], 2024.

WITNESS my hand and official seal at Athens, Ohio on [____], 2024.

[SEAL]

Auditor
Athens County, Ohio

ENERGY PROJECT COOPERATIVE AGREEMENT

By and among

ATHENS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT;

LOSTRO VENTURES, LLC

[____]; and

CITY OF ATHENS, OHIO

Dated as of [____], 2024

BRICKER GRAYDON LLP

ENERGY PROJECT COOPERATIVE AGREEMENT

THIS ENERGY PROJECT COOPERATIVE AGREEMENT (the “Agreement”) is made and entered into as of [____], 2024 (the “Closing Date”), between the ATHENS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., a nonprofit corporation and special improvement district duly organized and validly existing under the laws of the State of Ohio (the “State”) (the “ESID”), LOSTRO VENTURES, LLC, a limited liability company duly organized and validly existing under the laws of the State of Ohio (the “Owner”), [____], a limited liability company duly organized and validly existing under the laws of the State of [____] (together with its successors and assigns, the “Investor”), and the CITY OF ATHENS, OHIO, a municipal corporation and political subdivision duly organized and validly existing under the constitution and laws of the State (the “City”) (the capitalized terms used in this Agreement and not defined in the preamble and recitals have the meanings stated in **Exhibit A** to this Agreement):

A. The ESID was created under Ohio Revised Code Chapters 1702 and 1710 and established pursuant to a Petition for Creation of Energy Special Improvement District and for Special Assessments for Special Energy Improvement Projects (the “Petition”) approved by Resolution No. [____] of the City Council of the City (the “City Council”). Pursuant to the same action, the Athens Regional Energy Special Improvement District Program Plan (as amended and supplemented from time to time, the “Plan”) was adopted as a plan for public improvements and public services under Ohio Revised Code Section 1710.02(F).

B. The ESID is an energy special improvement district and nonprofit corporation duly organized and validly existing under the laws of the State to further the public purpose of implementing special energy improvement projects pursuant to the authority in Ohio Revised Code Chapter 1710 and Article VIII, Section 20 of the Ohio Constitution.

C. Pursuant to the Plan, the ESID, among other services, shall assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy improvement projects.

E. In order to obtain financing for special energy improvement projects and to create special assessment revenues available to pay and repay the costs of special energy improvement projects, the Petition requested that the City Council levy Special Assessments against the Owner’s property as more fully described in the Petition.

F. The ESID, the Owner, the Investor, and the City (collectively the “Parties,” and each, a “Party”) each have determined that the most efficient and effective way to implement the financing, acquisition, installation, equipping, and improvement of energy special improvement projects and to further the public purposes set forth above is through this Agreement, pursuant to the Special Assessment Act and on the terms set forth in this Agreement, with (i) the Investor providing the Project Advance to finance the costs of the special energy improvement projects described in the Petition, (ii) the ESID and the Owner cooperating to acquire, install, equip and improve special energy improvement projects, (iii) the Owner agreeing to make Special Assessment payments in an aggregate amount that will provide revenues sufficient to pay or repay the permitted costs of the special energy improvement projects, (iv) the City agreeing to assign and transfer all Special Assessment payments and Delinquency Amounts actually received by the

City to the Investor to repay the Project Advance and certain fees identified herein; and (v) the ESID agreeing to assign, transfer, and set over to the Investor any of its right, title, or interest in and to the Special Assessments which it may have by operation of law, this Agreement, or otherwise; provided that a portion of the Special Assessments may be retained by, or be payable to, the City, the County Auditor, or the ESID, all pursuant to and in accordance with this Agreement.

G. The Parties each have full right and lawful authority to enter into this Agreement and to perform and observe its provisions on their respective parts to be performed and observed, and have determined to enter into this Agreement to set forth their respective rights, duties, responsibilities, obligations, and contributions with respect to the implementation of special energy improvement projects within the ESID.

NOW, THEREFORE, in consideration of the promises and the mutual representations, warranties, covenants, and agreements contained in this Agreement, the Parties agree as follows; provided, that any obligation of the ESID created by or arising out of this Agreement never shall constitute a general obligation, bonded indebtedness, or a pledge of the general credit of the ESID, or give rise to any pecuniary liability of the ESID, but any such obligation shall be payable solely from the Special Assessments and Delinquency Amounts actually received by the ESID, if any; and provided, further, that any obligation of the City created by or arising out of this Agreement never shall constitute a general obligation, bonded indebtedness, or a pledge of the general credit of the City, or give rise to any pecuniary liability of the City, but any such obligation shall be payable solely from the Special Assessments actually received by the City, if any:

ARTICLE I: DEFINITIONS

Section 1.1. Use of Defined Terms. In addition to the words and terms defined elsewhere in this Agreement or by reference to another document, words and terms used in this Agreement shall have the meanings set forth in **Exhibit A** to this Agreement unless the context or use clearly indicates another meaning or intent. Definitions shall apply equally to both the singular and plural forms of any of the words and terms. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

Section 1.2. Interpretation. Any reference in this Agreement to the ESID, the ESID Board, the Owner, the City, the City Council, the Investor, or to any member or officer of any of the foregoing, includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Special Assessment Act, or to a section, provision or chapter of the Ohio Revised Code or any other legislation or to any statute of the United States of America, includes that section, provision, or chapter as amended, modified, revised, supplemented, or superseded from time to time; provided, however, that no amendment, modification, revision, supplement, or superseding section, provision, or chapter shall be applicable solely by reason of this provision if it constitutes in any way an impairment of the rights or obligations of the Parties under this Agreement.

Section 1.3. Captions and Headings. The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit, or describe the scope or intent of any of this Agreement's Articles, Sections, subsections, paragraphs, subparagraphs or clauses.

ARTICLE II: COOPERATIVE ARRANGEMENTS; ASSIGNMENT OF SPECIAL ASSESSMENTS

Section 2.1. Agreement Among the City, the ESID, and the Investor. The Owner and the ESID have requested the assistance of the Investor and the City in the financing of special energy improvement projects within the ESID. For the reasons set forth in this Agreement's Recitals—which Recitals are incorporated into this Agreement by this reference as a statement of the public purposes of this Agreement and the intended arrangements among the Parties—the City and the ESID have requested the assistance and cooperation of the Investor in the collection and payment of Special Assessments in accordance with this Agreement. The Parties intend this Agreement to be, and it shall be, an agreement among the Parties to cooperate in the financing, acquisition, installation, equipping, and improvement of “special energy improvement projects,” pursuant to Ohio Revised Code Chapter 1710, and as that term is defined in Ohio Revised Code Section 1710.01(I). The Parties intend this Agreement's provisions to be, and they shall be construed as, agreements to take effective cooperative action and to safeguard the Parties' interests.

Upon the considerations stated above and upon and subject to the terms and conditions of this Agreement, the Investor, on behalf of the Parties, shall make the Project Advance available to the Owner to pay the costs of the Project. The City and the ESID shall assign, transfer, set over, and pay the Special Assessments actually received by the City or the ESID, respectively, to the Investor, to pay the costs of the Project at the times and in the manner provided in this Agreement, including, without limitation, by repaying the principal of and paying any interest on the Project Advance to the Investor; provided, however, that the City, the ESID, and the Investor intend that the City shall receive all Special Assessments and Delinquency Amounts from the County Treasurer and shall transfer, set over, and pay all Special Assessments and Delinquency Amounts received from the County Treasurer directly to the Investor. The City, the ESID, and the Investor further intend and agree that the Investor shall pay to the ESID, out of the Special Assessments received by the Investor, a semi-annual ESID fee for the ESID's administrative expenses; provided, however, that if the amount of Special Assessments received by the Investor in any year are insufficient to pay the principal of, and interest on the Project Advance due in that year, and the semi-annual ESID Fee, the Special Assessments received shall first be applied to the payment of interest on the Project Advance, then to the repayment of the principal of the Project Advance, and then to the payment of the semi-annual ESID Fee.

Notwithstanding anything in this Agreement to the contrary, any obligations of the City under this Agreement, including the obligation to transfer the Special Assessments and Delinquency Amounts received by the City to the Investor, shall be a special obligation of the City and shall be required to be made only from Special Assessments actually received by or on behalf of the City, if any. The City's obligations under this Agreement are not and shall not be secured by an obligation or pledge of any moneys raised by taxation. The City's obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the City's faith and credit or taxing power, and the ESID, the Owner, and the Investor do not have and shall not have any right to have taxes levied by the City for the transfer of the Special Assessments.

Section 2.2. Special Assessments; City Transfer of Special Assessments.

- (a) The Special Assessment Proceedings. The City has taken all necessary actions required by the Special Assessment Act to levy and collect the Special Assessments on the Property.

Pursuant to Ohio Revised Code Section 727.33, the City has certified the Special Assessments to the County Auditor for collection, and the County Auditor shall collect the unpaid Special Assessments with and in the same manner as other real property taxes and pay the amount collected to the City. The Parties intend that the County Auditor and the County Treasurer shall have the duty to collect the Special Assessments through enforcement proceedings in accordance with applicable law.

- (b) Collection of Delinquent Special Assessments. The ESID and the Investor are hereby authorized to take any and all actions as assignees of and, to the extent required by law, in the name of, for, and on behalf of, the City to collect delinquent Special Assessments levied by the City pursuant to the Special Assessment Act and to cause the lien securing the delinquent Special Assessments to be enforced through prompt and timely foreclosure proceedings, including, but not necessarily limited to, filing and prosecution of mandamus or other appropriate proceedings to induce the County Prosecutor, the County Auditor, and the County Treasurer, as necessary, to institute such prompt and timely foreclosure proceedings. The proceeds of the enforcement of any such lien shall be deposited and used in accordance with this Agreement.

- (c) Prepayment of Special Assessments. The Parties agree that the Special Assessments assessed against the Property and payable to the City pursuant to the Special Assessment Act may be prepaid to the Investor by the Owner in accordance with Section 4.7 of this Agreement. Except as set forth in this Section 2.2(c) and Section 4.7 of this Agreement, the Owner shall not prepay any Special Assessments. Notwithstanding the foregoing, if the Owner attempts to cause a prepayment of the Special Assessments by paying to the County Treasurer any amount as a full or partial prepayment of Special Assessments, and the Owner shall provide written notice to the Investor of such prepayment, and if the City shall have knowledge of the same, the City shall promptly notify the Investor, and, unless provided the express written consent of the Investor, the City shall not cause any reduction in the amount of the Special Assessments. Except as specifically provided in this Agreement to the contrary, no other action pursuant to any provision of this Agreement shall abate in any way the payment of the Special Assessments by the Owners of the Property or the transfer of the Special Assessments by the City to the Investor.

- (d) Reduction of Special Assessments. The Parties agree that the Special Assessments may be subject to reduction, but only upon the express written consent or instruction of the Investor, such written consent or instruction to be provided by Investor to the City within twenty (20) days of the receipt of any prepayment by

Owner as set forth in this Agreement. If the Owner causes the Special Assessments to be prepaid in accordance with Sections 2.2(c) and 4.7 of this Agreement, upon the City's receipt of the Investor's express written consent or instruction, including the Investor's calculation of the amount of Special Assessments remaining, the City shall certify to the County Auditor, prior to the last date in the then-current tax year on which political subdivisions may certify special assessments to the County Auditor, a reduction in the amount of Special Assessments collected such that, following such reduction, the amount of Special Assessments remaining to be paid shall be equal to the amounts necessary to pay, as and when due, the remaining outstanding principal of the Project Advance, together with interest at the annual rate of []%, and a semi-annual ESID Fee. The parties acknowledge and agree that County Auditor may calculate, charge, and collect a collection fee on each installment of the Special Assessments in an amount to be calculated, charged, and collected by the County Auditor pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, and penalties. Notwithstanding anything in this Agreement to the contrary, the City shall not cause any reduction in the amount of the Special Assessments without the prior written consent or instruction of the Investor.

- (e) Assignment of Special Assessments. The City agrees that it shall establish its funds for the collection of the Special Assessments as separate funds maintained on the City's books and records and to be held in the custody of a bank with which the City maintains a depository relationship. The City hereby assigns to the Investor all of its right, title and interest in and to: (i) the Special Assessments received by the City under this Agreement, (ii) the City's special assessment funds established for the Project, and (iii) any other property received or to be received from the City under this Agreement. The City further shall transfer, set over, and pay the Special Assessments and Delinquency Amounts to the Investor in accordance with this Agreement. The ESID acknowledges and consents to the City's assignment of the Special Assessments to the Investor. The Parties agree that each of the City, the ESID, and the Investor, as assignee of the Special Assessments, is authorized, together or individually, to take any and all actions, whether at law, or in equity, to collect delinquent Special Assessments levied by the City pursuant to law and to cause the lien securing any delinquent Special Assessments to be enforced through prompt and timely foreclosure proceedings, including, but not necessarily limited to, filing and prosecution of mandamus or other appropriate proceedings to induce the County Prosecutor, the County Auditor, and the County Treasurer, as necessary, to institute such prompt and timely foreclosure proceedings.
- (f) Transfer of Special Assessments. The parties anticipate that semi-annual installments of the Special Assessments and Delinquency Amounts will be paid to the City by the County Auditor and the County Treasurer in accordance with Ohio Revised Code Chapters 319, 321, 323, and 727, which, without limiting the generality of the foregoing, contemplates that the County Auditor and County Treasurer will pay the Special Assessments and Delinquency Amounts to the City on or before June 1 and December 1 of each year. Immediately upon receipt of any moneys received by the City as Special Assessments and Delinquency Amounts,

but in any event not later than 21 calendar days after the receipt of such moneys and the corresponding final settlement from the County Auditor, the City shall deliver to the Investor all such moneys received by the City as Special Assessments and Delinquency Amounts by ACH or check as determined in the sole discretion of the City. The Investor shall provide the City with account and payment information in the form of **Exhibit F** on the Closing Date. The Investor may from time to time provide updated written account and payment information in the form of **Exhibit F** to the City for the payment of Special Assessments and Delinquency Amounts, but the City shall maintain its right to send the special assessments by ACH or check in its sole discretion. If at any time during the term of this Agreement the County Auditor agrees, on behalf of the City, to disburse the Special Assessments and Delinquency Amounts to the Investor pursuant to instructions or procedures agreed upon by the County Auditor and the City, then, upon each transfer of an installment of the Special Assessments and Delinquency Amounts from the County Auditor to the Investor, the City shall be deemed to have satisfied all of its obligations under this Agreement to transfer that installment of the Special Assessments and Delinquency Amounts to the Investor.

- (g) **Repayment of Project Advance.** The Investor shall credit, on the dates shown on the Repayment Schedule (which is attached to, and incorporated into, this Agreement as **Exhibit B**), Special Assessments in the amounts shown on the Repayment Schedule to the payment of accrued interest on the Project Advance and to the repayment of the portion of the principal of the Project Advance scheduled to be repaid on such date. The Investor, on the dates shown on the Repayment Schedule, further shall pay to the ESID, after the payment of accrued interest on the Project Advance, the repayment of the portion of principal of the Project Advance scheduled to be repaid on such date, the payment of a semi-annual ESID Fee of [____] or such lesser amount as may be available from the Special Assessments on the applicable date after the payment of accrued interest on the Project Advance and the repayment of the portion of the principal of the Project Advance scheduled to be repaid on such date. The Parties acknowledge and agree that the County Auditor may calculate, charge, and collect a fee on each installment of the Special Assessments in an amount that the County Auditor deems necessary to defray the expense of collecting the Special Assessments pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, and penalties, and that such fee shall be paid to the County Auditor with the Special Assessments, and that the County Auditor will retain such fee.

Section 2.3. **Obligations Unconditional; Place of Payments.** The City's obligation to transfer the Special Assessments and any Delinquency Amounts to the Investor under Section 2.2 of this Agreement shall be absolute and unconditional, and the City shall make such transfers without abatement, diminution, or deduction regardless of any cause or circumstance whatsoever, including, without limitation, any defense, set-off, recoupment, or counterclaim which the City may have or assert against the Investor, the ESID, or the Owner; provided, however, that the City's obligation to transfer the Special Assessments and any Delinquency Amounts is limited to the Special Assessments and any Delinquency Amounts actually received by or on behalf of the City,

and nothing in this Agreement shall be construed to obligate the City to transfer or pledge, and the City shall not transfer or pledge any special assessments not related to the ESID.

Section 2.4. Appropriation by the City; No Further Obligations. Upon the Parties' execution of this Agreement, all of the Special Assessments and any Delinquency Amounts received or to be received by the City shall be deemed to have been appropriated to pay the City's obligation under this Agreement to pay to the Investor all Special Assessments and any Delinquency Amounts received by the City. During the years during which this Agreement is in effect, the City shall take such further actions as may be necessary or desirable in order to appropriate the transfer of the Special Assessments and any Delinquency Amounts actually received by the City in such amounts and at such times as will be sufficient to enable the City to satisfy its obligation under this Agreement to pay to the Investor all Special Assessments and any Delinquency Amounts received by the City; provided that the City shall not be responsible for the costs and expenses of any collection or enforcement actions, except to the extent of any Special Assessments and Delinquency Amounts actually received by the City; and provided further that nothing in this paragraph shall be construed as a waiver of the City's right to be indemnified pursuant to Section 6.4 of this Agreement or pursuant to the Special Assessment Agreement. The City has no obligation to use or apply to the payment of the Special Assessments and any Delinquency Amounts any funds or revenues from any source other than the moneys received by the City as Special Assessments and any Delinquency Amounts; provided, however, that nothing in this Agreement shall be deemed to prohibit the City from using, to the extent that it is authorized to do so, any other resources for the fulfillment of any of this Agreement's terms, conditions, or obligations.

Section 2.5. Security for Advanced Funds. To secure the transfer of the Special Assessments and any Delinquency Amounts by the City to the Investor, and in accordance with the Special Assessment Act, the ESID hereby assigns, transfers, sets over, and shall pay all of its right, title, and interest in and to the Special Assessments and any Delinquency Amounts related to the ESID actually received by or on behalf of the City to the Investor. The Owner and the City agree and consent to that assignment.

ARTICLE III: REPRESENTATIONS, WARRANTIES, AND AGREEMENTS

Section 3.1. The City's Representations and Warranties. The City represents and warrants that:

- (a) It is a municipal corporation and political subdivision duly organized, and validly existing under the Constitution and applicable laws of the State.
- (b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the City that would impair its ability to carry out its obligations contained in this Agreement.
- (c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the City's knowledge, that execution, delivery and performance does not and will not violate

or conflict with any provision of law applicable to the City and does not and will not conflict with or result in a default under any agreement or instrument to which the City is a party or by which it is bound.

- (d) It, by proper action, duly has authorized, executed, and delivered this Agreement, and the City has taken all steps necessary to establish this Agreement and the City's covenants and agreements within this Agreement, as valid and binding obligations of the City, enforceable in accordance with their terms.
- (e) There is no litigation pending, or to its knowledge threatened, against or by the City in which an unfavorable ruling or decision would materially adversely affect the City's ability to carry out its obligations under this Agreement.
- (f) The assignment contained in Section 2.2(e) is a valid and binding obligation of the City with respect to the Special Assessments received by the City under this Agreement.

Section 3.2. The ESID's Representations and Warranties. The ESID represents and warrants that:

- (a) It is a nonprofit corporation and special improvement district, duly organized, and validly existing under the Constitution and applicable laws of the State.
- (b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the ESID that would impair its ability to carry out its obligations contained in this Agreement.
- (c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the ESID's knowledge, that execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to the ESID and does not and will not conflict with or result in a default under any agreement or instrument to which the ESID is a party or by which it is bound.
- (d) It, by proper action, duly has authorized, executed, and delivered this Agreement, and the ESID has taken all steps necessary to establish this Agreement and the ESID's covenants and agreements within this Agreement as valid and binding obligations of the ESID, enforceable in accordance with their terms.
- (e) There is no litigation pending, or to its knowledge threatened, against or by the ESID in which an unfavorable ruling or decision would materially adversely affect the ESID's ability to carry out its obligations under this Agreement.
- (f) The ESID shall provide an opinion of PACE Counsel dated as of the Closing Date to the addressees included in such opinion regarding the enforceability and compliance with applicable law of the Agreement, the Special Assessment Agreement, and the Petition.

- (g) The assignment contained in Section 2.5 is a valid and binding obligation of the ESID with respect to the ESID's right, title and interest in the Special Assessments under this Agreement.

Section 3.3. The Owner's Representations and Warranties. The Owner represents and warrants that:

- (a) It is a limited liability company duly organized, validly existing and in full force and effect under the laws of the State of Ohio. It has all requisite power to conduct its business as presently conducted and to own, or hold under lease, its assets and properties, and, is duly qualified to do business in all other jurisdictions in which it is required to be qualified, except where failure to be so qualified does not have a material adverse effect on it, and will remain so qualified and in full force and effect during the period during which Special Assessments shall be assessed, due, and payable.
- (b) It, by proper action, duly has authorized, executed, and delivered the Transaction Documents, and it has taken all steps necessary to establish this Agreement and its covenants and agreements within this Agreement as valid and binding obligations, enforceable in accordance with their terms
- (c) There are no actions, suits or proceedings pending or, to its knowledge, threatened against or affecting it, the Property, or the Project that, if adversely determined, would individually or in the aggregate materially impair its ability to perform any of its obligations under this Agreement, or materially adversely affect its financial condition (an "Action"), and during the term of this Agreement, the Owner shall promptly notify the Investor of any Action commenced or to its knowledge threatened against it.
- (d) It is not in default under this Agreement, and no condition, the continuance in existence of which would constitute a default under this Agreement exists. It is not in default in the payment of any Special Assessments or under any agreement or instrument related to the Special Assessments which has not been waived or allowed.
- (e) Except for any financing of the Property and the lien related thereto that Owner has previously disclosed in writing (including, without limitation, the Senior Loan from the Senior Lender), it has as of the date of this Agreement made no contract or arrangement of any kind, other than this Agreement, which has given rise to, or the performance of which by the other party thereto would give rise to, a lien or claim of lien on its Project, except inchoate statutory liens in favor of suppliers, contractors, architects, subcontractors, laborers or materialmen performing work or services or supplying materials in connection with the acquiring, installing, equipping and improving of its Project.
- (f) No representation or warranty made by it contained in this Agreement, and no statement contained in any certificate, schedule, list, financial statement or other

instrument furnished to the Investor or the ESID by it or on its behalf contained, as of the date thereof, any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained herein or therein not misleading.

- (g) Since the date of the most recent financial statements of the Owner provided to the Investor, there has been no material adverse change in the financial condition of the Owner, nor has the Owner mortgaged, pledged or granted a security interest in or encumbered the Property since such date, except as otherwise disclosed to the Investor in writing, and the financial statements which have been delivered to the Investor prior to the Closing Date are true, correct, and current in all material respects and fairly represent the respective financial conditions of the subjects of the financial statements as of the respective dates of the financial statements.
- (h) The Owner has good and marketable title to its Property, subject only to existing liens, pledges, encumbrances, charges or other restrictions of record previously disclosed by the Owner to the Investor in writing, liens for taxes not yet due and payable, and minor liens of an immaterial nature.
- (i) The Project complies in all material respects with all applicable zoning, planning, building, environmental and other regulations of each Governmental Authority having jurisdiction of the Project, and all necessary permits, licenses, consents and permissions necessary for the Project have been or will be obtained.
- (j) The plans and specifications for the Project are satisfactory to the Owner, have been reviewed and approved by the general contractor for the Project, the tenants under any leases which require approval of the plans and specifications, the purchasers under any sales contracts which require approval of the plans and specifications, any architects for the Project, and, to the extent required by applicable law or any effective restrictive covenant, by all Governmental Authorities and the beneficiaries of any such covenants; all construction of the Project, if any, already performed on the Property has been performed on the Property in accordance with such approved plans and specifications and the restrictive covenants applicable to the plans and specifications; there are no structural defects in the Project or violations of any requirement of any Governmental Authorities with respect to the Project; the planned use of the Project complies with applicable zoning ordinances, regulations, and restrictive covenants affecting the Property as well as all environmental, ecological, landmark and other applicable laws and regulations; and all requirements for such use have been satisfied.
- (k) The Owner has the Required Insurance Coverage and will maintain the Required Insurance Coverage at all times during the term of this Agreement, while any principal of or interest on the Project Advance remains outstanding, and while any Special Assessments remain to be paid. Any return of insurance premium or dividends based upon the Required Insurance Coverage shall be due and payable solely to the Owner or its Lender pursuant to any agreements between the Owner

and its Lender, unless such premium shall have been paid by the Investor, in accordance with the distribution priority specified in Section 4.3.

- (l) Each Disbursement Request Form presented to the Investor, and the receipt of the funds requested by the Disbursement Request Form, shall constitute an affirmation that the representations and warranties contained in this Agreement remain true and correct as of the date of the Disbursement Request Form and the receipt of the funds requested by the Disbursement Request Form.
- (m) Each of the Property and the Project are, and at all times during the term of this Agreement, while any principal of or interest on the Project Advance remain outstanding, and while any Special Assessments remain to be paid, used solely for the commercial purposes disclosed by the Owner to the Investor in writing.
- (n) The Project and the plans and specifications for the Project have been developed pursuant to an energy analysis prepared by the Investor, which energy analysis demonstrates that the Project is expected to generate \$[] in annual energy savings.
- (o) Each of the components of the Project is a qualified “special energy improvement project” pursuant to the definition of that term in Ohio Revised Code Section 1710.01(I).
- (p) The Owner is not insolvent, and the consummation of the financing described in this Agreement will not render Owner insolvent.
- (q) At all times during the term of this Agreement, while any principal of or interest on the Project Advance remain outstanding, and while any Special Assessments remain to be paid, the Owner shall comply in all respects with the Special Assessment Act, and shall take any and all action necessary to remain in compliance with the Special Assessment Act.
- (r) All statements set forth in this Section 3.3 are true and correct in all material respects.

Section 3.4. The Owner’s Additional Agreements. The Owner agrees that:

- (a) It shall not transfer or convey any right, title, or interest, in or to the Property and the Project, except after giving prompt notice of any such transfer or conveyance to the Investor; provided, however, that the foregoing restrictions shall not apply to the grant or conveyance of any leasehold interests, mortgage interest, or lien interest, except as may be otherwise provided in this Agreement. Before or simultaneous with any such transfer or conveyance, the Owner shall (i) execute, cause the transferee or purchaser to execute, and deliver to the Investor, the City, and the ESID a fully executed “Assignment and Assumption of Energy Project Cooperative Agreement” in the form attached to, and incorporated into, this Agreement as **Exhibit E**; (ii) execute, cause the transferee or purchaser to execute, and deliver to the Investor, an assignment of all construction contracts related to

the Project, and (iii) pay all legal fees and expenses of PACE Counsel associated with legal services performed to facilitate such assignment upon receipt of an invoice from PACE Counsel. The Parties acknowledge and agree that the Assignment and Assumption of Energy Project Cooperative Agreement includes the assignment and assumption of the Special Assessment Agreement and the Owner Consent.

- (b) It shall pay when due all taxes, assessments, service payments in lieu of taxes, levies, claims and charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Property, all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Property and all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on any portion of the Property. The Owner shall furnish the Investor, upon reasonable request, with proof of payment of any taxes, governmental charges, utility charges, insurance premiums or other charges required to be paid by the Owner under this Agreement. The Parties acknowledge and agree that the foregoing obligation is in addition to the Owner's obligation to pay the Special Assessments.
- (c) It shall not, without the prior written consent of the Investor, cause or agree to the imposition of any special assessments, other than the Special Assessments, on the Property for the purpose of paying the costs of "special energy improvement projects," as that term is defined in Ohio Revised Code Section 1710.01(I), as amended and in effect at the time.
- (d) It shall promptly pay and discharge all undisputed claims for labor performed and material and services furnished in connection with the acquisition, installation, equipping, and improvement of the Project.
- (e) Once annually until the Completion Date, the chief financial officer of the Owner shall provide the Investor with a certificate setting forth all sources and uses of funds with respect to the Project.
- (f) It promptly shall notify the Investor of any material damage or destruction to the Project or the Property.
- (g) Upon the reasonable request of the Investor, it shall take any actions and execute any further certificates, instruments, agreements, or documents as shall be reasonably necessary in connection with the performance of this Agreement and with the transactions, obligations, and undertakings contained in this Agreement.
- (h) It shall not cause the Property to be subdivided, platted, or otherwise separated into any additional parcels in the records of the County Auditor.
- (i) It does not and will not engage in operations that involve the generation, manufacture, refining, transportation, treatment, storage or handling of hazardous materials or hazardous wastes, as defined in applicable state law, or any other federal, state or local environmental laws or regulations, and neither the Property

nor any other of its premises has been so used previously, in each case, except as previously disclosed in writing to the Investor. Notwithstanding the foregoing, Owner may use commercially acceptable and lawful hazardous materials and substances used in connection with the ownership and operation of seniors and residential housing and care communities. There are no underground storage tanks located on the Property. There is no past or present non-compliance with environmental laws, or with permits issued pursuant thereto, in connection with the Property, which has not been fully remediated in accordance with environmental laws. There is no environmental remediation required (or anticipated to be required) with respect to the Property. The Owner does not know of, and has not received, any written or oral notice or other communication from any person (including but not limited to a governmental entity) relating to hazardous substances or remediation of hazardous substances, of possible liability of any person pursuant to any environmental law, other environmental conditions in connection with the Property, or any actual or potential administrative or judicial proceedings in connection with the foregoing.

- (j) It shall, until such times as the Project Advance is paid in full, provide to the Investor within 30 days of written request therefor, copies of all utility bills for the Property for the period of time so requested, including, but not limited to water, gas, and electricity bills. Further, Owner will, within 30 days of request therefor, execute a consent to electronic data interface or similar document supplied by Investor allowing Investor to receive utility bills for the Property directly from the Property's utility providers. Investor shall use the information obtained in such utility reporting only for the purpose of tracking energy savings and energy use intensity provided by the installation and operation of the Project on the Property. Data shall be protected by Investor and will not be sold or reused for other purposes.

ARTICLE IV: PROJECT ADVANCE; CONSTRUCTION OF PROJECT; REPAYMENT

Section 4.1. Project Advance. The Investor has made available to the Owner the Project Advance in the amount of \$[] of which \$[] will be net funded into the Project Account (as defined below) for disbursement pursuant to Section 4.2, closing costs in the amount of \$[] will be disbursed by the Investor in accordance with Section 4.2 and **Exhibit C**, and capitalized interest in the amount of \$[] will be retained for the account of the Investor for further payment to itself and the EISD in accordance with this Agreement. As further provided in, and subject to, the Disbursing Agreement, the Investor shall hold the Project Advance in a segregated account established in the custody of the Investor, which account shall be referred to as the "Project Account." Subject to the terms and conditions of this Agreement and the Disbursing Agreement, the Investor, upon the direction of the Owner, shall disburse amounts on deposit in the Project Account to the Owner or to such parties as may be named by the Owner in order to pay the costs of the Project.

If the Project Advance net funded to the Owner is insufficient to pay the costs of the Project pursuant to this Agreement, the Owner, nevertheless, shall complete the acquisition, installation, equipping, and improvement of its Project, and the Owner shall pay all such additional costs of its

Project from its own funds. The Owner shall not be entitled to reimbursement for any such additional costs of its Project, nor shall it be entitled to any abatement, diminution, or postponement of the Special Assessments.

Section 4.2. Disbursements. In order to cause disbursement of amounts on deposit in the Project Account to pay or reimburse the costs of the Project, the Owner shall submit Disbursement Request Forms (a form of which is attached to the Disbursing Agreement as Exhibit B) to the Investor. Each Disbursement Request Form shall, in part, set forth the payments or reimbursements requested, and shall be accompanied by invoices or other appropriate documentation supporting the payments or reimbursements requested. In addition, the following shall occur:

- (a) With each Disbursement Request Form:
 - (i) The Owner shall deliver to the Investor proof that each project milestone has occurred;
 - (ii) The Owner shall deliver to the Investor copies of all related receipts and invoices;
 - (iii) The Owner shall deliver to the Investor signed lien waivers in the form attached to the Disbursement Request Form as Schedule 2;
 - (iv) The Owner shall deliver to the Investor, as necessary, bank information for wiring the amounts requested for disbursement;
 - (v) The Investor shall have received copies of all other disbursement requests for disbursements of other sources of funds, including from the loan from the Owner's Lender, that have been submitted on or prior to the date on which the related Disbursement Request is submitted, and all such disbursement requests shall have been validly approved in accordance with the Lender Loan Documents; and
 - (vi) All of the conditions to disbursement under the Disbursing Agreement shall have been satisfied.
- (b) With the first Disbursement Request Form submitted, in addition to the documents required under Section 4.2(a):
 - (i) The Owner shall deliver to the Investor copies of all construction permits required for the construction of the Project;
 - (ii) The Owner shall deliver to the Investor copies of all agreements with the general contractor performing work or furnishing materials for the Project;
 - (iii) The Owner shall deliver to the Investor a construction schedule completed by the general contractor for the Project, which includes an anticipated date of completion of the Project; and
 - (iv) The Owner shall deliver to the Investor copies of all current policies of the Required Insurance Coverage;
 - (v) The construction plans and specifications shall have been approved in all respects by the Investor in its reasonable discretion;
 - (vi) The budget shall have been approved by the Investor in its reasonable discretion;

- (vii) The Owner shall deliver to the Investor the written consent of its existing mortgage lender to the levying, assessment, and collection of the Special Assessments, in the form attached to this Agreement as **Exhibit D**;
 - (viii) The Owner shall provide to the Investor evidence acceptable to the Investor, in its reasonable discretion, that the City Council and the ESID have approved the Project;
 - (ix) The Investor shall receive the executed Special Assessment Agreement and Owner Consent and evidence that the Owner Consent has been recorded in the records of the Recorder of Athens County, Ohio with respect to the Property;
 - (x) The Owner and the ESID shall provide to the Investor original executed copies of this Agreement and any related certificates;
 - (xi) The Owner shall provide to the Investor a list of authorized representatives on whose instructions and directions the Investor may rely until such time as an updated list has been provided.
- (c) With the final Disbursement Request Form, in addition to the documents required under Section 4.2(a):
- (i) The Owner shall deliver to the Investor the final lien waiver and release;
 - (ii) The Owner shall deliver to the Investor the executed Completion Certificate; and
 - (iii) The Owner shall deliver to the Investor copies of all completion inspections and closed permits with respect to the Project.

Upon its receipt of each completed Disbursement Request Form, the Investor shall approve all or a portion of the payment or reimbursements requested to be disbursed from the Project Account. To the extent the Investor approves the payment or reimbursements requested to be disbursed from the Project Account, the Investor shall pay the Owner or such other parties as are indicated on the Disbursement Request Form the amounts described on such Disbursement Request Form which have been approved by the Investor.

Additionally, on the Closing Date, the Investor shall disburse closing costs related to the financing described in this Agreement in an amount not to exceed \$[____], as detailed in **Exhibit C** to this Agreement. Without limiting the generality of the foregoing, disbursements made pursuant to this paragraph may be for fees to the Investor, fees to the ESID, legal fees, fees to the City, and other closing costs or contingencies.

If at any time an Event of Default has occurred and is continuing under this Agreement, the Investor may withhold approval of any requests for disbursement until the Event of Default is cured and its effects are removed.

Section 4.3. **Casualties and Takings**. The Owner shall promptly notify the Investor if the Project is damaged or destroyed by fire, casualty, injury or any other cause (each such occurrence, a "Casualty"). Upon the occurrence of such Casualty, the Owner's Lender, if any, may elect, in accordance with the provisions of the applicable loan documents between the Owner and Owner's Lender, to restore the Property and the Project or to terminate the construction of the

Project, and in either case, to direct the application of the insurance proceeds pursuant to the terms of Owner's Lender's agreement with the Owner, provided that if the insurance proceeds are not used to restore the Property and the Project, insurance proceeds will be distributed to the Owner's Lender and to the Investor in accordance with their insured interests, and any excess proceeds will be paid to the Owner.

Upon the occurrence of a Casualty, if no Person is a Lender at the time of such Casualty, the insurance proceeds shall be applied to pay the costs of the restoration of the Project or to the repayment of the outstanding balance of the Special Assessments, and in which case the Investor shall remain obligated to make disbursements of up to the total amount of the Project Advance in accordance with this Agreement.

In the event restoration of the Project or the Property is pursued, the Owner shall immediately proceed with the restoration of the Project in accordance with the plans and specifications. If, in the Investor's reasonable judgment, said insurance proceeds are insufficient to complete the restoration, the Owner shall deposit with the Investor such amounts as are necessary, in the Investor's reasonable judgment, to complete the restoration in accordance with the plans and specifications.

In the event any part of the Property or the Project shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain (a "Taking"), the Owner's Lender, if any, may elect, in accordance with the provisions of the applicable loan documents between Owner and Owner's Lender, not to restore the Property or the Project or to restore the Property or the Project, and in either case, to direct the application of the proceeds of the Taking pursuant to the terms of its agreements with the Owner, provided that if the Takings proceeds are not used to restore the Property and the Project, Takings proceeds will be distributed to Owner's and to the Investor in accordance with their insured interests, and any excess Takings proceeds will be paid to the Owner. If the Lender determines not to restore the Property or the Project and release funds related thereto to the Owner, the Investor's obligation to make disbursements under this Agreement shall be terminated. If the Lender determines to restore the Property and the Project, the Owner shall immediately proceed with the restoration of the Project in accordance with the plans and specifications. If, in the Investor's reasonable judgment, the Taking proceeds available to the Owner and the Investor are insufficient to complete the restoration, the Owner shall deposit with the Investor such amounts as are necessary, in the Investor's reasonable judgment, to complete the restoration in accordance with the plans and specifications.

In the event that no Person is a Lender at the time of such Taking, the Investor's obligation to make disbursements under this Agreement shall be terminated unless the Property and the Project can be replaced and restored in a manner which will enable the Project to be functionally and economically utilized and occupied as originally intended. If the Property and the Project can be so restored, the Owner shall immediately proceed with the restoration of the Project in accordance with the plans and specifications, and the Investor shall release the funds for such purpose. If, in the Investor's reasonable judgment, the Taking proceeds available to the Owner and the Investor are insufficient to complete the restoration, the Owner shall deposit with the

Investor such amounts as are necessary, in the Investor's reasonable judgment, to complete the restoration in accordance with the plans and specifications.

Section 4.4. Eligible Costs. The costs of the Project which are eligible for payment or reimbursement pursuant to this Agreement include the following:

- (a) costs incurred directly or indirectly for or in connection with the acquisition, installation, equipping, and improvement of the Project, including without limitation, costs incurred in respect of the Project for preliminary planning and studies; architectural, legal, engineering, surveying, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work;
- (b) financial, legal, recording, title, accounting, and printing and engraving fees, charges and expenses, and all other fees, charges and expenses incurred in connection with the financing described in this Agreement;
- (c) premiums attributable to any surety and payment and performance bonds and insurance required to be taken out and maintained until the date on which each Project is final and complete;
- (d) taxes, assessments and other governmental charges in respect of the Project that may become due and payable until the date on which each Project is final and complete;
- (e) costs, including, without limitation, attorney's fees, incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to the Project; and
- (f) any other incidental or necessary costs, expenses, fees and charges properly chargeable to the cost of the acquisition, installation, equipping, and improvement of the Project.

Section 4.5. Completion of Project; Inspection. The Owner (a) in accordance with the approved plans and specifications for the Project, which plans and specifications shall not be materially revised without the prior written approval of the Investor, which approval shall not be unreasonably withheld, shall acquire, install, equip, and improve its Project with Project Advance with all commercially reasonable dispatch, (b) subject to its right to contest any disputed work, shall pay when due all fees, costs and expenses incurred or payable by the Owner in connection with that acquisition, installation, equipping, and improvement from funds made available therefor in accordance with this Agreement or otherwise, and (c) shall ask, demand, sue for, levy, recover and receive all those sums of money, debts and other demands whatsoever which may be due, owing and payable to the Owner under the terms of any contract, order, receipt, writing or instruction in connection with the acquisition, installation, equipping, and improvement of the Project, and shall utilize commercially reasonable efforts to enforce the provisions of any contract, agreement, obligation, bond or other performance security with respect thereto. It is understood that the Project is to be owned by the Owner and any contracts made by the Owner with respect to

the Project or any work to be done by the Owner on or with respect to the Project are made or done by the Owner on its own behalf and not as agent or contractor for the ESID.

During the period of acquisition, installation, equipping, and improvement of the Project, the ESID and the Investor, and their respective agents, subject to reasonable security and safety regulations, and upon reasonable prior notice, shall have the right, during normal business hours, to inspect the Project. The ESID and the Investor and their respective agents shall utilize commercially reasonable efforts to minimize interference with the tenants of the Property during any such inspection.

The Investor reserves the right to deny the request for a Project Advance pursuant to Article IV of this Agreement if such inspection reveals that construction is not proceeding with Reasonable Dispatch. If, in the Investor's opinion, after 30 days' written notice to the Owner, the construction is not proceeding with Reasonable Dispatch, the Investor may (i) request that the Owner remove and replace the general contractor with a general contractor acceptable to the Investor, the failure of which by the Owner shall be a default under this Agreement, (ii) utilize funds to continue construction of the Project and such funds shall be considered Project Advances, or (iii) deny any Project Advance until such time as the construction resumes proceeding with Reasonable Dispatch.

The Owner shall notify the ESID, the City, and the Investor of the Completion Date by certificates in the forms attached as Exhibit D to the Disbursing Agreement, signed by the Owner stating: (a) the date on which the acquisition, installation, equipping, and improvement of the Project was substantially completed by the general contractor for the Project in accordance with the construction contract, and the Owner has no unresolved complaints regarding the work; (b) that the Project has been completed in all material respects in accordance with the plans and specifications, permits, and budget for the Project approved by the Investor; (c) that the Owner has complied, and will continue to comply with all applicable statutes, regulations, and resolutions or ordinances in connection with the Property and the construction of the Project; (d) that the Owner holds fee ownership of the Property; (e) that the general contractor for the project has not offered the Owner any payment, refund, or any commission in return for completing Project; and (f) that all funds provided to the Owner by the Investor for the Project have been used in accordance with this Agreement. The certificate shall be delivered as promptly as practicable after the Completion Date.

Section 4.6. Repayment. The Parties acknowledge that pursuant to this Agreement, the Project Advance is expected to be repaid by the Special Assessments. The Parties agree that the Special Assessments have been levied and certified to the County Auditor in the amounts necessary to amortize the Project Advance, together with interest at the annual rate of []%, and a semi-annual ESID Fee, over [] semi-annual payments to be collected beginning approximately on [] and continuing through approximately []. The Parties further acknowledge that in addition to the amount of the Special Assessments and other related interest, fees, and penalties, the County Auditor may charge and collect a County Auditor collection fee on each installment of the Special Assessments in an amount to be calculated, charged, and collected by the County Auditor pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, and penalties. Interest shall

accrue on the entire amount of the Project Advance from the Closing Date; provided, however, that a portion of the Project Advance may be used to pay interest accruing and due and payable on the Project Advance prior to the date on which the first installment of the Special Assessments is paid to the Investor by the City. The Owner agrees to pay, as and when due, all Special Assessments with respect to its Property. The Parties acknowledge and agree that, pursuant to the laws of the State, the Special Assessments to be collected by the County Treasurer which as of the relevant date are not yet due and payable never shall be accelerated, and the lien of the Special Assessments never shall exceed the amount of Special Assessments which, as of the relevant date, are due and payable but remain unpaid.

Section 4.7. Prepayment. At any time prior to the second anniversary of the Closing Date, the Owner may prepay all or a portion of the principal of the Project Advance to the Investor by paying, in immediately available funds, [105%] of the principal amount of the Project Advance to be prepaid, together with all accrued and unpaid interest on the Project Advance to the date of prepayment. At any time after the second anniversary of the Closing Date and prior to the fifth anniversary of the Closing Date, the Owner may prepay all or a portion of the principal of the Project Advance to the Investor by paying, in immediately available funds, [102%] of the principal amount of the Project Advance to be prepaid, together with all accrued and unpaid interest on the Project Advance to the date of prepayment. At any time after the fifth anniversary of the Closing Date, the Owner may prepay all or a portion of the principal of the Project Advance to the Investor by paying, in immediately available funds, [101%] of the principal amount of the Project Advance to be prepaid, together with all accrued and unpaid interest on the Project Advance to the date of prepayment.

Immediately upon any prepayment pursuant to this Section 4.7, the Investor shall notify the City of the prepayment, and the Owner, the Investor, and the City shall cooperate to reduce the amount of Special Assessments to be collected by the County Auditor pursuant to Section 2.2(d) of this Agreement.

Section 4.8. Payment of Fees and Expenses. If an Event of Default on the part of the Owner should occur under this Agreement such that the ESID, the Investor, or the City should incur expenses, including attorneys' fees, in connection with the enforcement of this Agreement or the collection of sums due under this Agreement, the Owner shall reimburse the ESID, the Investor, and the City, as applicable, for any reasonable out-of-pocket expenses so incurred upon demand. If any such expenses are not so reimbursed, the amount of such expenses, together with interest on such amount from the date of demand for payment at an annual rate equal to the maximum rate allowable by law, shall constitute indebtedness under this Agreement, and the ESID, the Investor, and the City, as applicable, shall be entitled to seek the recovery of those expenses in such action except as limited by law or by judicial order or decision entered in such proceedings.

Section 4.9. Further Assurances. Upon the request of the Investor, the Owner shall take any actions and execute any further documents as the Investor deems necessary or appropriate to carry out the purposes of this Agreement.

ARTICLE V: EVENTS OF DEFAULT AND REMEDIES

Section 5.1. Events of Default. If any of the following shall occur, such occurrence shall be an “Event of Default” under this Agreement:

- (a) The Owner shall fail to pay an installment of the Special Assessments when due, after taking into account all applicable extensions;
- (b) The City shall fail to transfer, or cause the transfer of, any of the Special Assessments to the Investor within the time specified in this Agreement;
- (c) Any Party is in material breach of its representations or warranties under this Agreement; provided, however, that upon the material breach of a Party’s representations or warranties under this Agreement, such Party shall have the right to cure such breach within five days of the receipt of notice, and, if so cured, such breach shall not constitute an Event of Default;
- (d) The ESID, the Owner, or the City, shall fail to observe and perform any other agreement, term, or condition contained in this Agreement or the Special Assessment Agreement and the continuation of such failure for a period of 30 days after written notice of such failure shall have been given to the ESID, the Owner, or the City, as applicable, by any other Party to this Agreement, or for such longer period to which the notifying Party may agree in writing; provided, however, that if the failure is other than the payment of money, and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the ESID, an Owner, or the City, as applicable, institutes curative action within the applicable period and diligently pursues that action to completion;
- (e) The Owner abandons its Property or its Project;
- (f) The Owner commits waste upon its Property or its Project;
- (g) The Owner becomes bankrupt or insolvent or files or has filed against it (and such action is not stayed or dismissed within 90 days) a petition in bankruptcy or for reorganization or arrangement or other relief under the bankruptcy laws or any similar state law or makes a general assignment for the benefit of creditors; or

The declaration of an Event of Default above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

Promptly upon any non-defaulting Party becoming aware that an Event of Default has occurred, such Party shall deliver notice of such Event of Default to each other Party under this Agreement in accordance with the notice procedures described in Section 6.5 of this Agreement.

Section 5.2. Remedies on Default. Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

- (a) Upon an Event of Default described in Section 5.1(a) only, the Investor shall become entitled to receive any Delinquency Amounts actually received by the City.
- (b) The ESID, the Investor, and the City, together or separately, may pursue all remedies now or later existing at law or in equity to collect all amounts due and to become due under this Agreement or to enforce the performance and observance of any other obligation or agreement of any of the Parties, as applicable, under this Agreement, including enforcement under Ohio Revised Code Chapter 2731 of duties resulting from an office, trust, or station upon the ESID or the City, provided that, Parties may only pursue such remedies against the Party responsible for the particular Event of Default in question; provided, however, that the ESID, the Investor, and the City may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default.
- (c) Any Party may pursue any other remedy which it may have, whether at law, in equity, or otherwise, provided that, Parties may only pursue such remedies against the Party responsible for the particular Event of Default in question; provided, however, that the ESID, the Investor, and the City may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default.

Notwithstanding the foregoing, each of the ESID and the City shall not be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond has been furnished to it at no cost or expense.

Section 5.3. Foreclosure. Pursuant to Section 2.1 of the Special Assessment Agreement by and among the County Treasurer, the City, the ESID, and the Owner and dated as of the date of this Agreement (the "Special Assessment Agreement"), the County Treasurer has agreed not to confirm the sale of the Property for an amount less than 100% of the amount of the Special Assessments and other general real estate taxes, payments in lieu of taxes, and assessments then due and owing with respect to the Property, as shall be certified by the ESID to the County Treasurer pursuant to the records of the County Treasurer without the consent of the ESID and the Investor. The ESID hereby agrees that in the event it is asked to provide its consent in accordance with Section 2.1 of the Special Assessment Agreement, it will notify the Investor of such request, and it will not provide its consent pursuant to Section 2.1 of the Special Assessment Agreement without the Investor's prior written direction.

Section 5.4. No Remedy Exclusive. No remedy conferred upon or reserved to the Parties by this Agreement is intended to be exclusive of any other available remedy or remedies, 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 later existing at law, in equity or by statute; provided, however,

that the ESID, the Investor, and the City may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power nor shall be construed to be a waiver, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Parties to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made in this Agreement.

Section 5.5. No Waiver. No failure by a Party to insist upon the strict performance by the other Parties of any provision of this Agreement shall constitute a waiver of such Party's right to strict performance; and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Parties to observe or comply with any provision of this Agreement.

Section 5.6. Notice of Default. Any Party to this Agreement shall notify every other Party to this Agreement immediately if it becomes aware of the occurrence of any Event of Default or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default.

ARTICLE VI: MISCELLANEOUS

Section 6.1. Owner Waivers. The Owner acknowledges that the process for the imposition of special assessments provides the owner of property subject to such special assessments with certain rights, including rights to: receive notices of proceedings; object to the imposition of the special assessments; claim damages; participate in hearings; take appeals from proceedings imposing special assessments; participate in and prosecute court proceedings, as well as other rights under law, including but not limited to those provided for or specified in the United States Constitution, the Ohio Constitution, Ohio Revised Code Chapter 727 and the resolutions or ordinances in effect in the City (collectively, "Assessment Rights"). The Owner irrevocably waives all Assessment Rights as to its Project and consents to the imposition of the Special Assessments as to its Project immediately or at such time as the ESID determines to be appropriate, and the Owner expressly requests the entities involved with the special assessment process to promptly proceed with the imposition of the Special Assessments upon its Property as to its Project. The Owner further waives in connection with the Project: any and all questions as to the constitutionality of the laws under which the Project will be constructed and the Special Assessments imposed upon the Property; the jurisdiction of the Council of the City acting thereunder; and the right to file a claim for damages as provided in Ohio Revised Code Section 727.18 and any similar provision of the resolutions or ordinances in effect within the City.

Section 6.2. Term of Agreement. This Agreement shall be and remain in full force and effect from the Closing Date until the payment in full of the entire aggregate amount of the Special Assessments and any other amounts due hereunder shall have been made to the Investor, or such time as the Parties shall agree in writing to terminate this Agreement. Any attempted termination of this Agreement prior to the payment in full of the entire aggregate amount of the Special

Assessments and any other amounts due hereunder which is not in writing and signed by each of the Parties to this Agreement shall be null and void.

Section 6.3. Litigation Notice. Each Party shall give all other Parties prompt notice of any action, suit, or proceeding by or against the notifying Party, at law or in equity, or before any governmental instrumentality or agency, of which the notifying Party has notice and which, if adversely determined would impair materially the right or ability of the Parties to perform their obligations under this Agreement. The notifying Party's prompt notice shall be accompanied by its written statement setting forth the details of the action, suit, or proceeding and any responsive actions with respect to the action, suit, or proceeding taken or proposed to be taken by the Party.

Section 6.4. Indemnification. The Owner shall indemnify and hold harmless the ESID, the Investor, and the City (including any member, officer, director, or employee thereof) (collectively, the "Indemnified Parties") against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) imposed upon, incurred by or asserted against an Indemnified Party arising or resulting from (i) the levy and collection of the Special Assessments, (ii) Owner's financing, acquisition, construction, installation, operation, use or maintenance of the Project, (iii) any act, failure to act or misrepresentation solely by the Owner in connection with, or in the performance of any obligation on the Owner's part to be performed under this Agreement or related to the Special Assessments resulting in material actual damages, or (iv) (a) a past, present or future violation or alleged violation of any environmental laws in connection with the Property by any person or other source, whether related or unrelated to the Owner, (b) any presence of any hazardous, toxic or harmful substances, materials, wastes, pollutants or contaminants defined as such in or regulated under any environmental law ("Materials of Environmental Concern") in, on, within, above, under, near, affecting or emanating from the Property, (c) the failure to timely perform any investigation, inspection, site monitoring, containment, clean-up, removal, response, corrective action, mitigation, restoration or other remedial work of any kind or nature because of, or in connection with, the current or future presence, suspected presence, Release (as defined below) or threatened Release in or about the air, soil, ground water, surface water or soil vapor at, on, about, under or within all or any portion of the Property of any Materials of Environmental Concern, including any action to comply with any applicable environmental laws or directives of any governmental authority with regard to any environmental laws, (d) any past, present or future activity by any person or other source, whether related or unrelated to the Owner in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from the Property of any Materials of Environmental Concern at any time located in, under, on, above or affecting the Property, (e) any past, present or future actual generation, treatment, use, storage, transportation, manufacture, refinement, handling, production, removal, remediation, disposal, presence or migration of Materials of Environmental Concern on, about, under or within all or any portion of the Property (a "Release") (whether intentional or unintentional, direct or indirect, foreseeable or unforeseeable) to, from, on, within, in, under, near or affecting the Property by any person or other source, whether related or unrelated to the Owner, (f) the imposition, recording or filing or the threatened imposition, recording or filing of any lien on the Property with regard to, or as a result of, any Materials of Environmental Concern or pursuant to any environmental law, or (g) any

misrepresentation or failure to perform any obligations related to environmental matters in any way pursuant to any documents related to the Special Assessments.

In the event any action or proceeding is brought against any Indemnified Party by reason of any such claim, such Indemnified Party will promptly give written notice thereof to the Owner. The Owner shall be entitled to participate at its own expense in the defense or, if it so elects, to assume at its own expense the defense of such claim, suit, action or proceeding, in which event such defense shall be conducted by counsel chosen by the Owner; but if the Owner shall elect not to assume such defense, it shall reimburse such Indemnified Party for the reasonable fees and expenses of any counsel retained by such Indemnified Party. If at any time the Indemnified Party becomes dissatisfied, in its reasonable discretion, with the selection of counsel by the Owner, a new mutually agreeable counsel shall be retained at the expense of the Owner. Each Indemnified Party agrees that the Owner shall have the sole right to compromise, settle or conclude any claim, suit, action or proceeding against any of the Indemnified Parties. Notwithstanding the foregoing, each Indemnified Party shall have the right to employ counsel in any such action at their own expense; and provided further that such Indemnified Party shall have the right to employ counsel in any such action and the fees and expenses of such counsel shall be at the expense of the Owner, if: (i) the employment of counsel by such Indemnified Party has been authorized by the Owner, (ii) there reasonably appears that there is a conflict of interest between the Owner and the Indemnified Party in the conduct of the defense of such action (in which case the Owner shall not have the right to direct the defense of such action on behalf of the Indemnified Party) or (iii) the Owner shall not in fact have employed counsel to assume the defense of such action. The Owner shall also indemnify the Indemnified Parties from and against all costs and expenses, including reasonable attorneys' fees, lawfully incurred in enforcing any obligations of the Owner under this Agreement. The obligations of the Owner under this Section shall survive the termination of this Agreement and shall be in addition to any other rights, including without limitation, rights to indemnity which any Indemnified Party may have at law, in equity, by contract or otherwise.

None of the Investor, the City, or the ESID shall have any liability to the Owner or any other Person on account of (i) the Owner engaging a contractor from the list of contractors submitted by the ESID or the Investor to the Owner, (ii) the services performed by the contractor, or (iii) any neglect or failure on the part of the contractor to perform or properly perform its services. None of the Investor, the City, or the ESID assumes any obligation to the Owner or any other Person concerning contractors, the quality of construction of the Project or the absence of defects from the construction of the Project. The making of a Project Advance by the Investor shall not constitute the Investor's approval or acceptance of the construction theretofore completed. The Investor's inspection and approval of the budget, the construction work, the improvements, or the workmanship and materials used in the improvements, shall impose no liability of any kind on the Investor, the sole obligation of the Investor as the result of such inspection and approval being to make the Project Advances if, and to the extent, required by this Agreement. Any disbursement made by the Investor without the Investor having received each of the items to which it is entitled under this Agreement shall not constitute breach or modification of this Agreement, nor shall any written amendment to this Agreement be required as a result.

Section 6.5. Notices. All notices, certificates, requests or other communications under this Agreement shall be in writing and shall be deemed to be sufficiently given when mailed by

registered or certified mail, postage prepaid, and addressed to the appropriate Notice Address. The Parties, by notice given under this Agreement to the others, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 6.6. Extent of Covenants; No Personal Liability. All covenants, obligations, and agreements of the ESID and the City contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No covenant, obligation, or agreement shall be deemed to be a covenant, obligation, or agreement of any present or future member, officer, agent, or employee of the ESID, the Board, the Owner, the City, the City Council, or the Investor in other than his or her official capacity; and none of the members of the Board or the City Council, nor any official of the ESID, the Owner, the City, or the Investor executing this Agreement shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the covenants, obligations, or agreements of the ESID, the Owner, the City, or the Investor contained in this Agreement.

Section 6.7. Binding Effect; Assignment; Estoppel Certificates. This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Parties. Except as specifically provided below, this Agreement shall not be assigned by the any of the Parties except as may be necessary to enforce or secure payment of the Special Assessments.

Notwithstanding anything in this Agreement to the contrary, the Owner freely may sell the Property and the Project or any portion of the Property and the Project from time to time and may assign this Agreement to an arms-length, good faith purchaser of the Property but only after notice of such assignment is given to the Investor, and only upon (i) the execution and delivery to the City, the Investor, and the ESID of an "Assignment and Assumption of Energy Project Cooperative Agreement" in the form attached to, and incorporated into, this Agreement as **Exhibit E**; (ii) the execution and delivery to the Investor of an assignment of all construction contracts for the Project, and (iii) the payment by Owner of all legal fees and expenses of PACE Counsel associated with legal services performed to facilitate such assignment upon receipt of an invoice from PACE Counsel. The Parties acknowledge and agree that the Assignment and Assumption of Energy Project Cooperative Agreement includes the assignment and assumption of the Special Assessment Agreement and the Owner Consent. Following any assignment by the Owner as described above, all obligations of the Owner contained in this Agreement, the Special Assessment Agreement, and the Owner Consent shall be obligations of the assignee, and the assigning Owner shall be released of its obligations to a corresponding extent.

Notwithstanding anything in this Agreement to the contrary, the Investor shall have the unrestricted right at any time or from time to time, and without the Owner's consent, to assign all or any portion of its rights and obligations under this Agreement, and may sell or assign any and all liens received directly or indirectly from the City to any Person (each, an "Investor Assignee"), and the Owner agrees that it shall execute, or cause to be executed, such documents, including without limitation, amendments to this Agreement and to any other documents, instruments and agreements executed in connection with this Agreement as the Investor shall deem necessary to effect the foregoing so long as such amendment does not materially adversely impact the Owner's rights and obligations under this Agreement. Any Investor Assignee shall be a party to this Agreement and shall have all of the rights and obligations of the Investor under this Agreement (and under any and all other guaranties, documents, instruments and agreements executed in

connection with this Agreement) to the extent that such rights and obligations have been assigned by the Investor pursuant to the assignment documentation between the Investor and such Investor Assignee, and the Investor shall be released from its obligations under this Agreement and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement to a corresponding extent. If, at any time, the Investor assigns any of the rights and obligations of the Investor under this Agreement (and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement) to an Investor Assignee, the Investor shall (i) give prompt notice of such assignment to the other Parties and (ii) pay all legal fees and expenses of PACE Counsel associated with legal services performed to facilitate such assignment upon receipt of an invoice from PACE Counsel.

In addition, the Investor shall have the unrestricted right at any time and from time to time, and without the consent of or notice of the Owner, to grant to one or more Persons (each, a "Participant") participating interests in Investor's obligation to make Project Advances under this Agreement or to any or all of the loans held by Investor under this Agreement. In the event of any such grant by the Investor of a participating interest to a Participant, whether or not upon notice to the Owner, the Investor shall remain responsible for the performance of its obligations under this Agreement, and the Owner shall continue to deal solely and directly with the Investor in connection with the Investor's rights and obligations under this Agreement. The Owner agrees that the Investor may furnish any information concerning the Owner in its possession from time to time to prospective Investor Assignees and Participants.

This Agreement may be enforced only by the Parties, their permitted assignees, and others, who may, by law, stand in their respective places.

Any Party shall at any time and from time to time, upon not less than 30 days' prior written notice by the other party, execute, acknowledge and deliver to such party a statement in writing certifying that: (i) this Agreement is unmodified and in full force and effect (or, if there has been any modification of this Agreement, that the same is in full force and effect as modified and stating the modification or modifications); (ii) to the best of such Party's actual knowledge (without any duty of inquiry) there are no continuing Events of Default (or, if there is a continuing Event of Default, stating the nature and extent of such Event of Default); (iii) that, to the best of such Party's actual knowledge (without any duty of inquiry) there are no outstanding damages or liability arising from an Event of Default (or, if there is any outstanding damages or liability, stating the nature and extent of such damages or liability); (iv) if such certificate is being delivered by the Owner, the dates to which the Special Assessments have been paid; and (v) if such certificate is being delivered by the Investor, the dates to which the Special Assessments have been paid to the Investor. It is expressly understood and agreed that any such certificate delivered pursuant to this Section 6.7 may be relied upon by any prospective assignee of the Owner or any prospective Investor Assignee.

Section 6.8. Amendments and Supplements. Except as otherwise expressly provided in this Agreement, this Agreement may not be amended, changed, modified, altered or terminated except by unanimous written agreement signed by each of the Parties materially affected by such proposed amendment, change, modification, alteration, or termination. For purposes of this Section, a materially affected Party is a Party with respect to which a material right or obligation under this Agreement is proposed to be amended, changed, modified, altered, or terminated. Any

attempt to amend, change, modify, alter, or terminate this Agreement except by unanimous written agreement signed by all of the materially affected Parties or as otherwise provided in this Agreement shall be void.

Section 6.9. Execution Counterparts. This Agreement may be executed and delivered in original, via facsimile or email with PDF attachment, or other commercially acceptable electronic form, in any number of counterparts, each of which shall be deemed an original, and all of which shall together constitute but one and the same instrument, which instrument shall for all purposes be sufficiently evidenced by any such counterpart. Each Party agrees, and acknowledges that it is such Party's intent, that if such Party signs this agreement using an electronic signature, it is signing, adopting, and accepting this agreement and that signing this agreement using an electronic signature is the legal equivalent of having placed its handwritten signature on this agreement on paper.

Section 6.10. Severability. If any provision of this Agreement, or any covenant, obligation, or agreement contained in this Agreement is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation, or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained in this Agreement. That invalidity or unenforceability shall not affect any valid and enforceable application of the provision, covenant, obligation, or agreement, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

Section 6.11. Governing Law. This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

[BALANCE OF PAGE INTENTIONALLY BLANK; SIGNATURES ON NEXT PAGE.]

IN WITNESS WHEREOF, the Parties have each caused this Agreement to be duly executed in their respective names, all as of the Closing Date.

ATHENS REGIONAL ENERGY SPECIAL
IMPROVEMENT DISTRICT, as the ESID

By: _____

Name: _____

Title: _____

LOSTRO VENTURES, LLC,
an Ohio limited liability company, as the
Owner

By: _____

Name: _____

Title: _____

[____], as the Investor

By: _____

Name: _____

Title: _____

CITY OF ATHENS, OHIO, as the City

Approved as to form and correctness:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

CITY FISCAL OFFICER CERTIFICATE

The undersigned, fiscal officer of the City of Athens, Ohio, hereby certifies that the City has established or will establish a special assessment fund, into which the Special Assessments (as that term is defined in the foregoing Agreement) received by the City shall be deposited, free from any encumbrances. The Special Assessments represent other revenues in process of collection to the credit of the appropriate fund. The City shall use the moneys deposited in such special assessment fund to meet its obligations under the foregoing Agreement. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

Fiscal Officer
City of Athens, Ohio

Dated: _____, 2024

EXHIBIT A

DEFINITIONS

As used in this Agreement, the following words have the following meanings:

“*Agreement*” means this Energy Project Cooperative Agreement, dated as of [____], 2024, by and among the ESID, the Owner, the Investor, and the City, as the same may be amended, modified, or supplemented from time to time in accordance with its terms.

“*Board*” means the Board of Directors of the ESID.

“*City*” means the City of Athens, Ohio.

“*City Council*” means the Council of the City of Athens, Ohio.

“*Closing Date*” means the date set forth in the preamble of this Agreement.

“*Completion Date*” means the latest date on which substantial completion of the Project, in accordance with the Plans occurs, which date shall be established by the Completion Certificates attached to the Disbursing Agreement as Exhibit D.

“*County*” means the County of Athens, Ohio.

“*County Auditor*” means the Auditor of the County.

“*County Prosecutor*” means the Prosecuting Attorney of the County.

“*County Treasurer*” means the Treasurer of the County.

“*Delinquency Amounts*” means any penalties or interest which may be due on or with respect to any installment of the Special Assessments and which are not paid or payable to any party (other than the Investor under this Agreement) under law.

“*Disbursement Request Form*” means the form attached to the Disbursing Agreement as Exhibit B, which form shall be submitted by the Owner in order to receive disbursements from the Project Account.

“*Disbursing Agreement*” means the Disbursing Agreement dated as of the Closing Date between the Owner and the Investor, as the same may be amended, modified, or supplemented from time to time in accordance with its terms.

“*ESID*” means the Athens Regional Energy Special Improvement District, Inc., a nonprofit corporation and energy special improvement district organized under the laws of the State.

“*ESID Fee*” means the semi-annual fee due to the ESID from the Investor upon receipt of each installment of the Special Assessments from the City in the amount provided as the “AED Administrator Fee” for each installment in **Exhibit B**.

“*Governmental Authority*” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“*Investor*” means [____], a limited liability company duly organized and validly existing under the laws of the State of [____], together with any Investor Assignee.

“*Lender*” means any Person which has loaned money to the Owner to pay or refinance the costs of acquiring, financing, refinancing, or improving the Property and which loan is secured by a mortgage interest in the Property, or any permitted successors or assigns of such Person, including, initially, and without limitation, the Senior Lender.

“*Lender Loan Documents*” means any loan agreement or loan agreements, mortgage or mortgages, and any other documents and instruments executed and delivered in connection with the a loan from a Lender, as they may be amended, modified, and supplemented from time to time under their terms.

“*Notice Address*” means:

- | | | |
|-----|---------------------|---|
| (a) | As to the City: | City of Athens, Ohio
[]
[]
Attention: [____] |
| (b) | As to the ESID: | Athens Regional Energy Special
Improvement District, Inc.
[]
[]
Attention: [____] |
| | With a Copy To: | [] |
| (c) | As to the Owner: | Lostro Ventures, LLC
[]
[]
Attention: [____]
Email: [] |
| | With a Copy To: | [] |
| (d) | As to the Investor: | [____] |

[]
[]
Attention: []

“*Owner*” means Lostro Ventures, LLC, a limited liability company duly organized and validly existing under the laws of the State of [], and any permitted successors or assigns.

“*Owner Consent*” means the Owner Consent dated as of [____], 2024 by the Owner and recorded in the records of the Athens County Recorder with respect to the Property.

“*PACE Counsel*” means Bricker Graydon LLP, an Ohio limited liability partnership.

“*Parties*” means the ESID, the Owner, the Investor, and the City.

“*Person*” or words importing persons mean firms, associations, partnerships (including without limitation, general and limited partnerships), limited liability companies, joint ventures, societies, estates, trusts, corporations, public or governmental bodies, political subdivisions, other legal entities, and natural persons.

“*Plan*” means the Athens Regional Energy Special Improvement District Program Plan adopted by the City of Athens, and any and all future supplemental plans approved by the ESID and the City.

“*Project*” means the special energy improvement project described in the Petition with respect to the Property, for which Special Assessments are to be levied by the City, all in accordance with the Petition.

“*Project Account*” means the segregated account in the custody of the Investor for the benefit of the Owner which contains the Project Advance, and out of which disbursements may be made in accordance with Article IV of this Agreement.

“*Project Advance*” means the amount of immediately available funds to be transferred, set over, paid to, and held in the Project Account established pursuant to Section 4.1 of this Agreement for the benefit of the Owner.

“*Property*” means the fee simple and ground lessor interest in the real property subject to the Petition.

“*Reasonable Dispatch*” means on a schedule that is no more than four months behind the estimated completion date of the Project.

“*Repayment Schedule*” means the schedule attached to, and incorporated into, this Agreement as **Exhibit B**, which schedule establishes the dates and amounts for the repayment of the Project Advance by the Special Assessments paid by the Owner.

“Required Builder’s Risk Insurance Coverage” means at any time insurance coverage maintained with generally recognized, responsible insurance companies qualified to do business in the State in the minimum amount of the full replacement value of the Project and Project Site, insuring the Project against loss or damage during construction and containing loss deductible provisions not to exceed \$100,000, which insurance coverage shall name the Investor as lender loss payee.

“Required Business Interruption Insurance Coverage” means at all times after the Completion Date, business interruption and rent loss insurance maintained with generally recognized, responsible insurance companies qualified to do business in the State in a commercially reasonable minimum amount, which insurance coverage shall name the Investor as lender loss payee.

“Required Flood Insurance Coverage” means, as applicable, (i) if the Property or any part of the Property is identified by the United States Secretary of Housing and Urban Development as being situated in an area now or subsequently designated as having special flood hazards (including, without limitation, those areas designated as Zone A or Zone V), flood insurance in an amount equal to the lesser of: (a) the minimum amount required, under the terms of coverage, to compensate for any damage or loss on a replacement basis (or the unpaid balance of the Project Advances if replacement cost coverage is not available for the type of building insured); or (b) such lesser amount as may be required by the Investor, and containing a loss deductible with respect not in excess of \$10,000 per occurrence; and (ii) earthquake insurance in amounts and in form and substance satisfactory to the Investor in the event the Property is located in an area with a high degree of seismic activity, provided that the insurance pursuant to this section shall be on terms consistent with the Required Public Liability Insurance Coverage.

“Required Insurance Coverage” means, collectively, the Required Builder’s Risk Insurance Coverage, the Required Business Interruption Insurance Coverage, the Required Flood Insurance Coverage (if any), the Required Property Insurance Coverage and the Required Public Liability Insurance Coverage, each of which, in addition to the requirements described in their respective definitions, (i) must provide for 10 days’ notice to the Investor in the event of cancellation or nonrenewal and (ii) must name as an additional insured (mortgagee/loss payee) the Investor.

“Required Property Insurance Coverage” means at any time insurance coverage evidenced on Acord 27 and maintained with generally recognized, responsible insurance companies qualified to do business in the State in the amount of (i) the then full replacement value of the Project and Property, insuring the Project against loss or damage by fire, windstorm, tornado and hail and extended coverage risks on a comprehensive all risk/special form insurance policy and containing loss deductible provisions of not to exceed \$10,000, which insurance coverage shall name the Investor as loss payee/mortgagee.

“Required Public Liability Insurance Coverage” means at any time commercial general accident and public liability insurance coverage evidenced on Acord 25 and maintained with generally recognized, responsible insurance companies qualified to do business in the State with coverage limits in the maximum amount of \$2,000,000 per occurrence for death or bodily injury

and property damage liability combined, with loss deductible provisions of not to exceed \$10,000, which insurance coverage shall name the Investor as additional insureds.

“*Senior Lender*” means [____], a[n] [____].

“*Senior Loan*” means the loan from Senior Lender to the Owner in the maximum aggregate principal amount of \$[____].

“*Senior Loan Agreement*” means that certain Construction Loan Agreement between the Senior Lender, the Owner, [____], and [____] dated as of [____].

“*Senior Loan Documents*” means the Senior Loan Agreement, the Senior Mortgage, the Senior Note, and all other documents related to the Senior Loan.

“*Senior Mortgage*” means that certain [____] given by the Owner, dated as of [____] and filed in the Athens County Recorder’s office.

“*Senior Note*” means that certain [____] in the amount of the Senior Loan given pursuant to the Senior Mortgage by the Owner to the Senior Lender.

“*Special Assessment Act*” means, collectively, Ohio Revised Code Section 727.01 *et seq.*, Ohio Revised Code Section 1710.01 *et seq.*, Ohio Revised Code Section 323.01 *et seq.*, Ohio Revised Code Section 319.01 *et seq.*, Ohio Revised Code Section 5721.01 *et seq.*, and related laws, Resolution No. [____] approving the Petition and Plan and declaring the necessity of the Project, Ordinance No. [____], determining to proceed with the Project, and Ordinance No. [____] levying the Special Assessments, all adopted on [____], 2024 and all with respect to levying special assessments on real property within the ESID.

“*Special Assessments*” means the special assessments levied pursuant to the Special Assessment Act by the City with respect to the Project, a schedule of which is attached to, and incorporated into, the Petition.

“*State*” means the State of Ohio.

“*Transaction Documents*” means this Agreement, the Special Assessment Agreement, the Petition, the Owner Consent, or any other document executed in connection therewith or required thereby.

EXHIBIT B

REPAYMENT SCHEDULE

[To Be Added]

B-1

EXHIBIT C

CLOSING COSTS DETAIL

Pursuant to Section 4.2 of the foregoing Energy Project Cooperative Agreement, the Investor, on the Closing Date, shall disburse to the ESID or to the respective payee set forth below, the following closing costs:

Closing Cost	Amount

EXHIBIT D
CONSENT OF MORTGAGEE

[See Attached]

EXHIBIT E

**FORM OF ASSIGNMENT AND ASSUMPTION OF ENERGY PROJECT
COOPERATIVE AGREEMENT**

ASSIGNMENT AND ASSUMPTION
OF
ENERGY PROJECT COOPERATIVE AGREEMENT

_____ (“Assignor”), in consideration of the sum of \$ _____ in hand paid and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by Assignor’s execution of this Assignment and Assumption of Energy Project Cooperative Agreement (“Assignment”), assigns, transfers, sets over, and conveys to _____ (“Assignee”) all of Assignor’s right, title, and interest in and to that certain Energy Project Cooperative Agreement dated as of [____], 2024 between Athens Regional Energy Special Improvement District, Inc. (the “ESID”), Assignor, [____], and the City of Athens, Ohio (the “Energy Project Cooperative Agreement”).

By executing this Assignment, Assignee accepts the assignment of, and assumes all of Assignor’s duties and obligations under, the Energy Project Cooperative Agreement. Assignee further represents and warrants that it has taken title to the “Property,” as that term is defined in the Energy Project Cooperative Agreement subject to the Special Assessment Agreement dated as of even date with the Energy Project Cooperative Agreement between the Athens County Treasurer, City of Athens, Ohio, the ESID, Lostro Ventures, LLC, and [____] (the “Special Assessment Agreement”) and to the “Owner Consent” dated as of [____], 2024 by Lostro Ventures, LLC and recorded in the records of the Athens County Auditor with respect to the Property. By executing this Assignment, Assignee accepts the assignment of, and assumes all of Assignor’s duties and obligations under the Special Assessment Agreement and the Owner Consent.

Assignor and Assignee acknowledge and agree that executed copies of this Assignment shall be delivered to the City, the Investor, and the ESID, as each of those terms are defined in the Energy Project Cooperative Agreement, all in accordance with Sections 3.4(a) and 6.7 of the Energy Project Cooperative Agreement

In witness of their intent to be bound by this Assignment, each of Assignor and Assignee have executed this Assignment this _____ day of _____, _____, which Assignment is effective this date. This Assignment may be executed in any number of counterparts, which when taken together shall be deemed one agreement.

[Signature Pages Follow]

ASSIGNOR:

[_____]

By: _____

Name: _____

Title: _____

ASSIGNEE:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT F

INVESTOR ACCOUNT AND PAYMENT INFORMATION

[To Be Provided Separately in the Following Format]

Bank Name: [BANK NAME]
[BANK ADDRESS]

ABA: [NUMBER]
Beneficiary Name
[Address]
[Address]
Beneficiary Account: [NUMBER]

Reference: [NUMBER]

Contact: [Information]

If sending by check, please make checks payable to: [NAME/REFERENCE] and mail to:

[BANK NAME]
[ADDRESS]
[ADDRESS]
Attention: [NAME]

SPECIAL ASSESSMENT AGREEMENT
(*ORC Sections 5721.33 and 9.482*)

by and among

COUNTY TREASURER OF ATHENS COUNTY, OHIO
("Treasurer"),

And

CITY OF ATHENS, OHIO
("City"),

And

ATHENS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.;
("District"),

And

LOSTRO VENTURES, LLC
("Owner"),

And

[____], LLC
("Investor")

Dated as of [____] [____], 2024

SPECIAL ASSESSMENT AGREEMENT

THIS SPECIAL ASSESSMENT AGREEMENT (this “Agreement”) is made effective as of [] [], 2024, by and among the County Treasurer of Athens County, Ohio (the “Treasurer”), the City of Athens, Ohio (the “City”), the Athens Regional Energy Special Improvement District, Inc. (“District”), Lostro Ventures, LLC (the “Owner”), and [] (together with its permitted successors and assigns, the “Investor”) (the Treasurer, the District, the City, the Owner, and the Investor are collectively referred to herein as the “Parties”).

BACKGROUND:

WHEREAS, the District was created under Ohio Revised Code Chapters 1702 and 1710 and established pursuant to Resolution [] of the City Council of the City of Athens, Ohio (the “City Council”) approved on [] [], 2024; and

WHEREAS, the District is an energy special improvement district and nonprofit corporation duly organized and validly existing under the laws of the State of Ohio to further the public purpose of implementing special energy improvement projects pursuant to the authority in Ohio Revised Code Chapter 1710 and Article VIII, Section 20 of the Ohio Constitution; and

WHEREAS, on [] [], 2024, by its Resolution No. [], the City Council of the City approved the Athens Regional Energy Special Improvement District Project Plan (the “Program Plan”), as a plan for public improvements or public services for the District under Ohio Revised Code Section 1710.02(F); and

WHEREAS, the Owner has determined that it is in its best interests to cause the acquisition, installation, equipping, and improvement of special energy efficiency improvements, including, without limitation, HVAC (heating and cooling systems), domestic hot water systems, retrofitting of interior and exterior lighting, replacement of roofing insulation, replacement of exterior windows, exterior door insulation, an elevator retrofit, and a generator replacement, and related improvements. (collectively, the “Project”) on certain real property located within Athens County, Ohio (the “County”) and the City, and as more fully described in **Exhibit A** to this Agreement (the “Assessed Lands”); and

WHEREAS, the costs of the Project are being funded in part through an advance in the amount of \$[] (the “Project Advance”) to the Owner pursuant to an Energy Project Cooperative Agreement dated as of [] [], 2024 (the “Energy Project Cooperative Agreement”) between the District, the Investor, the Owner, and the City; and

WHEREAS, to secure the repayment of the principal of, and the payment of any premium, fees, and unpaid interest on, the Project Advance used to finance the Project (the “Project Costs”), (i) the Owner signed and delivered to the Clerk of the City Council a *Petition for Creation of Energy Special Improvement District and for Special Assessments for Special Energy Improvement Projects and Affidavit* (the “Petition”) for the acquisition, installation, equipping, and improvement of the Project and evidencing Owner’s agreement to the levy and collection of

special assessments by the City (the “Special Assessments”) on the Assessed Lands, which are located within the District, in amounts sufficient to pay the Project Costs, and (ii) the City (a) has taken all the necessary actions required by Ohio Revised Code Chapter 727, including, without limitation, the passage of the assessing resolution or ordinance pursuant to the requirements of Ohio Revised Code Section 727.25, for the levying of the Special Assessments and has caused or will cause the Special Assessments to be certified to the County Auditor of Athens County, Ohio (the “County Auditor”) for collection by the Treasurer in semi-annual installments, and (b) hereby has agreed to transfer to the Investor the payments of Special Assessments received to pay the Project Costs.

WHEREAS, the Owner agrees that its delivery of the Petition and the requests and agreements made in the Petition are irrevocable and that the Parties have acted and will act in reliance on the agreements contained in the Petition; and

WHEREAS, pursuant to the Petition, the Special Assessments have been levied against the Assessed Lands as described in the Petition and pursuant to this Agreement the Owner is willing to agree to make Special Assessment payments in accordance with the Petition; and

WHEREAS, Ohio Revised Code Chapters 323 and 5721 set forth certain parameters and timing requirements for the foreclosure of property on which taxes and assessments, including the Special Assessments, are due and owing and remain unpaid; and

WHEREAS, upon the occurrence of an Event of Default pursuant to the Energy Project Cooperative Agreement, it may be necessary for the District to foreclose on the lien of the Special Assessments with respect to the Assessed Lands as set forth in Section 2 of this Agreement; and

WHEREAS, in consideration of the Project Advance, the Owner is willing to consent to an expedited foreclosure process with respect to the lien of the Special Assessments, the form of the consent being attached hereto as Exhibit B (the “Owner Consent”) and the Owner Consent with respect to the foreclosure of the Special Assessments as soon as possible (as referenced in Section 2 hereof) shall be a covenant running with Assessed Lands and binding upon the Owner and upon future owners of the Assessed Lands until the Project Costs are paid in full; and

WHEREAS, based on the Owner Consent and other considerations, including, without limitation, the right to be indemnified pursuant to this Agreement, at the request of the District and, upon the occurrence of an Event of Default described under Section 7.1 of the Energy Project Cooperative Agreement, the Treasurer has agreed to foreclose the lien of the Special Assessments as soon as possible as described herein upon an occurrence of an Event of Default under the Energy Project Cooperative Agreement; and

WHEREAS, if any assessments, including, without limitation, the Special Assessments, payments in lieu of taxes, real property taxes, or other governmental charges levied on the Assessed Lands are not paid when due and thereafter remain delinquent, the Treasurer, pursuant to Ohio Revised Code Sections 5721.30 through 5721.41 (the “Delinquent Tax Lien Sale Act”), specifically Ohio Revised Code Section 5721.33, may, in their discretion, but is not required to,

negotiate with one or more persons the sale of any number of tax certificates (“Tax Certificates”) which evidence the liens (the “Tax Liens”) of the State of Ohio (the “State”) and its applicable taxing districts for such delinquent assessments, including Special Assessments, real property taxes, payments in lieu of taxes, governmental charges, or penalties and interest on such Assessed Lands; and

WHEREAS, pursuant to the Delinquent Tax Lien Sale Act, the Treasurer, in their discretion, may sell such Tax Certificates at a discount from the full amount of the general real estate taxes, assessments, including the Special Assessments, penalties, and interest that have become delinquent; and

WHEREAS, if the Treasurer were to sell such Tax Certificates at a discount (other than in accordance with the provisions of this Agreement), the proceeds of such sale representing the delinquent Special Assessments might be insufficient to pay the Project Costs; and

WHEREAS, the Treasurer does not desire to take any action with respect to the collection of the Special Assessments that might adversely affect the repayment of the Project Advance without the consent of the District or adversely affect the payment of the Project Costs without the consent of the District; and

WHEREAS, the Treasurer has agreed to remit to the District, in the event of a default under the Energy Project Cooperative Agreement, as set forth in this Agreement, amounts collected by the Treasurer and relating to the Special Assessments, including without limitation amounts collected by the Treasurer as a result of foreclosure of the lien of the Special Assessments on the Assessed Lands and including amounts received from a sale of Tax Certificates pursuant to the Delinquent Tax Lien Sale Act;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, and desiring to be legally bound hereunder, the Parties hereto covenant and agree as follows:

Section 1. Special Assessments.

1.1 The Owner, prior to the execution and delivery of this Agreement, signed and delivered to the Clerk of the City Council the Petition for the acquisition, installation, equipping, and improvement of the Project and evidencing the agreement of the Owner to the levy of the Special Assessments as security for the Project Advance. The Owner agrees that its delivery of the Petition and the requests and agreements made therein are irrevocable and that the Parties hereto have acted and will act in reliance on the agreements contained in that Petition. The City shall take all necessary actions required by Ohio Revised Code Chapter 727 to levy and collect the Special Assessments on the Assessed Lands. On [_____] [____], 2024 the City passed Ordinance No. [_____] pursuant to the requirements of Ohio Revised Code Section 727.25 for the levying of the Special Assessments (the “Assessing Ordinance”). The Clerk of the City Council

certified (or caused to be certified) the Assessing Ordinance to the County Auditor as set forth in the Petition.

1.2 The City shall cause the Special Assessments, as set forth in the Assessment Schedule attached to the Petition, to be certified to the County Auditor on or before the last date for the certification of special assessments to the County Auditor of each year during which the Special Assessments are to be levied pursuant to the Assessment Schedule. The Parties acknowledge that pursuant to such certification, the Special Assessments are expected to be collected and paid to the City pursuant to Ohio Revised Code Chapters 319, 321, 323, and 727.

1.3 In the event the Project Advance is prepaid or redeemed in accordance with the Energy Project Cooperative Agreement, in whole or in part, the Parties shall, in cooperation with the Owner, and to the extent permitted by law, cause the aggregate lien of the Special Assessments to be no greater than the remaining principal of and interest and premium, if any, on the Project Advance through maturity.

1.4 To the extent that the Owner prepays any of the required payments to the Investor pursuant to the Energy Project Cooperative Agreement, then the amounts of the Special Assessments shall be reduced in accordance with the appropriate Assessment Schedule attached to the Petition.

1.5 To facilitate the repayment of the Project Advance, the City, pursuant to Section 2.4 of the Energy Project Cooperative Agreement, assigned to the Investor all of its right, title, and interest in and to the Special Assessments, the funds of the City established to collect and hold the Special Assessments, and any other property received or to be received from the City under the Energy Project Cooperative Agreement. The Treasurer, the City, the District, the Owner, and the Investor each hereby acknowledges, agrees with, and consents to those assignments.

1.6 Pursuant to Section 2.5 of the Energy Project Cooperative Agreement, the District assigned to the Investor any and all of its right, title, and interest it may have in and to the Special Assessments related to the District actually received by or on behalf of the City under the Energy Project Cooperative Agreement. The Treasurer, the City, the District, the Owner, and the Investor each hereby acknowledges, agrees with, and consents to those assignments.

1.7 Notwithstanding anything in this Agreement to the contrary, the Treasurer's obligations under this Agreement are not and shall not be secured by an obligation or pledge of any moneys raised by taxation. The Treasurer's obligations shall be limited to the moneys levied, collected, and received in respect of the Special Assessments and any County-imposed collection fees, charges, or penalties. The Treasurer's obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the faith and credit or taxing power of the County.

1.8 Notwithstanding anything in this Agreement to the contrary, the City's obligations under this Agreement are not and shall not be secured by an obligation or pledge of any moneys raised by taxation. The City's obligation under this Agreement shall be limited to any moneys received from the County in respect of the Special Assessments and any County-imposed

collection fees, charges, or penalties. The City's obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the faith and credit or taxing power of the City.

Section 2. Foreclosure Process.

2.1 The Treasurer, the City, the Investor, and the Owner each acknowledge that the Special Assessments are to secure payments relating to the Project Advance, including the Project Costs and other amounts as provided under the Energy Project Cooperative Agreement. The Treasurer agrees that so long as the Project Advance is outstanding and the Project Costs and other amounts under the Energy Project Cooperative Agreement are secured, at least in part, by the revenues derived from the Special Assessments, the Treasurer will, upon receipt of written notice from the Investor or the District (with a copy to the other of the Investor or the District, and to the Owner and the City) that an Event of Default (solely as described under Section 7.1(b) of the Energy Project Cooperative Agreement) has occurred and is continuing and which notice requests the Treasurer to foreclose on the lien of the Special Assessments, file and diligently prosecute a foreclosure action against the Assessed Lands following the procedures for lien foreclosures established in Ohio Revised Code Section 323.25 and related sections, but not earlier than the sixtieth day following receipt by the Treasurer of the delinquent land list certifying that the Special Assessments are delinquent. The foreclosure action shall be to collect all Special Assessments then due and owing on the Assessed Lands in accordance with the Petition. Without the prior written consent of the District and the Investor, the Treasurer will not confirm the sale of the Assessed Lands for an amount less than 100% of the amount of the Special Assessments and other general real estate taxes, payments in lieu of taxes, and assessments then due and owing with respect to the Assessed Lands, as shall be certified by the District to the Treasurer pursuant to the records of the Treasurer, except and unless the Assessed Lands become forfeited land subject to Ohio Revised Code Chapter 5723. All fees and expenses of the Treasurer in collecting the Special Assessments are to be included and paid for by the Owner. All fees and expenses of the Treasurer in collecting the Special Assessments, including other general real estate taxes, payments in lieu of taxes, and assessments then due and owing are to be included and paid for by the Owner prior to any such amounts being paid to the City and to other affected taxing jurisdictions and special districts. The City, Investor, and Owner understand and agree that the failure of the Treasurer to obtain any consent under Section 2.1 shall not create a cause for action against the Treasurer, the Athens County Board of County Councilors, or Athens County, nor shall it subject the Treasurer, the Athens County Board of County Councilors, or Athens County to liability for any difference between the foreclosure price and the amount of the delinquent Special Assessments. Further, nothing in this Agreement shall be construed to limit any immunity to which the Treasurer may be entitled pursuant to Chapter 2744 of the Ohio Revised Code.

2.2 The Treasurer hereby acknowledges that the City has assigned all of its right, title, and interest in and to the Special Assessments to the Investor, and that the District has assigned all of its right, title, and interest it may have in and to the Special Assessments to the Investor, and the Treasurer hereby agrees that so long as the Project Advance is outstanding and the Project Costs and other amounts under the Energy Project Cooperative Agreement are secured, at least in part, by the revenues derived from the Special Assessments, the Treasurer will not sell

or negotiate the sale of one or more Tax Certificates related to the Assessed Lands for an amount less than 100% of the amount levied and certified for collection without the prior written consent of the District and the Investor.

2.3 The Treasurer hereby covenants and agrees that if any of the general real estate taxes, payments in lieu of taxes, assessments, including the Special Assessments, governmental charges, or penalties and interest on the Assessed Lands are delinquent and the Delinquent Tax Lien Sale Act would permit the Treasurer to negotiate the sale of Tax Certificates with respect thereto, the Treasurer will, prior to giving any notice under the Delinquent Tax Lien Sale Act of a sale of Tax Certificates with respect to the Assessed Lands, give written notice to the District and the Investor regarding the same and state therein whether the Treasurer reasonably anticipates receiving no less than 100% of the general real estate taxes, payments in lieu of taxes, and assessments, including the Special Assessments, penalties and interest, originally levied and certified for collection plus other charges, including attorney's fees, or whether the Treasurer reasonably expects to receive less than 100% of the general real estate taxes, payments in lieu of taxes, and assessments, including the Special Assessments, penalties and interest, levied and certified for collection plus other charges, including attorney's fees, and in accordance with this Agreement is requesting the consent of the District and the Investor for such a sale.

2.4 The Treasurer agrees, on behalf of the County, not to utilize the authority contained in Ohio Revised Code Chapter 5722 to transfer any of the Assessed Lands to the county land reutilization corporation, to sell or convey any of the Assessed Lands to any political subdivision under the authority contained in Ohio Revised Code Chapter 5722, or to clear the liens and encumbrances applicable to the Assessed Lands under the authority contained in Ohio Revised Code Chapter 5722 without the express written consent of the District and the Investor.

2.5 Nothing in this Agreement shall, or shall be construed to, prevent the Treasurer from selling one or more Tax Certificates with respect to the Assessed Lands to a third party without the consent of the District if the price received for the Tax Certificate or Tax Certificates equals or exceeds 100% of the delinquent general real estate taxes, assessments, including the Special Assessments, penalties and interest on the Assessed Lands outstanding against the Assessed Lands at the time of such sale.

2.6 The District and the Investor each hereby agrees that upon written notice from the Treasurer pursuant to Section 2.1 of this Agreement, it, within thirty (30) days of receipt of the Treasurer's notice, shall give a written response to the Treasurer indicating therein whether it consents to the request for sale of a Tax Certificate or Tax Certificates.

2.7 Delay or failure of the District or the Investor to give a written response within thirty (30) days of receipt of such notice shall be construed to be a consent to such request or to be a waiver of the right to give such consent. No consent or refusal thereof by the District or the Investor in response to a request by the Treasurer shall extend to or affect any subsequent request of the Treasurer or shall impair the rights of the District or the Investor with respect to any such subsequent request.

2.8 So long as the Project Costs are outstanding, the Treasurer hereby covenants and agrees (a) to remit to the Investor, as appropriate and as provided for herein, not more than thirty (30) days from the date of collection by the Treasurer, any amounts collected with respect to the Assessed Lands as payment for delinquent Special Assessments, including any amounts collected from Tax Certificates; and (b) to the extent the Treasurer seeks and is appointed as receiver for the Assessed Lands, as provided for in Chapter 323 of the Revised Code, after payment of reasonable fees and expenses of the Treasurer, all amounts collected by the Treasurer, as receiver for the Assessed Lands and collected as a result of any delinquent Special Assessments, shall be remitted to the Investor.

Section 3. Indemnification by Owner

3.1 The Owner hereby releases the District, the City, the Treasurer, the Investor, and their respective officers, directors, and employees (the “Indemnified Parties”), from, agrees that the Indemnified Parties shall not be liable for, and indemnifies the Indemnified Parties against, all liabilities, claims, costs, and expenses, including out-of-pocket and incidental expenses and legal fees, imposed upon, incurred, or asserted against Indemnified Parties, on account of: (i) any loss or damage to property or injury to or death of or loss by any person that may be occasioned by any cause whatsoever pertaining to the acquisition, installation, equipping, improvement, maintenance, operation, and use of the Owner’s Project; (ii) any breach or default on the part of the Owner in the performance of any covenant, obligation, or agreement of the Owner under the Energy Project Cooperative Agreement, or arising from any act or failure to act by the Owner, or any of the Owner’s agents, contractors, servants, employees, or licensees; (iii) the Owner’s failure to comply with any requirement of this Agreement; (iv) the efforts of the City and the Treasurer to collect Special Assessments; (v) any legal costs or out-of-pocket costs incurred by the District specifically related to additional approvals or actions that may be required by the District arising after the date of the Energy Project Cooperative Agreement (and in the case of such legal costs or out-of-pocket costs, agrees to pay such costs directly to the District); and (vi) any claim, action or proceeding brought with respect to any matter set forth in clause (i), (ii), (iii), (iv), or (v) above, provided, however that the Owner shall not indemnify the Indemnified Parties as provided above to the extent that any liability, claim, cost, or expenses arises out of or results from the gross negligence, willful misconduct, or breach of this Agreement or the Energy Project Cooperative Agreement of the Indemnified Parties.

3.2 The Owner agrees to indemnify, to pay, and to hold each of the Indemnified Parties harmless from and against all liabilities, and all reasonable costs and expenses, including out-of-pocket expenses and attorneys’ fees, arising out of any federal, state, or local environmental laws, regulations, resolutions or ordinances, incurred by any of the Indemnified Parties as a result of the existence on or release from the Owner’s Project Site of Hazardous Materials, which in any way result from any act of omission or Council of the Owner or any of its agents, employees, independent contractors, invitees, licensees, successors, assignees, or tenants.

Section 4. Additional Agreements and Covenants.

4.1 The agreements of the Parties hereafter with respect to the foreclosure process shall be a covenant running with the Assessed Lands and, so long as Project Costs are payable from or secured, at least in part, by the revenues derived from the Special Assessments, such covenant shall be binding upon the Assessed Lands (except as released as provided in the Owner Consent), the Owner and any future owner of all or any portion of the Assessed Lands. The Owner Consent, and all other required documents and agreements, shall be recorded with the Athens County, Ohio Recorder's Office, so that the agreements of the Parties hereafter with respect to the foreclosure process established pursuant to this Agreement is a covenant running with and is enforceable against the Assessed Lands.

4.2 The Investor and the District hereby agree that any future legal cause of action to enforce this Agreement against the Treasurer shall be solely limited to specific performance of this Agreement as the sole remedy, and the Investor and the District agree to provide the Treasurer with sixty (60) days advanced written notice delivered by certified mail prior to bringing an action for specific performance.

4.3 If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

4.4 This Agreement shall inure to the benefit of each of the Parties, and each of their successors and assigns, all subject to the provisions of this Agreement. This Agreement may be amended only by a written instrument of the Parties, and any attempt to amend or modify this Agreement without a written instrument signed by all of the Parties to this Agreement shall be null and void. Notices given hereunder shall be in writing and shall be effective when actually received if delivered by hand or overnight courier, or three days after being sent by registered or certified mail, postage prepaid, the certification receipt therefore being deemed the date of such notice, and addressed to the Parties as follows:

If to City: City of Athens, Ohio

Attention:

If to Treasurer: County Treasurer
Athens County, Ohio

If to the District: Athens Regional Energy Special Improvement District

If to the Owner: Lostro Ventures, LLC

If to the Investor: ☐

4.5 (a) The Investor shall have the unrestricted right at any time or from time to time, and without the Treasurer, the City, the District, or the Owner's consent, to assign all or any portion of its rights and obligations under this Agreement and may sell or assign any and all liens received directly or indirectly from the City to any person (each, an "Investor Assignee"), and the Owner agrees that it shall execute, or cause to be executed, such documents, including without limitation, amendments to this Agreement and to any other documents, instruments and agreements executed in connection with this Agreement as the Investor shall deem necessary to effect the foregoing. Any Investor Assignee shall be a party to this Agreement and shall have all of the rights and obligations of the Investor under this Agreement (and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement) to the extent that such rights and obligations have been assigned by the Investor pursuant to the assignment documentation between the Investor and such Assignee, and the Investor shall be released from its obligations under this Agreement and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement to a corresponding extent.

(b) The Investor shall have the unrestricted right at any time and from time to time, and without the consent of or notice of the Treasurer, the City, the District, or the Owner, to grant to one or more persons (each, a "Participant") participating interests in the Investor's obligation to make Project Advances under the Energy Project Cooperative Agreement or any or all of the loans held by Investor under the Energy Project Cooperative Agreement. In the event of any such grant by the Investor of a participating interest to a Participant, whether or not upon notice to the Treasurer, the City, the District, and the Owner, the Investor shall remain responsible for the performance of its obligations under the Energy Project Cooperative Agreement and the Owner shall continue to deal solely and directly with the Investor in connection with the Investor's rights and obligations under the Energy Project Cooperative Agreement.

(c) The Investor may furnish any information concerning the Owner in its possession from time to time to prospective Investor Assignees and Participants.

4.6 This Agreement shall be construed in accordance with the laws of the State of Ohio.

4.7 This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Signature Pages Immediately Follow]

IN WITNESS WHEREOF, each party to this Agreement has caused this Agreement to be executed in its respective name and capacity by its respective duly authorized officers, all as of the day and the year first written above.

“TREASURER”
COUNTY TREASURER OF ATHENS
COUNTY, OHIO

Treasurer
County of Athens, Ohio

Approved as to form and correctness:

“CITY”
CITY OF ATHENS, OHIO

City Attorney

By: _____

Name: _____

Title: _____

“DISTRICT”

ATHENS REGIONAL ENERGY SPECIAL
IMPROVEMENT DISTRICT, INC.

By: _____

Name: _____

Title: _____

“OWNER”
LOSTRO VENTURES, LLC

By: _____

Name: _____

Title: _____

“INVESTOR”

[]

By: _____

Name: _____

Title: _____

FISCAL OFFICER'S CERTIFICATE

The undersigned, Fiscal Officer of the City of Athens, Ohio, hereby certifies that the City will establish a special assessment fund, into which the Special Assessments (as that term is defined in the foregoing Agreement) received by the City shall be deposited, free from any previous encumbrances. The City shall use the moneys deposited in such special assessment fund to meet its obligations under the foregoing Agreement. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44

Dated: [_____] [____], 2024

Fiscal Officer
City of Athens, Ohio

EXHIBIT A

DESCRIPTION OF ASSESSED LANDS

The Assessed Lands subject to this Special Assessment Agreement and owned by Lostro Ventures, LLC is the portion of the real property described in the following legal description that, as of the date hereof, is assigned tax parcel identification number A027050001400 in the records of the Athens County, Ohio Auditor's Office, as such parcel may be further divided, combined, re-combined, re-numbered, or re-named from time to time, and is located at the commonly used mailing address 63 S. Court Street, Athens, Ohio.

For APN/Parcel ID(s): A027050001400

PARCEL 1:

Situated in the City of Athens, County of Athens, and State of Ohio, to-wit:

Beginning at the northeast corner of Inlot No. 59;

Thence west along the north line of said Inlot, 110 feet;

Thence South 66 feet and 7 inches to the north line of Susan Roach's premises;

Thence east along the north line of said Susan Roach's premises 110 feet to the east line of said Inlot No. 59;

Thence North 66 feet and 7 inches to the place of beginning.

PARCEL 2:

Situated in the City of Athens, County of Athens, State of Ohio, and more particularly described as follows:

Beginning on the North line of Inlot No. 59 in said City of Athens, at a point 110 feet West from the Northeast corner of the said Inlot No. 59;

Thence West 14 feet on the North line of said Inlot;

Thence, South 66 feet and seven inches, to the North line of that part of Inlot No. 59 owned by the heirs of Susan Roach;

Thence East 14 feet on the North line of the land owned by the heirs of Susan Roach;

Thence North 66 feet and 7 inches, to the place of beginning.

FOR INFORMATIONAL PURPOSES ONLY:

PPN: A027050001400

Also known as: 63 South Court Street, Athens, Ohio 45701

EXHIBIT B

OWNER CONSENT

(Affidavit of Facts Relating to Title Made Pursuant to O.R.C. §5301.252)

The undersigned, _____, having been duly cautioned and sworn, deposes and states as follows:

The undersigned is the _____ of Lostro Ventures, LLC, an Ohio limited liability company (the "Owner").

This Owner Consent, dated as of [_____] [____], 2024, is given by the Owner pursuant to the Special Assessment Agreement dated as of [_____] [____], 2024 (the "Agreement") by and among the County Treasurer of Athens County, Ohio (the "Treasurer"), the City of Athens, Ohio (the "City"), the Athens Regional Energy Special Improvement District (the "District"), Lostro Ventures, LLC (together with its permitted successors and assigns under the Agreement, the "Investor") and the Owner. Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

The Agreement provides for an expedited foreclosure process with respect to certain Special Assessments which have been levied on the Assessed Lands by the City in order to pay the costs of special energy improvement projects under Ohio Revised Code Chapter 1710. The Assessed Lands are described in Exhibit 1 to this Owner Consent, and the Special Assessments are disclosed on Exhibit 2 to this consent.

The Agreement further provides that if an event of default occurs and is continuing with respect to a required semi-annual payment of Special Assessments or an "Event of Default" (as that term is defined in the Energy Project Cooperative Agreement, as appropriate) under the Energy Project Cooperative Agreement occurs and is continuing, the Treasurer will pursue an expedited foreclosure of the lien of the Special Assessments, all as provided in the Agreement. In consideration of the Project Advance to finance the Project, the Owner hereby consents to the expedited foreclosure process with respect to the lien of the Special Assessments then due and owing with respect to the Assessed Lands, as provided in the Agreement.

The Owner is the owner of the Assessed Lands. The Owner covenants and agrees that so long as the Project Advance remains outstanding, except as the covenant may be released by the District, the City, and the Investor, as applicable, in writing, the expedited foreclosure process established pursuant to the Agreement shall be a covenant on and running with, and shall be binding upon, the Assessed Lands, the Owner and all future owners of the Assessed Lands. Any release, modification or waiver of the covenant running with the land by the District, the City, or the Investor, as applicable, shall be filed of record with the Athens County, Ohio Recorder's Office. The Owner agrees that this Owner Consent shall be recorded with the Athens County, Ohio Recorder's Office and the Owner covenants and agrees to record such documents and to take such reasonable steps as are necessary, so that the expedited foreclosure process with respect to

the lien of the Special Assessments is a covenant on and running with the Assessed Lands and is binding on the Owner and any and all future owners of all or any portion of the Assessed Lands.

The Special Assessments have been levied by the City and certified to the County Auditor for placement on the tax list and duplicate and collection with and in the same manner as real property taxes as special assessments binding against the Assessed Lands in each of the years disclosed in the schedule of Special Assessments attached to this Owner Consent as Exhibit 2. Unless earlier paid by the Owner or any successor in interest of the Owner to the Assessed Lands, the Special Assessments shall be levied, billed, due and payable, and collected in each of the years in each of the amounts disclosed on Exhibit 2.

Anything in this Owner Consent to the contrary notwithstanding, this Owner Consent shall in no way be construed as a waiver by the Owner of its statutory right of redemption, including the full applicable redemption period.

[Signature Page Immediately Follows]

Further affiant sayeth naught.

“OWNER”

LOSTRO VENTURES, LLC

By: _____

Name: _____

Title: _____

STATE OF _____)

)

SS:

COUNTY OF _____)

Sworn to or affirmed and subscribed before me by _____ this date of _____, 2024.

[SEAL]

Notary Public

This instrument was prepared by:
Colin J. Kalvas, Esq.
Bricker Graydon LLP
100 South Third St.
Columbus, Ohio 43215

EXHIBIT 1

DESCRIPTION OF ASSESSED LANDS

The Assessed Lands subject to this Special Assessment Agreement and owned by Lostro Ventures, LLC is the portion of the real property described in the following legal description that, as of the date hereof, is assigned tax parcel identification number A027050001400 in the records of the Athens County, Ohio Auditor's Office, as such parcel may be further divided, combined, re-combined, re-numbered, or re-named from time to time, and is located at the commonly used mailing address 63 S. Court Street, Athens, Ohio.

For APN/Parcel ID(s): A027050001400

PARCEL 1:

Situated in the City of Athens, County of Athens, and State of Ohio, to-wit:

Beginning at the northeast corner of Inlot No. 59;

Thence west along the north line of said Inlot, 110 feet;

Thence South 66 feet and 7 inches to the north line of Susan Roach's premises;

Thence east along the north line of said Susan Roach's premises 110 feet to the east line of said Inlot No. 59;

Thence North 66 feet and 7 inches to the place of beginning.

PARCEL 2:

Situated in the City of Athens, County of Athens, State of Ohio, and more particularly described as follows:

Beginning on the North line of Inlot No. 59 in said City of Athens, at a point 110 feet West from the Northeast corner of the said Inlot No. 59;

Thence West 14 feet on the North line of said Inlot;

Thence, South 66 feet and seven inches, to the North line of that part of Inlot No. 59 owned by the heirs of Susan Roach;

Thence East 14 feet on the North line of the land owned by the heirs of Susan Roach;

Thence North 66 feet and 7 inches, to the place of beginning.

FOR INFORMATIONAL PURPOSES ONLY:

PPN: A027050001400

Also known as: 63 South Court Street, Athens, Ohio 45701

EXHIBIT 2

SCHEDULE OF SPECIAL ASSESSMENTS

[illegible]

* Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Exhibit B are subject to adjustment by the Athens County Auditor under certain conditions.

** Pursuant to Ohio Revised Code Section 727.36, the Athens County Auditor may charge and collect a fee in addition to the amounts listed in this Exhibit B.

RECORD OF ORDINANCES

Government Forms and Supplies (844) 224-3338 FORM NO. SHTROR11

Ordinance No. 0-80-24 Passed , 20

Introduced by Alan Swank, Chair
Planning & Development Committee

AN ORDINANCE GRANTING A SPECIAL RIGHT-OF-WAY USE PERMIT AT 49 CENTRAL AVENUE FOR PRE-EXISTING PATIO, STAIRS AND PARKING IN 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 49 Central Avenue, owner, James Blackwell, for a pre-existing paving stone patio and stairs to the house in an adjacent unmaintained alley, and to park in said portion of this unmaintained right-of-way to more easily access the front door to the house, as indicated on the application attached hereto and incorporated herein by reference.

SECTION II: James Blackwell, owner, 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 permittee upon property of the City of Athens that is the subject of this ordinance.

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. James Blackwell, owner, 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 # 74924-000000

Date Rec'd 7/9/2024

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 James Blackwell Phone 936-715-8464
Mailing Address 49 Central Ave Athens, OH 45701
Email Address jamesharperblackwell3@gmail.com
Address of Project/ Site 49 Central Ave Athens, OH 45701
Parcel Number A02802000600 Zoning Designation R1
Property Owner James Blackwell Phone 936 715 8464
Property Owner Mailing Address 49 Central Ave Athens, OH 45701
Project Description (See Attached Drawing)

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 [Signature] Date 7/9/2024

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 [Signature] Date 7/9/2024

For Official Use Only

1. Code Enforcement Admin: Signature [Signature] Date 7/9/24

☒ Supporting Documents Attached ☒ Fee Paid Amount \$ 50

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

Remarks _____

Signature [Signature] Date 7-15-24

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

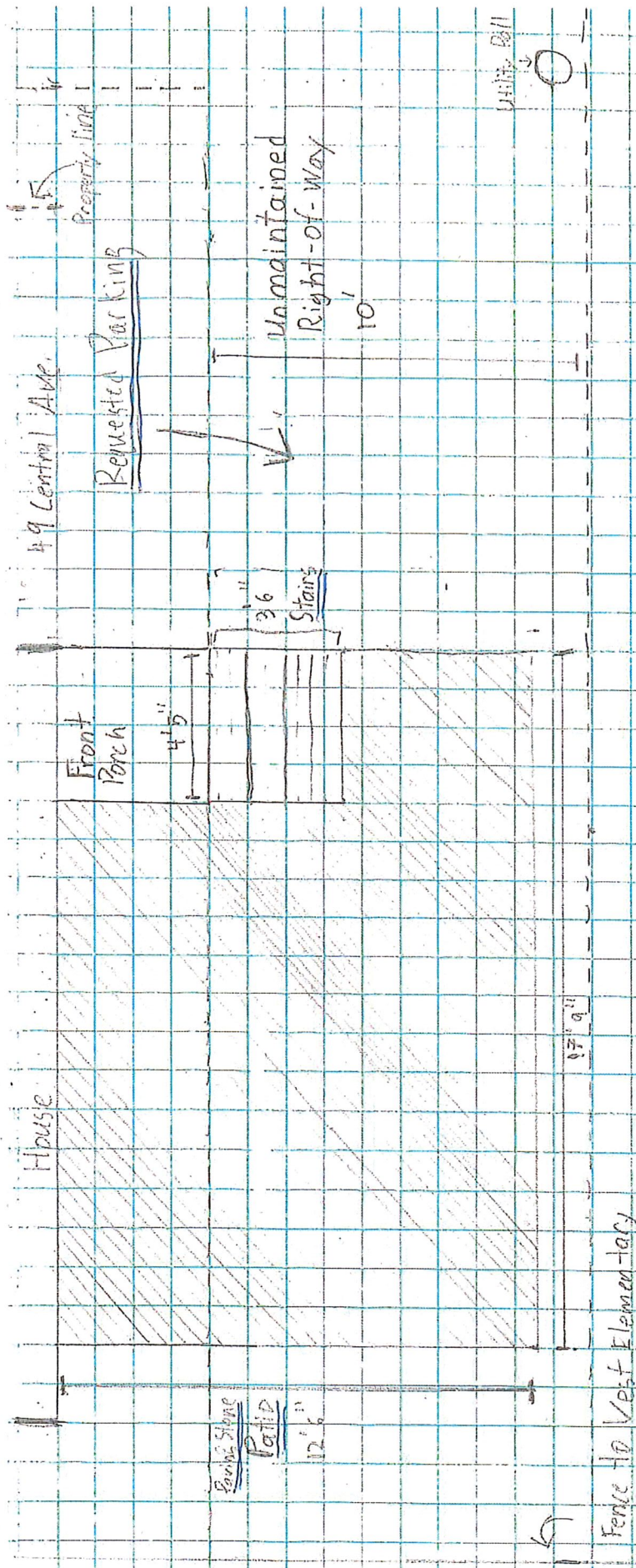
Remarks _____

Signature [Signature] Date 7-15-24

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

Remarks _____

Signature [Signature] Date 7/17/24



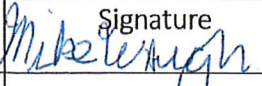
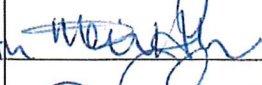
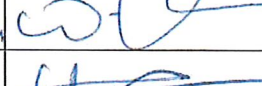
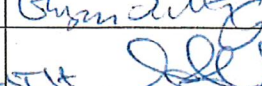
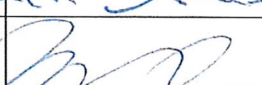
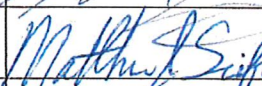
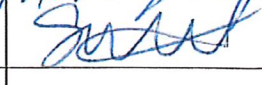
Requesting Special Use of Right-of-Way Permit for pre-existing

Paving Stone patio and stairs in portion of Unmaintained Right-of-Way adjacent to the East side of 49 Central and Permit to park in said portion of Right-of-Way to more easily access front door.



Petition of support for Special Use of Right-of-Way Permit:

I understand by signing this petition I am voicing my support for a permit for pre-existing paving stone patio, and stairs in portion of Unmaintained Right-of-Way located along the east side of 49 Central Ave, and to allow residents of 49 Central to park in said portion of Right-of-Way for easy access to their front door. (See back for details)

Printed Name	Signature	Address	Phone #
MIKE WAUGH		14B CLARKE ST	740 447 8496
Brittany Hanesworth		14 D Clarke St	740 274 2666
Winsome Chum		14 Clarke St Apt	614-886-6886
Aarin Brown		18 Clarke St	220-232-8994
Grayson Schultz		55 Central Ave	608-228-4383
General Smith		17 Curran	740 707 4011
Taylor Long		8 Clarke St	812-614-9599
MATT SEIFERT		55 CENTRAL AVE	740-649-7501
Evon Smith		17 Curran Dr.	740-707-4454



9800 Fredericksburg Road - San Antonio, Texas 78288

RENEWAL DECLARATIONS PAGE

Named Insured and Residence Premises

Policy Number

JAMES H BLACKWELL AND EMILY ELIZABETH BLACKWELL

GAR 00611 84 38 90A

49 CENTRAL AVE

ATHENS, ATHENS, OH 45701-1502

Policy Period From: 06/29/24 To: 06/29/25
(12:01 A.M. standard time at location of the residence premises)**SECTION I - COVERAGES AND AMOUNTS OF INSURANCE**

COVERAGE A - DWELLING PROTECTION	\$408,000
COVERAGE B - OTHER STRUCTURES PROTECTION	\$40,800
COVERAGE C - PERSONAL PROPERTY PROTECTION	\$204,000
COVERAGE D - LOSS OF USE PROTECTION (UP TO 12 MONTHS)	UNLIMITED

SECTION II - COVERAGES AND LIMITS OF LIABILITY

Personal Liability - Each Occurrence	\$500,000
Medical Payments to Others	\$5,000

DEDUCTIBLES (Applies to SECTION I Coverages ONLY)

We cover only that part of the loss over the deductible stated.

WIND AND HAIL	\$4,080	(1%)
ALL OTHER PERILS	\$2,000	

POLICY PREMIUM for Section I and Section II Coverages Above

\$908.47

CREDITS AND DISCOUNTS (Included in policy premium above.) \$765.59 CR
Details on the following page. (If applicable)**OTHER COVERAGES AND ENDORSEMENTS**

\$11.49

Forms and Endorsements are printed on the following page.

STATE SURCHARGES AND TAXES (Shown below if applicable)**TOTAL POLICY PREMIUM**

Including Credits, Discounts, Optional Coverages, Endorsements, State Surcharges and Taxes

\$919.96

PREMIUM DUE AT INCEPTION. THIS IS NOT A BILL. STATEMENT TO FOLLOW.

FIRST MORTGAGEE:

PEOPLES BANK

LOAN NR 7230026018

ITS SUCCESSORS AND/OR ASSIGNS

PO BOX 738

MARIETTA, OH 45750-0738

In witness whereof, this policy is signed on 05/01/24

Kelly Armstrong, Secretary
Randy Termeer, President**REFER TO YOUR POLICY FOR OTHER COVERAGES, LIMITS AND EXCLUSIONS.**

HO-D1 (07-08)

ATTACH THIS DECLARATION TO PREVIOUS POLICY

87028-0708

From: USAA USAA.Customer.Service@mailcenter.usaa.com
Subject: USAA Certificate of Insurance
Date: Jul 8, 2024 at 10:01:50 AM
To: jamesharperblackwell3@gmail.com

To ensure delivery to your inbox, please add USAA.Customer.Service@mailcenter.usaa.com to your address book.



Insurance Policy Issued

Dear James Blackwell,

CERTIFICATE OF INSURANCE

Loan number: 90A
Insured's name: James Blackwell
Property address: 49 Central Avenue
Athens, OH 45701

This will affirm and certify that a hazard insurance policy has been issued by the company indicated and is in force on the property described here with the following additional insured:

City of Athens Code Enforcement
28 Curran Drive

COVERAGE (Fire and Extended Coverage Minimum)

Policy Type: Condominium
USAA Policy: GAR 006118438 90A
Effective: July 8, 2024
Policy Term: 1 year
Building Items Coverage: \$0.00
Annual Premium: \$919.96

This certificate of insurance neither affirmatively nor negatively amends, extends, or alters the coverage provided by the referenced insurance policy, nor does it confer any new or additional contractual rights to the certificate holder other than those conveyed by the policy.

If we decide to cancel or not to renew this policy, the mortgagee will be properly notified at least 10 days before the cancellation or nonrenewal takes effect.

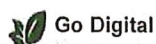
How to Contact Us

If you have questions, please contact us at one of the following numbers:

Phone: [210-531-USAA](tel:210-531-USAA) (8722), our mobile shortcut #8722 or [800-531-8722](tel:800-531-8722)

Thank you,
Garrison Property and Casualty Insurance Company

Garrison Property and Casualty Insurance Company, a subsidiary of USAA Casualty Insurance Company, is authorized to use the USAA logo, a registered trademark of United Services Automobile Association.



Review and edit your online document preferences at usaa.com.



Please do not reply to this e-mail.
To contact USAA, visit our secure [contact page](#)



A028020006600

7/18/2024



Jill A. Davidson
County Auditor
Athens County, Ohio
www.athenscountyauditor.org

FIRST SKETCH		LEGAL	
		OWNER	BLACKWELL JAMES HARPER EMILY ELIZABETH
		ADDRESS	49 CENTRAL AVE
		DESCRIPTION	14-09-00 IL R-2071 M-18
		SCHOOL DIST	ATHENS CSD
		TAX DIST	A02
		ACREAGE	0.0000
		VALUATION	
		APPRAISED	ASSESSED
		LAND	\$6,290.00 \$2,200.00
		IMPROVEMENTS	\$113,080.00 \$39,580.00
		CAUV	\$0.00 \$0.00
		TOTAL	\$119,370.00 \$41,780.00

TAXES		SPECIAL ASSESSMENTS	
TAXABLE VALUE	\$41,780.00	COUNT	0
ROLLBACKS	NONE	DELINQUENT / BALANCE	\$0.00 / \$0.00
HALF (1ST / 2ND)	\$1,056.47 / \$1,056.47	TOTAL / BALANCE	\$0.00 / \$0.00
YEAR (TOTAL / BALANCE)	\$2,112.94 / \$1,056.47		

MOST RECENT SALES						
DATE	BUYER	SELLER	# PARCELS	PRICE	VALIDITY	
7/7/2023	BLACKWELL JAMES HARPER	WILLOW MANAGEMENT LLC	0	\$154,000.00	QUALIFIED	
10/24/2019	WILLOW MANAGEMENT LLC	BIERLEIN JEFFREY R	0	\$0.00	MULTIPLE NOT VALID	
12/17/2013	BIERLEIN JEFFREY R	NOSTRANT RENTALS LLC	0	\$84,250.00	QUALIFIED	
5/5/2005	NOSTRANT RENTALS LLC	NOSTRANT KURT C & CHERYL A	0	\$0.00	RELATED INDIVIDUALS OR CORPORATIONS	
9/16/2003	NOSTRANT KURT C & CHERYL A	DEDDENS MICHAEL J ETAL	0	\$55,000.00	QUALIFIED	

LAND		IMPROVEMENTS	
CODE	FRONTAGE DEPTH ACREAGE SQFT VALUE		
FRONT FOOT Building Site	43 161 0.159 6,923 \$21,710.00		
FRONT FOOT House Lot	43 79 0.078 3,397 -\$15,420.00		

RESIDENTIAL			
Building (CARD: 1)	OLD STYLE TWO STORY BUILT 1900	Baths (Full / Half)	1 / 0
Area	1,310 sqft	Rooms (Bedroom / Family)	4 / 0
Basement (Code / Finished / Total)	CRAWL / 0 sqft / 0 sqft	Stories	2.0
Heat Full Type	GAS	Cooling	CENTRAL AIR CONDITION
External Wall	FRAME	Fireplace Stacks	1

RECORD OF ORDINANCES

Government Forms and Supplies (844) 224-3338 FORM NO. SHTROR11

Ordinance No. 0-81-24 Passed _____, 20____

Introduced by Micah McCarey
City & Safety Services Committee

AN ORDINANCE AFFIRMING THE SERVICE-SAFETY DIRECTOR'S EXECUTION OF EASEMENTS WITH THE STATE OF OHIO NECESSARY FOR THE CONSTRUCTION OF CITY SEWER SYSTEM IMPROVEMENTS, PROJECT #330.

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

SECTION I: Athens City Council does hereby affirm the Service-Safety Director's execution of easements with the State of Ohio necessary for the construction of City Sewer System Improvements, Project #330, as follows:

Fifteen (15) years, commencing on June 1, 2024, and expiring on May 31, 2039, on behalf of the Department of Mental Health and Addiction Services, File No. 8900; and

Twenty-Five (25) years, commencing on June 1, 2024, and expiring on May 31, 2049, File No. 8913, copies of said easements are 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

MAY 13 2024

Jill Davidson
Athens County Auditor

STATE OF OHIO EASEMENT

This Agreement (hereinafter referred to as "Agreement"), dated as of May 6th, 2024, 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 Department of Mental Health and Addiction Services (hereinafter referred to as "Agency"), and City of Athens, a body politic, 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, Suite 301, 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. 8900 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 sewer force main pipeline 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 sewer force main pipeline (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 fifteen (15) years, commencing on June 1, 2024 (hereinafter referred to as "Commencement Date"), and expiring on May 31, 2039 (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.

202400001947
ATHENS CITY MAYORS OFFICE

Page 1 of 13

202400001947
FILED FOR RECORD IN
ATHENS COUNTY, OHIO
JESSICA MARKINS, RECORDER
05/13/2024 03:29:47 PM
OR BOOK: 614 PAGE: 1002
EASEMENT 122.00 PG: 13029b10b*x1
b876108:PTC00

III. CONSIDERATION.

Grantee shall pay to Agency the total sum of One and 00/100 Dollars (\$1.00) 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 the 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:
Ohio Department of Mental Health & Addiction Services
30 East Broad Street, 11th Floor
Columbus, Ohio 43215
Attention: Chief, Office of Capital Development and Operations Management
and,
- (c) with respect to Grantee, addressed to:
City of Athens
8 East Washington Street, Ste 301
Athens, Ohio 45701
Attention: Service Safety 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 the Ohio Department of Mental Health & Addiction Services.

By: LeeAnne Cornyn
LeeAnne Cornyn, Director

Date: 1/11/2024

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

ACKNOWLEDGMENT

State of Ohio, Franklin County, ss:

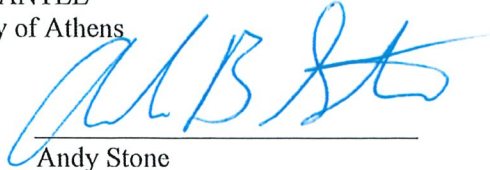
On this 6th day of May, 2024, before me personally appeared Kathleen C. Madden who acknowledged that the foregoing document is being executed for and on behalf of the Department of Administrative Services, acting on behalf of the State of Ohio, that the same is his/her own and the Department of Administrative 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.



Molly Elkins
Notary Public, State of Ohio
My Commission Expires 10-04-27

Molly Elkins
Notary Public, State of Ohio
My Commission Expires: 10/4/27

GRANTEE
City of Athens

By: 
Andy Stone

Title: Service Safety Director

ACKNOWLEDGMENT

State of Ohio, Athens County, ss:

On this 1 day of April, 2024, the foregoing instrument was acknowledged before me by Andy Stone, Service Safety Director of City of Athens, a body politic. Andy Stone acknowledges that he executed the foregoing instrument, that the same is his free and voluntary act and deed, and that he is duly authorized to enter into this instrument for and on behalf of the City of Athens.



TONYA L BAKER
Notary Public
State of Ohio
My Comm. Expires
January 8, 2027


Notary Public, State of Ohio
My Commission Expires January 8, 2027

APPROVED AS TO FORM
City of Athens, Ohio
Department of Law

By: 
Lisa Eliason, City Law Director

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"



buckley group
engineering • surveying

6801 State Route 56 Athens, Ohio 45701
Phone: 740-589-5001 Fax: 740-589-5004
www.buckley.group

**DESCRIPTION OF A 20 FOOT WIDE EASEMENT
FOR THE CONSTRUCTION AND MAINTENANCE OF A SANITARY FORCE MAIN**

Situated in Athens Township, Athens County, State of Ohio

Being a 20 foot wide Easement located in part Section 15, Township 9 North, Range 14 West, Ohio Company Purchase, City of Athens, Athens Township, Athens County, State of Ohio and being part of a 9.80 acre parcel as conveyed to Ohio Department of Mental Health by a deed recorded in Vol 145 at Page 638 of said county deed records and being 10 foot each side and parallel of the following centerline particularly described as follows:

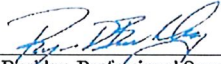
Point of Beginning being a point on the westerly line of said 9.80 acre parcel, and the easterly line of a 22.00 acre parcel as conveyed to Ohio University by Senate Bill 363, from which the calculated northwest corner Out Lot 91, bears N 61° 37' 29" E, 1009.73 feet for reference;

Thence, S 48° 29' 14" E a distance of 48.81 feet to a point;
Thence, S 40° 39' 57" E a distance of 22.66 feet to a point;
Thence, S 33° 26' 32" E a distance of 50.93 feet to a point of terminus;

Subject to all legal easements and rights of way.

This description was prepared under the direct supervision of Ryan D. Buckley, Registered Surveyor No. 8676 and is based on a field survey performed by Buckley Group, LLC completed in October 2023.

October 11, 2023
Date


Ryan D. Buckley, Professional Surveyor No. 8676

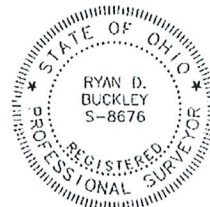


Exhibit "A"
(continued)



6801 State Route 56 Athens, Ohio 45701
Phone: 740-589-5001 Fax: 740-589-5004
www.buckleygroup

**DESCRIPTION OF A 20 FOOT WIDE EASEMENT
FOR THE CONSTRUCTION AND MAINTENANCE OF A SANITARY FORCE MAIN**

Situated in Athens Township, Athens County, State of Ohio

Being a 20 foot wide Easement located in part Section 15, Township 9 North, Range 14 West, Ohio Company Purchase, City of Athens, Athens Township, Athens County, State of Ohio and being part of a 9.80 acre parcel as conveyed to Ohio Department of Mental Health by a deed recorded in Vol 145 at Page 638 of said county deed records and being 10 foot each side and parallel of the following centerline particularly described as follows:

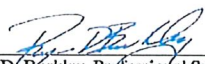
Point of Beginning being a point on the southerly line of said 9.80 acre parcel, and the northerly line of a 22.00 acre parcel as conveyed to Ohio University by Senate Bill 363, from which the calculated northwest corner Out Lot 91, bears N 12° 07' 51" E, 1005.76 feet for reference;;

Thence, line S 71° 45' 11" E a distance of 24.84 feet to a point;
Thence, line S 55° 50' 42" E a distance of 22.45 feet to a point of terminus;

Subject to all legal easements and rights of way.

This description was prepared under the direct supervision of Ryan D. Buckley, Registered Surveyor No. 8676 and is based on a field survey performed by Buckley Group, LLC completed in October 2023.

October 11, 2023
Date


Ryan D. Buckley, Professional Surveyor No. 8676

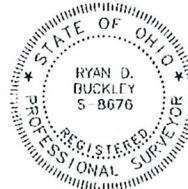
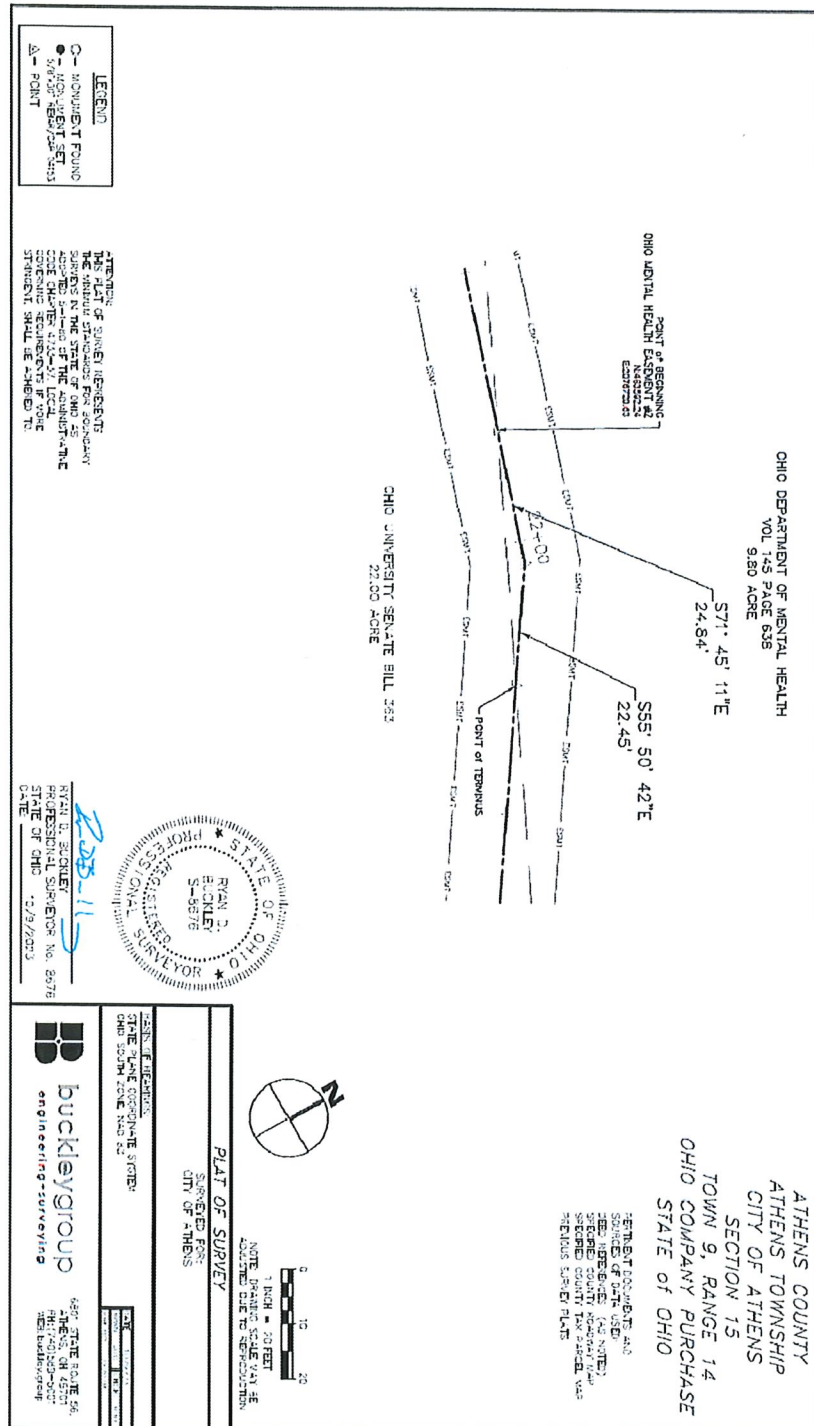


Exhibit "B"
(continued)



TRANSFER NOT NECESSARY

MAY 29 2024

Jill Davidson
Athens County Auditor

202400002158
FILED FOR RECORD IN
ATHENS COUNTY, OHIO
JESSICA MARKINS, RECORDER
05/29/2024 01:45:35 PM
OR BOOK: 614 PAGE: 2009
EASEMENT 154.00 PG: 17

202400002158
ATHENS CITY MAYORS OFFICE

STATE OF OHIO EASEMENT

This Agreement (hereinafter referred to as "Agreement"), dated as of May 17th, 2024, 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 Ohio University (hereinafter referred to as "Agency"), and City of Athens, a body politic, 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, Ste 301, 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. 8913 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 sewer force main pipeline 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 sewer force main pipeline (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 June 1, 2024 (hereinafter referred to as "Commencement Date") and expiring on May 31, 2049 (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 the 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:
Ohio University
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
8 East Washington Street, Ste 301
Athens, Ohio 45701
Attention: Service Safety 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.

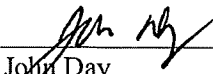
Grantee, by signature on this document, certifies that it has reviewed and understands the Ohio ethics and conflict of interest laws, is currently in compliance and will continue to adhere to the requirements of such laws and will take no action inconsistent with those laws.

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: 5-1-24
John Day
Interim 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)

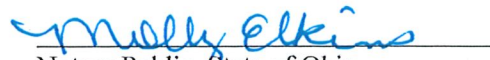
ACKNOWLEDGMENT

State of Ohio, Franklin County, ss:

On this 14th day of May, 2024, before me personally appeared Kathleen C. Madden 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.



Molly Elkins
Notary Public, State of Ohio
My Commission Expires 10-04-27


Notary Public, State of Ohio
My Commission Expires: 10/4/27

GRANTEE
City of Athens

By: 
Andy Stone

Title: Service Safety Director

APPROVED AS TO FORM
City of Athens, Ohio
Department of Law

By: 
Lisa Eliason, City Law Director

ACKNOWLEDGMENT

State of Ohio, Athens County, ss:

On this 26 day of March, 2024, the foregoing instrument was acknowledged before me by Andy Stone, Service Safety Director of City of Athens, a body politic. Andy Stone acknowledges that he executed the foregoing instrument, that the same is his free and voluntary act and deed, and that he is duly authorized to enter into this instrument for and on behalf of the City of Athens.


Notary Public, State of Ohio
My Commission Expires January 8, 2027



TONYA L. BAKER
Notary Public
State of Ohio
My Comm. Expires
January 8, 2027

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"



buckleygroup

exploring • conveying

6801 State Route 56 Athens, Ohio 45701
Phone: 740-589-5001 Fax: 740-589-5004
www.buckleygroup

DESCRIPTION OF A 20 FOOT WIDE EASEMENT
FOR THE CONSTRUCTION AND MAINTENANCE OF A SANITARY FORCE MAIN

Situated in Athens Township, Athens County, State of Ohio

Being a 20 foot wide Easement located in part Section 15, Township 9 North, Range 14 West, Ohio Company Purchase, City of Athens, Athens Township, Athens County, State of Ohio and being part of a parcel as conveyed to Ohio University by Senate Bill 363 and being 10 foot each side and parallel of the following centerline particularly described as follows:

Point of Beginning being a point on the southerly right of way line of West Union, a variable width right of way, and the northerly line of said State of Ohio parcel, from which the calculated southeast corner of Lot 1208 of John C. Campbell's Fairfield Addition as platted in Envelope 175B of said county plat records, bears N 56° 40' 59" E, 170.30 feet for reference;

Thence, S 10° 00' 44" E a distance of 46.02 feet to a point;

Thence, S 33° 00' 25" E a distance of 24.66 feet to a point;

Thence, S 43° 32' 02" E a distance of 52.45 feet to a point;

Thence, S 48° 58' 33" E a distance of 107.62 feet to a point;

Thence, S 53° 38' 24" E a distance of 132.44 feet to a point;

Thence, S 57° 28' 54" E a distance of 263.58 feet to a point;

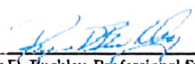
Thence, S 52° 22' 09" E a distance of 390.27 feet to a point;

Thence, S 48° 29' 14" E a distance of 359.54 feet to a point of terminus, being a point on the westerly line of a 9.80 acre parcel as conveyed to Ohio Department of Mental Health by deed recorded in Volume 145 at Page 638 of said county deed records;

Subject to all legal easements and rights of way.

This description was prepared under the direct supervision of Ryan D. Buckley, Registered Surveyor No. 8676 and is based on a field survey performed by Buckley Group, LLC completed in October 2023.

October 11, 2023
Date


Ryan D. Buckley, Professional Surveyor No. 8676

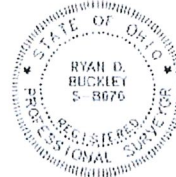


Exhibit "A"
(Continued)



buckleygroup
engineering • surveying

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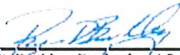
Point of Beginning being a point on the southerly line of a 9.80 acre parcel as conveyed to Ohio Department of Mental Health by deed recorded in Volume 145 at Page 638 of said county deed records, and the northerly line of a 22.00 acre parcel as conveyed to Ohio University by Senate Bill 363, from which the calculated northwest corner Out Lot 91, bears N 51° 00' 01" E, 990.31 feet for reference;

Thence, S 33° 26' 32" E a distance of 27.74 feet to a point;
Thence, S 40° 38' 51" E a distance of 27.71 feet to a point;
Thence, S 50° 35' 16" E a distance of 26.51 feet to a point;
Thence, S 54° 13' 41" E a distance of 78.31 feet to a point;
Thence, S 54° 37' 23" E a distance of 232.70 feet to a point;
Thence, S 54° 31' 01" E a distance of 231.80 feet to a point;
Thence, S 55° 15' 22" E a distance of 53.52 feet to a point;
Thence, S 64° 13' 44" E a distance of 26.55 feet to a point;
Thence, S 71° 45' 11" E a distance of 51.88 feet to a point of terminus;

Subject to all legal easements and rights of way.

This description was prepared under the direct supervision of Ryan D. Buckley, Registered Surveyor No. 8676 and is based on a field survey performed by Buckley Group, LLC completed in October 2023.

October 11, 2023
Date


Ryan D. Buckley, Professional Surveyor No. 8676

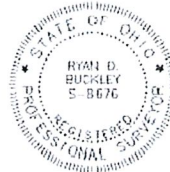


Exhibit "A"
(Continued)



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Point of Beginning being a point on the southerly line of a 9.80 acre parcel as conveyed to Ohio Department of Mental Health by deed recorded in Volume 145 at Page 638 of said county deed records, and the northerly line of a 22.00 acre parcel as conveyed to Ohio University by Senate Bill 363, from which the calculated northwest corner Out Lot 91, bears N 9° 34' 03" E, 1017.64 feet for reference;;

Thence, S 55° 50' 42" E a distance of 107.25 feet to a point;

Thence, S 54° 20' 04" E a distance of 132.09 feet to a point;

Thence, S 62° 09' 25" E a distance of 104.66 feet to a point;

Thence, S 72° 29' 09" E a distance of 42.55 feet to a point of terminus, being a point on the westerly line of a 20.35 acre parcel as conveyed to Sheltering Arms Hospital Foundation by deed recorded in Volume 277 at Page 648 of said county deed records;

Subject to all legal easements and rights of way.

This description was prepared under the direct supervision of Ryan D. Buckley, Registered Surveyor No. 8676 and is based on a field survey performed by Buckley Group, LLC completed in October 2023.

October 11, 2023
Date


Ryan D. Buckley, Professional Surveyor No. 8676



Exhibit "A"
(Continued)



buckleygroup
engineers • surveyors

6801 State Route 56 Athens, Ohio 45701
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**DESCRIPTION OF A 20 FOOT WIDE EASEMENT
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Point of Beginning being a point on the southerly line of a 20.35 acre parcel as conveyed to Sheltering Arms Hospital Foundation by deed recorded in Volume 277 at Page 648 of said county deed records, from which the calculated northeast corner Out Lot 89, bears N 8° 22' 27" W, 1548.70 feet for reference;;

Thence, S 58° 19' 01" E a distance of 101.57 feet to a point;
Thence, S 54° 24' 52" E a distance of 101.07 feet to a point;
Thence, S 52° 18' 28" E a distance of 131.00 feet to a point;
Thence, S 50° 38' 03" E a distance of 208.13 feet to a point;
Thence, S 51° 12' 41" E a distance of 160.12 feet to a point;
Thence, S 48° 52' 51" E a distance of 183.14 feet to a point;
Thence, S 49° 20' 32" E a distance of 310.49 feet to a point;
Thence, S 49° 41' 06" E a distance of 320.85 feet to a point;
Thence, S 50° 30' 50" E a distance of 321.89 feet to a point;
Thence, S 49° 54' 05" E a distance of 391.54 feet to a point;
Thence, S 46° 26' 00" E a distance of 74.57 feet to a point;
Thence, S 51° 25' 49" E a distance of 204.50 feet to a point;
Thence, S 83° 59' 48" E for a distance of 42.65 feet, to point of terminus, being a point on the westerly right of way of Richland Avenue, a variable width right of way.

Subject to all legal easements and rights of way.

This description was prepared under the direct supervision of Ryan D. Buckley, Registered Surveyor No. 8676 and is based on a field survey performed by Buckley Group, LLC completed in October 2023.

October 11, 2023
Date


Ryan D. Buckley, Professional Surveyor No. 8676



Exhibit "B"

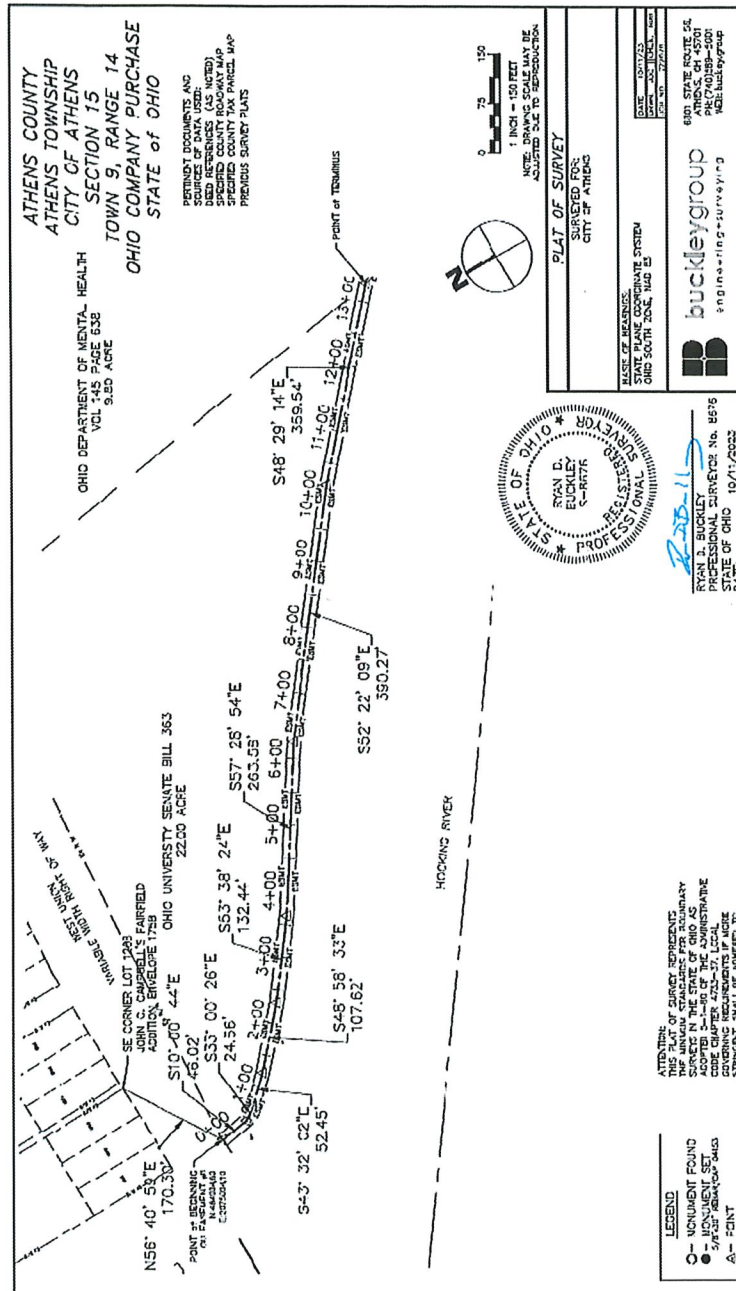


Exhibit "B"
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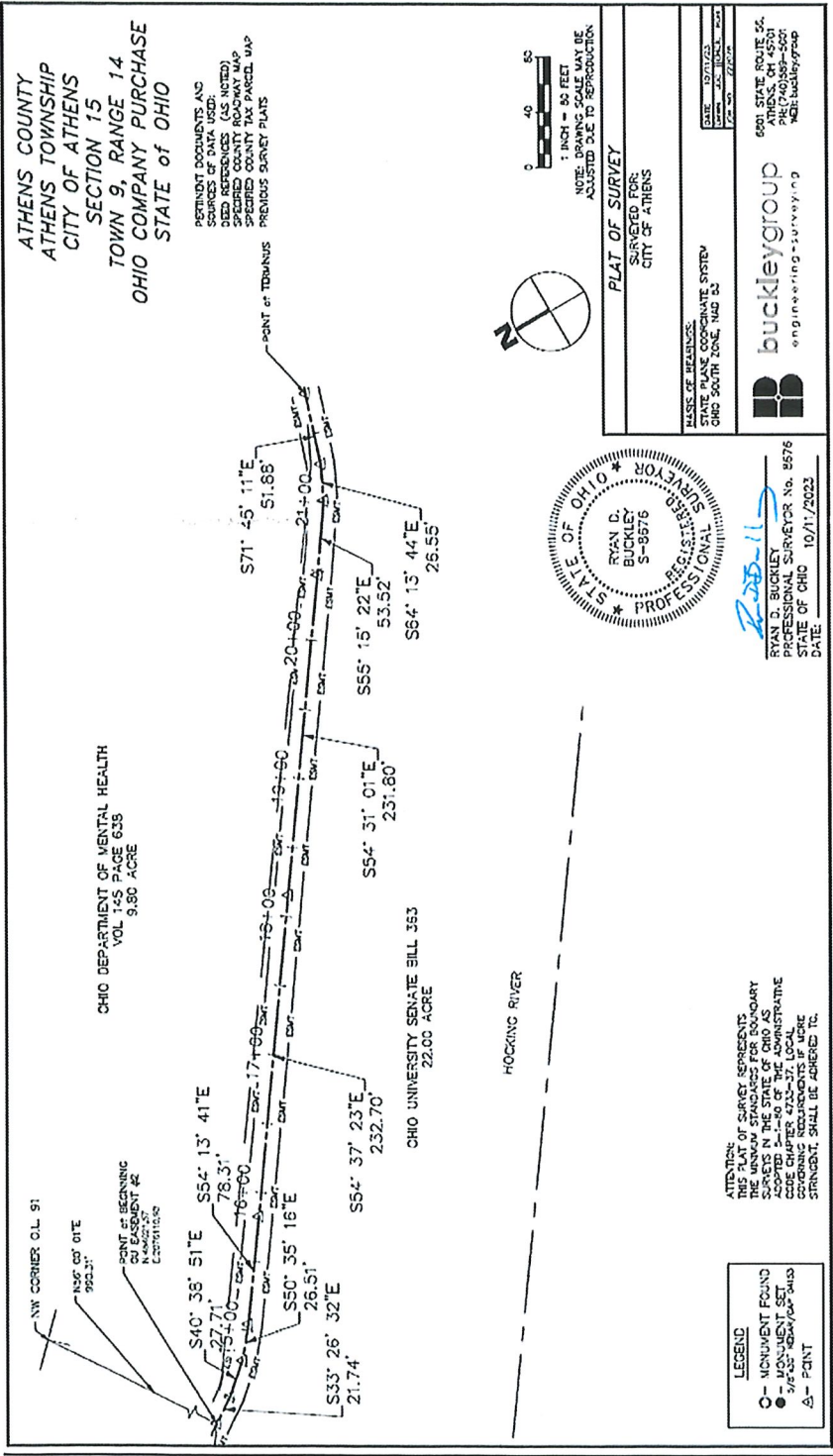


Exhibit "B"
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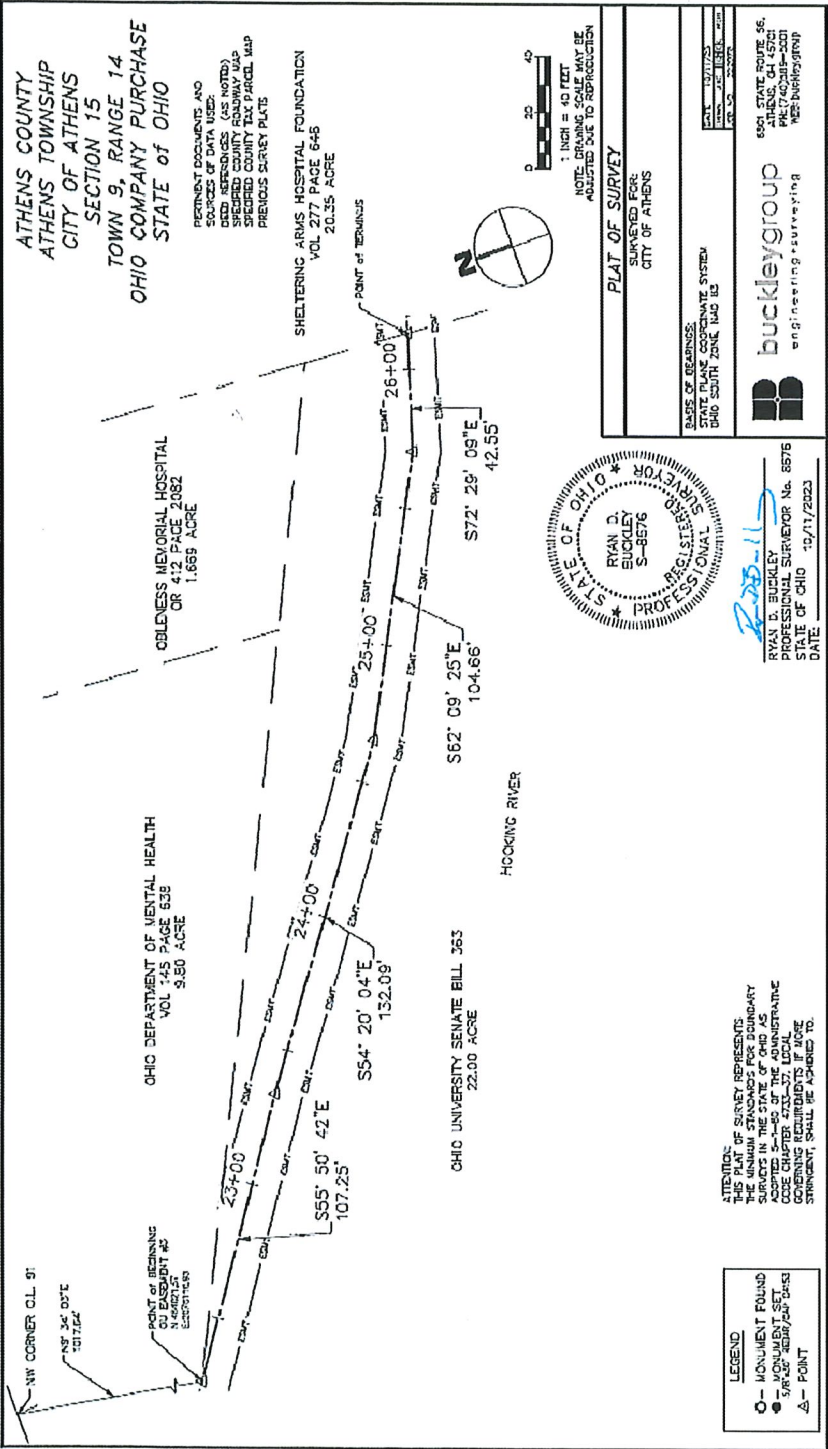
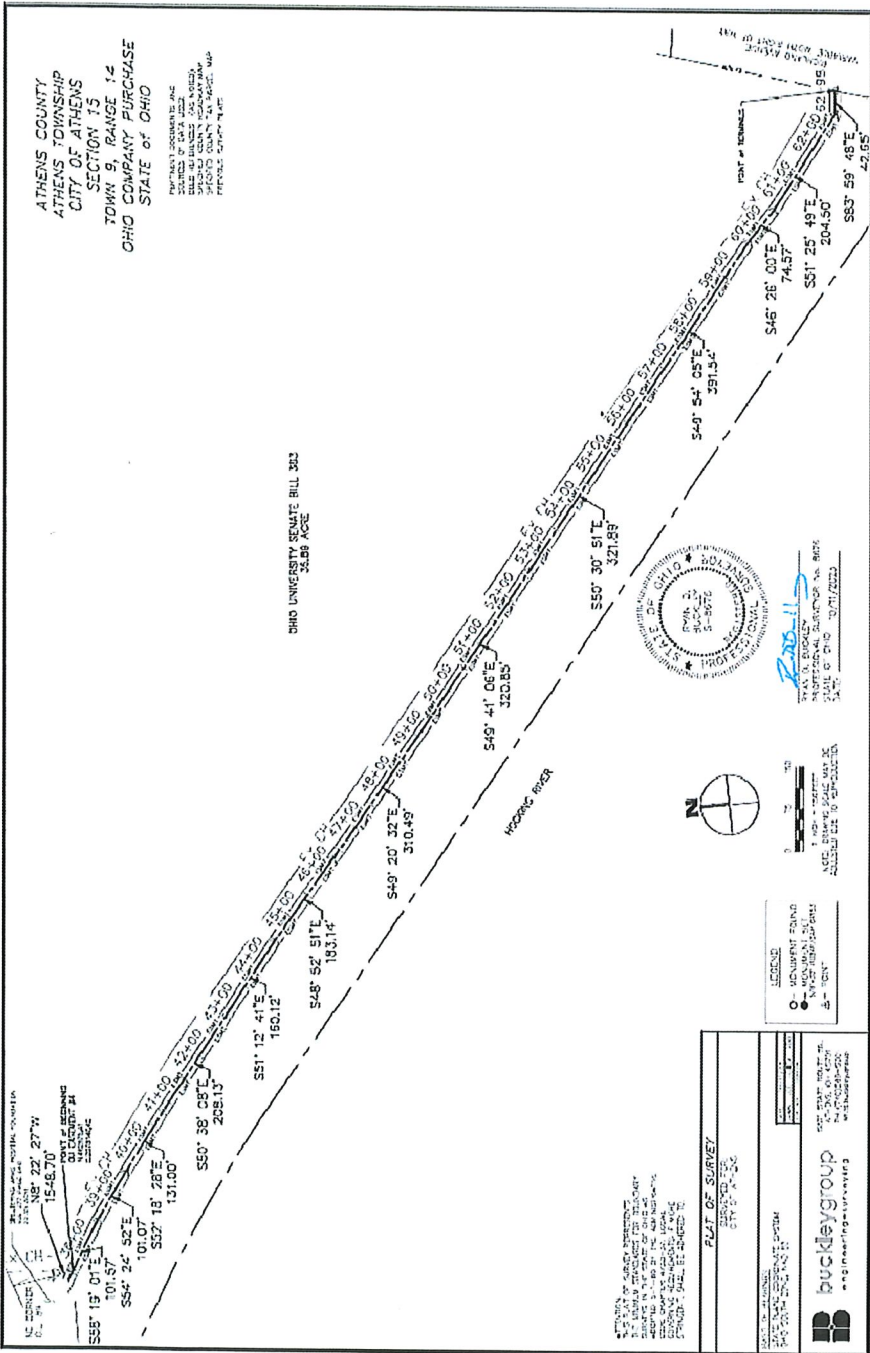


Exhibit "B"
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0-82-24

Introduced by Solveig Spjeldnes, Chair
Transportation Committee

AN ORDINANCE AUTHORIZING THE MAYOR TO SUBMIT AN APPLICATION TO PARTICIPATE IN THE STATE CAPITAL IMPROVEMENT AND/OR LOCAL TRANSPORTATION IMPROVEMENT PROGRAM(S) FOR ISSUE I FUNDS; AND TO EXECUTE CONTRACTS AS REQUIRED; AND DECLARING AN EMERGENCY.

WHEREAS, the State Capital Improvement Program and Local Transportation Improvement Program both provide financial assistance to political subdivisions for capital improvements to public infrastructure;

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

SECTION I: The Mayor is hereby authorized to submit an application to the Ohio Public Works Commission (OPWC) to participate in the State Capital Improvement and/or Local Transportation Improvement Program(s) for Issue I Funds.

SECTION II: The Mayor is further authorized to enter into any agreements as may be necessary and appropriate for obtaining this financial assistance.

SECTION III: 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 an August 31, 2024, grant deadline, and 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

0-83-24

Introduced by Solveig Spjeldnes, Chair
Transportation Committee

AN ORDINANCE AMENDING THE 2024 APPROPRIATION ORDINANCE AND AMENDING ORDINANCE 51-23; AUTHORIZING THE PURCHASE OF A NEW DUMP TRUCK.

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

SECTION I: The 2024 Appropriation Ordinance 130-23 is hereby amended by appropriating from the unappropriated balance the sum of Six Thousand Dollars (\$6,000.00) to Sewer Fund, 750, T.C. 500, and increasing the total appropriations by said amount.

SECTION II: Section II of Ordinance 51-23 is hereby amended to read as follows:

Section II: The Service-Safety Director is hereby authorized to expend up to One Hundred Seventy-~~Six~~ Thousand Dollars (~~\$170,000.00~~ **\$176,000.00**) from Sewer Fund, 750, T.C. 500, for the purchase of a dump truck.

SECTION III: 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

0-84-24

Introduced by Jeff Risner, Chair
Finance & Personnel Committee

AN ORDINANCE AMENDING THE 2024 APPROPRIATION ORDINANCE 130-23;
AND AUTHORIZING AN INTERFUND TRANSFER.

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

SECTION I: The 2024 Appropriation Ordinance 130-23 is hereby amended by appropriating from the unappropriated balance the following sums:

Fifteen Thousand Four Hundred Dollars (\$15,400.00) to General Fund, Municipal Court, 101.106, T.C. 300, for balance of payment on the 2024 Public Defender Agreement;

Six Thousand Three Hundred Thirty Dollars (\$6,330.00) to General Fund, Police, 101.207, T.C. 500, to replace a mount and tablet in a cruiser, and infrastructure for an EV charger for a new cruiser;

Twelve Thousand Dollars (\$12,000.00) to General Fund, Other Administrative, 101.120, T.C. 300, for reimbursed NOPEC grant funds;

Seventy-Four Thousand Five Hundred Dollars (\$74,500.00) to East State Street TIF Fund, 593, T.C. 600; for transfer, and

Seven Thousand Dollars (\$7,000.00) to Garbage Fund, 760.636, T.C. 300, to cover the internal service fee, and increasing the total appropriations by said amounts.

SECTION II: The Auditor is hereby authorized to make the following interfund transfer:

FROM	TO	AMOUNT
East State Street TIF Fund, 593	Street Fund, 220	\$74,500.00

SECTION III: The 2024 Appropriation is further amended by appropriating from the unappropriated balance the sum of Seventy-Four Thousand Five Hundred Dollars (\$74,500.00) to Street Fund, 220, to repave the Hockhocking Adena bikeway in the TIF area.

SECTION III: 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

0-85-24

Introduced by Jeff Risner, Chair
Finance & Personnel Committee

AN ORDINANCE APPROVING A THEN-AND-NOW CERTIFICATE FOR PAYMENT
TO WEBSTaurant STORE, LLC; AND DECLARING AN EMERGENCY.

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

SECTION I: A Then-and-Now Certificate in the amount of Three Thousand
One Hundred Three Dollars (\$3,103.00) to Webstaurant Store, LLC, for the purchase
of an icemaker is hereby approved for payment.

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 maintain fiscal integrity, and 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

R-05-24

Introduced by All Members of Council

A RESOLUTION CONGRATULATING OSTROH, UKRAINE, SISTER CITY WITH THE CITY OF ATHENS, OHIO, ON THE OCCASION OF UKRAINIAN INDEPENDENCE DAY, AUGUST 24, 2024.

WHEREAS, the City of Ostroh, Rivne Oblast, Ukraine and the City of Athens, Ohio participate in the USAID HOVERLA program as sister cities for the purpose of encouraging cultural, economic, and educational ties between the two cities; and

WHEREAS, Ukraine celebrates Independence Day on August 24th in commemoration of the issuing of the 1991 Ukrainian Declaration of Independence;

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

SECTION I: Athens City Council hereby extends warm congratulations on Ukrainian Independence Day to Yuriy Yagodka, Mayor of the City of Ostroh, Ukraine, Liudmyla Kozak, Head of the External Relations Department of Ostroh City Council, all Ostroh City Council members and all City of Ostroh residents.

SECTION II: Athens City Council hereby confirms its intention to work with Liudmyla Kozak to arrange an online meeting between Athens and Ostroh City Councils to further the ties between cities and to learn from one another about our municipal government functions.

SECTION III: This resolution 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